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BUILDING CAPACITY OF TURKISH LEGAL AID

SILA Outcome II Needs Assessment and
Recommendations for Enhancing the Capacity of
Legal Aid Lawyers to Provide Services to
Disadvantaged Groups

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The Project

This Needs Assessment has been prepared as part of the ongoing work of the project entitled “Support to the Improvement of Legal Aid Practices for Access to Justice for All in Turkey” (the SILA Project). Outcome II of the SILA Project is intended to improve the capacity of legal aid lawyers to provide services to disadvantaged groups. This Report is focused on lawyers and the legal aid system. It does not include an assessment of the administration of justice, the judiciary or other members of the justice system as this was not in the scope of the Outcome.

The first phase of the project has been a review of existing practices - through a desk review of laws, procedures and reports, and through a series of focus groups conducted in six jurisdictions across Turkey.

Throughout this first phase, we observed a laudable degree of respect and support for the value of legal aid and an equal desire to ensure the service is as strong and effective as possible.

Although Turkey’s current legal aid model has significant room for improvement, including through the adoption of the recommendations from the SILA Project, it has strengths. Lawyers and Bar Associations in Turkey are clearly dedicated to improving legal services to people belonging to vulnerable groups and have taken concrete steps to better equip lawyers to serve their clients. Between jurisdictions and at the national level through the Union of Turkish Bar Associations, the Bar demonstrates a high level of cooperation and a unity of purpose. The Ministry of Justice, and in particular the Directorate General for Criminal Affairs, Department of Victim Rights, has also been actively working on tools to support victims of crime and support the provision of legal aid.

Turkey’s legal and social infrastructure has been affected over the course of the past few years, including with the influx of millions of Syrians seeking aid. Turkey has borne the largest burden of any country in the world as a result of the Syrian crisis. Its response has been massive and rapid. In a short period of time, Turkey has had to create a significant infrastructure, including with respect to the justice sector.

The response to Turkey’s challenges by justice sector players, including lawyers and civil society organizations, to ensure that the rights of people facing disadvantages remain protected is admirable. This project seeks to reinforce these efforts by providing lawyers and Bar Associations with tools and resources.

It was clear to us that Turkey has a strong tradition of respect for the rule of law and the equality of arms. It was equally clear that the individuals who work in Turkey’s justice system, across the spectrum, are dedicated to maintaining and improving the legitimacy and strength of the legal aid system. We are grateful to be able to conduct this work in this environment.

SILA Project Overview¹

The SILA Project aims to develop coordinated efforts for enhancing the quality of legal aid services in Turkey, as well as the capacity of the attorneys, particularly addressing the needs of disadvantaged groups as well as the Syrian population in the southern provinces of Turkey. In addition, the Project will address the institutional needs of Bar Associations for an effective coordinated and monitored legal aid system.

The Union of Turkish Bar Associations (UTBA) is the implementing partner and the Ministry of Justice General Directorate of Criminal Affairs is the cooperating partner of this project. The United Nations Development Programme (UNDP) is the implementing agency providing its relevant knowledge and expertise in facilitating the capacity building and technical know-how activities. The project is funded by the Swedish International Development Cooperation Agency (SIDA) and the UTBA.

As a part of its efforts for improved access to justice, Turkey has taken considerable steps in order to raise human rights standards including the introduction of legal aid services available to the poor. Under Turkish legal order, legal aid is the legal assistance provided for those who are not able to open a civil litigation due to the economic reasons. This assistance takes the form of exemption from court tax, fees and expenses or of assignment of an attorney by the Bar. As far as criminal cases are concerned, legal aid is an assignment of a compulsory defence attorney by the state for the suspect or accused under certain conditions. Under international documents, legal aid does not only cover legal consultation but aid of any kind at pre-trial level as well.

As a means of access to justice, legal aid is a primary issue of human rights law which concerns fundamental principles such as equality of arms and right to a fair trial. Furthermore, legal aid should not be merely seen as a service provided by Bars but it should be seen as a part of civil and criminal justice policy. Thus the European Court of Human Rights and UN Commission on Crime Prevention and Criminal Justice foresee that the states have full responsibility for the operation and nature of legal aid systems. Despite the initiatives for improvement of the legal aid services in Turkey, it is addressed by both EU progress reports as well as international and national analysis that legal aid system in Turkey need to be improved in terms of its procedures, quality and impacts on citizens.

Despite the efforts to improve the legal aid practices in Turkey, the current system is not effective and accountable enough. Not only potential users, but also lawyers, judges, prosecutors and the Ministry of Justice do not consider the current legal aid system as satisfactory and sustainable. According to a survey, which was conducted under the UNDP Project for Impact Assessment of Judicial

¹ Excerpted from the UNDP Turkey website project description at www.tr.undp.org.

Reform” and sent out to 79 Bar Associations in Turkey, it was concluded that attorneys practicing legal aid lack professional skills, legal training and knowledge to effectively represent defendants in criminal cases.

Outcome II

There are five Outcomes in the SILA Project:

- I. Improved Automation System for Appointment of Code of Criminal Procedure (CCP) Attorneys
- II. Enhanced Capacity of the Attorneys Practicing Legal Aid for Disadvantaged Groups
- III. Improved Performance Evaluation System for Legal Aid Services
- IV. Enhanced Coordination and Cooperation Among the Attorneys Practicing Legal Aid
- V. Legal aid needs underpinned and services improved in southern border provinces of Turkey such as Gaziantep, Hatay, Kilis, Sanhurfa and Kahramanmaras.

This Needs Assessment is prepared under Outcome II: Enhanced Capacity of the Attorneys Practicing Legal Aid for Disadvantaged Groups.

The goals for Outcome II are to equip lawyers practicing legal aid with greater skills to serve disadvantaged groups, to provide recommendations for legislative changes, and to provide suggested guidelines for lawyers for the improvement of legal aid services to the vulnerable. These goals are to be accomplished through a combination of actions and deliverables:



The disadvantaged groups that are the focus of this Outcome have been identified as:

- women,
- children,
- the lesbian/gay/bisexual/transgendered/intersex (LGBTI) community,
- the disabled community, and
- refugees.

The definition of these terms for the purposes of this project have been set out in the Methodology section of this Report.

This Needs Assessment includes the process and methodology used to examine the current practice, our summaries and reflections from the field visits, our findings with respect to the needs of the identified disadvantaged groups and the gaps in service in the current practice, and our recommendations for the development of the training modules and proposed changes to the practice and structure of legal aid.

The Team

In order to achieve this ambitious set of goals, an Expert Team was assembled by the project partners. This multi-disciplinary team provided insight and ensured accuracy in this report.

Each field visit included participation by the International Experts, National Experts in the fields of law, psychology and adult education as well as representatives from the UNDP and Ministry of Justice Victim Rights Department. Their participation varied at each location.

International Consultants/Access to Justice Experts: Sarah McCoubrey and Meredith Brown

Sarah McCoubrey and Meredith Brown are Canadian lawyers and access to justice strategists who work regularly with law societies and bar associations. Sarah has a Master's in Education and experience training lawyers, judges and other professionals. Meredith brings extensive experience in litigation, government leadership and drafting legislative responses. Together, they bring over 35 years of experience in law, education, justice sector leadership and transformation to the project, including a long-standing focus on serving the needs of the vulnerable.

National Consultant/Legal Expert: Musa Toprak

Musa Toprak is a Turkish lawyer who focuses on human rights, legal ethics, legal education and legal aid. He has delivered many human rights and professional development trainings and worked as tutor and moderator of a national online human rights training program. He is the founding chairperson of the Ankara Bar Association's Ethics Commission. Musa has been active in Ankara Bar and the Union of Turkish Bar Associations since 2003, most recently employed at the Union of Turkish Bar Associations. His interest in legal aid goes back to 2006 and he has participated in different international projects in the field focusing on Southeastern Europe. Last year he was elected to the *Human Rights Education of Lawyers Program* Consultative Board of Council of Europe.

National Consultant/Psychologist: Biseng Ozdinc

Biseng Ozdinc is a clinical psychologist and psychotherapist. She works with adults, adolescents and children in her private practice in Ankara, Turkey. She specializes in the treatment of anxiety, depression, stress related problems, anger management, trauma treatment, behavioral issues and interpersonal problems. She has been involved in several humanitarian projects and provides support to groups and individuals for trauma related problems. She provides support to children and women who have experienced trauma, especially in the area of sexual abuse and violence.

National Consultant/Adult Education Expert: Cengiz Hakan Aydin

Cengiz Hakan Aydin, PhD, is a full professor in Anadolu University of Turkey, which is considered one of the mega universities of the world due to its 2.9 million distance students. Dr. Aydin is specialized in the field of instructional design. He has offered courses and designed educational and training activities in various settings, including public and private corporations, universities, NGOs. His research and professional interest focuses on adult education, educational communications, open and distance learning, and e-learning. Additionally, Dr. Aydin actively serves in several professional organizations and journals.

Unfortunately, Dr. Aydin was only able to join the Expert Team in Ankara, Muğla and Izmir.



The Project Partners

The Expert Team met with the Project Partners prior to the field visits in order to ensure alignment of the project goals and discuss methodology for Outcome II.



It was agreed that a system-wide model for training lawyers to provide service to vulnerable groups does not yet exist in Turkey and that a successful model would be one that is practical, easy to implement, sustainable and is designed to be expanded beyond the initial training of 300 lawyers.

The representative from SIDA noted the fact that many lawyers will have received training from other institutions, such as the Council of Europe and the United Nations High Commission on Refugees (UNHCR). While that training is more substantively focused on the law, it is wise to anticipate and account for overlapping content in the design of this project's training.

The UTBA suggested that training should be attractive to provincial Bar Associations, to facilitate long-term implementation. While standard levels of training are necessary, it is important to recognize that Bar Associations in smaller centres face challenges providing training to legal aid lawyers, especially in complex domestic violence cases that involve both civil and criminal aspects. There is a need for training for lawyers that goes beyond standard/substantive legal training, and includes skills such as trauma-informed interviewing.

The project must further the mandate of the UNDP to strengthen democratic governance and empower disadvantaged individuals and groups through legal aid to seek remedies for injustice. The project should ensure that it strengthens the accountability mechanisms between right holders and duty-bearers, and contributes to creating transparent, accountable and inclusive institutions.

It was important to the partners that the Outcome success be measurable and demonstrable, that the results of Outcome II are informed by, and inform, the other components of this project and other projects underway in Turkey such as the Twinning Project.

In a meeting with the Victim Rights Department of the Ministry of Justice, the Department involved in this Outcome, one of the key areas of discussion was the intersection of this Department with legal aid services. The current mandate of the Department is to provide information and referral to victims, while Bar Associations maintain the responsibility for legal representation of victims. The Victims' Rights Department shared its framework for a complementary training being provided to court staff to enhance the approach towards vulnerable people in courthouses. This initiative includes a manual, plan for training of

frontline staff, as well as print materials about the rights of victims in the courthouse. This training is a positive step in improving the overall experience of victims who face disadvantages. Sharing of the content of these training allows for the coordination of complementary services by lawyers and public officials with positive impacts for people facing disadvantage. The Victim Rights' Department has also constructed specialized Interview Rooms in many courthouses across the country. These rooms allow for private and comfortable interview spaces for women and child victims. The ministry staff made arrangements for the Expert Team to tour some of these new facilities. While these Interview Rooms will not be available for lawyers to meet with their clients, and therefore will not affect the provisions of legal aid services specifically, they will be used when prosecutors meet with victims, thereby improving the overall experience of the victim in the courthouse. These initiatives, while not designed for or available to legal aid lawyers and therefore beyond the scope of this Report, are worth noting as positive steps toward addressing the victims experience and as positive examples of collaboration.

The Expert Team met with the lead expert of the Twinning Project, along with the UTBA staff. The Twinning Project, a project that lists the UTBA and the Ministry of Justice as its partners and beneficiaries, has an extensive focus on best practices in other European jurisdictions. It will result in a strategic plan, new draft legal aid legislation, training for lawyers and a public awareness campaign. At the time of the interview, the project's completion is anticipated for some time in the first quarter of 2018. It was agreed that the project teams would continue to share knowledge and progress as appropriate and ensure that our project results will work in concert.

The Expert Team is grateful for the support, hospitality and intellectual contribution of the Project Partners to this work. In addition, we are deeply appreciative of the gracious and candid discussions we had with all of the organizations and people we visited on our field visits. It has enabled this Report to be thorough, accurate and reflective of the myriad of dedicated people and challenging circumstances currently evident in the Turkish legal system with respect to the provision of legal aid services to disadvantaged groups.



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Methodology

Key Activities

Field Visits: Scheduled as an intensive period of meetings with Bar Associations, lawyers, and civil society organizations representing disadvantaged groups in five provinces, as well as with project partners, national and international NGO's. Completed in February and March 2017.

International Study Visits: Italy and Canada will each be visited by the SILA delegation. Each visit, includes the study of alternative service delivery models or projects. The visit to Canada was completed in March 2017. The visit to Italy occurred in November 2017.

Development of Training Modules: Based on the field visits, study visits and international best practices, the training plan and modules will be developed.

Training of Criminal Legal Aid (CCP) Lawyers: Two-day training will be scheduled for late March 2018 to deliver the modules to approximately 300 lawyers.

Guidelines for Criminal Legal Aid (CCP) Lawyers and Legislative Recommendations: Legislative and Guideline recommendations will be developed throughout the project, building on all of the other project activities.

Focus Group Methodology

Focus groups are an established branch of qualitative research methods, developed in the 1940s by Merton and Fisk². This disciplined approach collects data and experience-based knowledge from participants through an iterative process. Data-collection through focus groups begins with a structured approach to the type and number of groups and a pre-designed set of questions. The focus group discussion, shaped by these questions, then evolves to include the experiences and observations of the participants. Focus groups are “especially appropriate when working with particular disempowered populations who are often reluctant to give negative feedback or may feel that any problems result from their own inadequacies.”³

Data analysis of focus groups includes the recording of the discussion and non-verbal communication, preferably by 2-3 researchers, as well as the spontaneous analysis that occurs as researchers expand the discussion or follow up on participant comments. The focus group approach allows for the collection of a large range of data including experiences

² Raymond M. Lee, The Secret Life of Focus Groups: Robert Merton and the Diffusion of a Research Method, *The American Sociologist* 41(2):115-141 · June 2010

³ Kitzinger, J. (1995). "Qualitative research: Introducing focus groups." *BMJ*. 311(7000),299-302.

that were unknown or unobservable by the researchers. It facilitates a comparison between focus group participants to identify consensus or divergence in data.⁴

The selection of this method for the Needs Assessment allowed the Expert Team to take advantage of the communication between participants as well as to engage the participants in generating ideas to solve some of the identified issues, consistent with this methodological approach.

The questions were designed to canvas perceptions of legal aid services across the different disciplines, service providers and geographic regions. By asking the same questions in each location, differences in answers reveal service gaps or different understandings about the scope of legal aid services. The contrast between the responses of lawyers and those from civil society organizations can also highlight the need for education about legal aid services. This qualitative approach is premised on consistent interviewers synthesizing, analyzing and evaluating the results in the development of this Needs Assessment.

The meetings that were arranged for us appeared to offer a reasonably complete perspective on the needs of the disadvantaged groups that are part of this study. We remain grateful for the candor offered us by all of the groups. However, we note that there are relatively few groups in Turkey devoted to the legal aid needs of the disabled community or the LGBTI community. While the groups we met with provided a reasonable summary of the concerns, there was not as wide an array of regional perspectives for these two groups as there were for the other identified groups.

We also want to highlight the limited quantitative data collected in Turkey with respect to legal aid cases. There is no complete quantitative picture of legal aid for disadvantaged groups. Consequently, our methodology and recommendations rely heavily on anecdotal data. The collection of data on legal aid would aid future analysis.

Focus Group Structure

Field Visits were scheduled in each of the pilot provinces to ensure that the Expert Team could hear a range of issues, perspectives, and local experience, as well as meet a range of organizations serving each disadvantaged group. The interviews were structured as focus groups, with more than one interviewee present at a time.

In each city, the Expert Team met with the Bar Association, meeting with the President and/or senior leaders, including heads of the Commissions that focus on disadvantaged groups. A larger focus group involved lawyers providing direct service to clients from vulnerable groups, including lawyers of different levels of expertise and experience with the disadvantaged groups. Bar Associations were asked to invite both those involved in the administration of legal aid and lawyers who receive legal aid assignments and represent people directly.

⁴ Cohen D, Crabtree B. "Qualitative Research Guidelines Project." July 2006. <http://www.qualres.org/HomeFocu-3647.htm>

In addition to meeting with each Bar Association in the five selected cities, the Expert Team met with international NGOs and national, regional and local civil society organizations that work with each of the disadvantaged groups. The Expert Team visited Child Monitoring Centres (ÇİM) in three locations, a Centre to Prevent Violence (ŞÖNİM), and toured courthouses with and without specialized facilities for vulnerable victims. The Expert Team met with Prosecutors and Judges in some locations.

NGOs and civil society organizations decided who amongst their staff should attend, often involving students and junior staff in the meetings as well as leaders. In a few instances, service recipients were present at the meeting, generally where they have taken on a leadership role within the organization.

The Expert Team did not ask to or want to meet directly with people from vulnerable groups who are dealing with legal issues. Given their existing level of vulnerability, it would exacerbate their trauma to relate their experiences with legal aid. Such conversations would not likely provide insight into the specific training needs for lawyers, but rather dissatisfaction with the justice system generally. Even where such conversations may have been useful, the potential harm to the interviewee outweighs any benefit and would have raised ethical issues for the Expert Team.

Focus Group participants were provided with the focus group questions in advance, as guidance for the discussions. Interviewees were not asked to prepare answers in advance, nor did the Expert Team ask for written responses after the meetings. The in-person dialogue-focused meetings, conducted with translation, allowed for anecdotes and raising of additional issues.

Developing the Focus Group Questions

Prior to the development of the focus group content, the Expert Team reviewed the data and recommendations in the Outcome V Needs Assessment. We paid particular attention to the recommendations concerning the needs of lawyers to deliver legal aid services, the practical barriers to expansion of or consistency of services, the integration of legal aid services with other social, health and settlement services raised by both lawyers and vulnerable sector groups in each location in Outcome V. The questions used in Outcome I were also reviewed to avoid duplication.

Focus Group Questions

Questions for Lawyers and Bar Associations

Theme: Experience of vulnerable people receiving legal aid

1. Do you think legal aid for vulnerable groups is helping those individuals?
2. What is working and not-working?
3. Who explains the right to legal aid to clients assigned a legal aid lawyer?
4. Do you contact any support organizations to find out about the needs of a specific client?
5. Where do you first meet with a legal aid assigned client?
6. How do you change your approach when you know that someone is vulnerable?
7. Do you use other professionals (translators, social workers, office staff) to assist when interviewing people who are vulnerable?

Theme: Limits of legal aid availability for vulnerable people

8. Do vulnerable groups know about the right to legal aid?
9. Do you think there is a negative perception of asking for legal aid?
10. How frequently do vulnerable people ask for legal aid that you are not able to provide?
11. Do you keep track of the number of legal aid requests that are a) rejected (and why) or b) never progress to an application?
12. Which vulnerable groups most frequently request legal aid? Which are accepted or rejected?
13. For individual lawyers, when you decide if you can accept an assigned case, do you consider the vulnerability as a factor?

Theme: Current state of representation of vulnerable people

14. Do you have a system for assigning cases to specialized lawyers?
15. If so, how do you measure or record their specialization?
16. Does the Bar Association offer training relating to vulnerable groups?

17. Is there other training available for lawyers to improve legal aid to vulnerable groups?
18. Do you work with NGOs?
19. What steps do you take to make vulnerable clients more comfortable or feel safe?
20. Do you explain the court process to your vulnerable clients?
21. Are there common misunderstandings about the law that you see with your vulnerable clients?
22. Are cases reassigned to more qualified lawyers when the extent of the vulnerable status is determined? How?
23. Do lawyers refuse cases where the client is from a vulnerable group?
24. Do you get reports from NGOs, lawyers or clients that the assigned lawyer was unqualified or uninterested?
25. Do you have concerns about the quality of legal aid provided currently?

Theme: New approach to training to improve the quality of legal aid services for vulnerable groups

26. What substantive areas of training do you think would make the biggest improvement on legal aid?
27. What training about vulnerable groups do you think lawyers need?
28. Working with vulnerable people involves sensitivity to complex social issues. Which social issues or dynamics do you think lawyers should receive training about?
29. Should training be mandatory for lawyers accepting vulnerable clients?
30. Should lawyers with more training be prioritized on cases with vulnerable people?
31. Should lawyers have to repeat or upgrade their training over time?

Questions for NGOs and Vulnerable Groups

Theme: Experience of vulnerable people receiving legal aid

1. Do you think legal aid for vulnerable groups is helping those individuals?
2. What is working and not-working?
3. Who explains the right to legal aid to [insert specific vulnerable group]?
4. Has anyone explained the right to legal aid to you or your staff?
5. Do [insert specific vulnerable group] tell you about their experiences with the justice system? What do they tell you?
6. Do [insert specific vulnerable group] tell you about their experiences with assigned legal aid lawyers? What do they tell you?

Theme: Limits of legal aid availability for vulnerable people

7. Do [insert specific vulnerable group] know about the right to legal aid?
8. Do you think there is a negative perception of asking for legal aid?
9. What happens when [insert specific vulnerable group] don't access legal aid? (other services, end result)
10. How often are you asked to explain legal process [insert specific vulnerable group]?
11. Are you asked about legal issues like employment, housing, health?

Theme: Current state of representation of vulnerable people

12. Do [insert specific vulnerable group] tell you about their legal aid lawyers? What do they tell you?
13. Do [insert specific vulnerable group] ask you questions about the court process after they have met with a lawyer? What do they ask about?
14. What could be done to make it easier for [insert specific vulnerable group] to understand and feel safe in the legal process?
15. Have you heard of switching lawyers to get a more qualified lawyer on the case?
16. Do [insert specific vulnerable group] report not liking or not trusting their legal aid lawyer and either abandoning the case or hiring their own?

Theme: New approach to training to improve the quality of legal aid services for vulnerable groups

17. What substantive areas of training do you think would make the biggest improvement on legal aid?
18. What training about [insert specific vulnerable group] do you think lawyers need?
19. What training about NGO services, or other social services do lawyers need more training about?
20. Which social issues or dynamics do you think lawyers should receive training about?

Terms Used Throughout this Report

Throughout this Report we have used a number of terms that have multiple definitions and so, for clarity, we have set out the intended meaning of these terms as they are used in this Report.

Legal Aid: Turkey’s legal aid system has a number of components to provide legal aid services in criminal, civil and administrative cases, with different originating statutes, funding sources or procedures. The use of the term “legal aid” in this Report refers to all of the components, unless otherwise qualified.

Civil Society Organizations: The Expert Team met with a wide array of organizations working to advance human rights and individual welfare for people who face disadvantages. These organizations were local, provincial, national and international in scope, with differing mandates and funding structures and include non-governmental organizations (NGO’s) and informal community groups. We have grouped all of these organizations together under the term “civil society organizations”. This term does not include government entities or Bar Associations.

Police: There are a number of police services in Turkey, including municipal forces and a national gendarmerie. The use of the term “police” (in Turkish “kolluk”) in this Report includes all police services who encounter members of disadvantaged groups as part of their role.

The Disadvantaged Groups

This project specifically focuses on five categories of people who face particular disadvantage in society. We use ‘disadvantaged’ and ‘vulnerable’ to describe these groups of people, recognizing that there is no perfect definition or translation of these words. We intend to describe the circumstances of people in these groups, and make no judgement about the issues they face.

Women: All individuals who self-identify as women.

Children: All individuals up to the age of 18. We recognize that there are different legal treatments for children ages 0-12, 12-15 and 15-18.

LGBTI: All individuals who self-identify as members of the lesbian, gay, bisexual, transgendered, and intersex community, including those who use other terms to express their identity.

People with Disabilities: Individuals with physical or mental impairment that is continuous or recurrent. It includes both present and past conditions and those impacted by the perception of disability.

Refugees: We use the term refugee for all foreign nationals, including Syrians, who seek safety in Turkey according to international principles. A refugee is someone

who has been forced to flee his or her country because of persecution, war, or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. We understand that Turkish national law defines foreign nationals with a different status but we believe the international definition of the term refugee is in line with the purpose of the project.

The Framework of Legal Aid in Turkey

Outcome II examines the capacity of lawyers to meet the needs of disadvantaged groups. These needs are consistent in both the civil and criminal legal aid systems. While the primary focus of Outcome II is the capacity of criminal legal aid lawyers, the Needs Assessment does not distinguish between the civil and criminal systems. Lawyers are frequently active in both systems, often for the same client. The skills to meet the needs of these vulnerable communities are consistent in both systems. In our Field Visit discussions, and in the text of this Needs Assessment refer to legal aid generally. In doing so, we are referencing legal representation achieved through any of the Turkish legal aid mechanisms.

In the interests of project consistency across all five Outcomes, the following description of legal aid, from page 19 to page 24 of this report is comprised of the relevant excerpts from the summary of legal aid in the Outcome V Needs Assessment and Recommendations Report.

Legal aid as a human rights issue

There are two main dimensions of the relationship between human rights and legal aid. First, legal aid is considered essential for people who are experiencing financial insufficiencies, in providing access to justice by ensuring equality before the law, the right to counsel and the right to a fair trial stated in international human rights documents. Turkish regulations, in both the Code of Criminal Procedure and the Code of Civil Procedure, set out the right to legal aid. However, even when a right to legal aid -civil or criminal- is not specifically articulated in domestic law, the duty to provide legal aid is a critical part of the duty to ensure the fundamental rights guaranteed by all international and regional human rights instruments, namely, rights to:

- equality before the law,
- a fair trial,
- the equal protection of the law,
- an effective remedy, by a competent tribunal, for human rights violations.⁵

International and Regional Human Rights Instruments

There are numerous international treaties to ensure that those who do not have adequate financial means are represented by a lawyer during legal procedures, especially criminal procedures. These treaties include but are not limited to:

- Universal Declaration of Human Rights,
- International Covenant on Civil and Political Rights,
- Convention on the Rights of the Child,

⁵ Gail Davidson, Catherine Morris, and Heather Neun, International Law Obligations To Provide Legal Aid, <http://www.lrwc.org/ws/wp-content/uploads/2012/03/Legal-Aid-LRWC-Oct-25-2010.pdf>
Pakelli v. Germany, <http://hudoc.echr.coe.int/eng?i=001-57554>

- International Convention on the Elimination of all forms of Racial Discrimination,
- Convention Against Torture,
- Framework Convention for Minority Rights,
- Convention Relating to the Status of Refugees,
- Convention Relating to the Status of Stateless Persons,
- European Convention on Human Rights,
- Charter of Fundamental Rights of the European Union.

Article 6 of the European Convention on Human Rights (ECHR) guarantees the right to a fair trial in both civil and criminal proceedings.⁶ This has been interpreted as providing for a general requirement of some measure of “equality of arms” between the state and the individual or between the parties in the case. The overall structure of the Article, as well as the case law of the Court, stresses the vital connection between the right to legal assistance and the general interest in guaranteeing the right to a fair trial. When faced with a criminal charge, the right to legal assistance is explicitly set out in Article 6 (3) (c). An entitlement to free legal aid in civil cases has been slower to emerge.

The European Court of Human Rights has developed detailed rules about how legal aid should be provided, many of which have been affirmed by the UN Human Rights Committee applying the International Covenant on Civil and Political Rights. Other European and international bodies have also set down rules of legal aid. The European Committee for the Prevention of Torture and the UN Subcommittee on Prevention of Torture have both repeatedly emphasized the importance of legal aid as a fundamental safeguard against intimidation, ill-treatment, or torture. They have identified that the period immediately following deprivation of liberty is when the risk of intimidation and physical ill-treatment is greatest. In order to protect the vulnerable position of people in police custody, all states must develop an appropriate system of legal aid for those who are not in a position to pay for a lawyer.⁷

Article 90/4 of the Turkish Constitution reads as follows:

“International treaties duly put into effect carry the force of law. No appeal to the Constitutional Court can be made with regard to these treaties on the ground that they are unconstitutional. In case of a conflict between international treaties in the area of fundamental rights and freedoms duly put into effect and the laws due to differences in provisions on the same matter, the provisions of international treaties shall prevail.”

According to this constitutional rule and other relevant laws, international treaties ratified by Turkish Government constitute an integral part of Turkish Law.

Legal framework for legal aid in Turkey

Legal aid in Turkey has been regulated under three different codes, to establish three different dimensions of legal aid:

⁶ European Convention on Human Rights, http://www.echr.coe.int/Documents/Convention_ENG.pdf

⁷ Legal Aid In Europe: Minimum Requirements Under International Law, Open Society Justice Initiative, April 2015, p. 4 Last Access date: 12 August 2016

- to appoint a lawyer in civil and administrative cases, in accordance with the Code of Lawyers (“adli yardım”)
- for exemption from court fees, in accordance with the Code of Civil Procedure. (“adli müzaheret”), and
- to appoint a lawyer in criminal cases, in accordance with the Code of Criminal Procedure. (“CMK avukatlığı”)

Legal aid in accordance with the Code of Lawyers

Legal aid is regulated in Chapter 12 of the Code of Lawyers through articles 176 to 181 and by-laws issued by the Union of Turkish Bar Associations. Legal aid is defined in Article 176 of Code of Lawyers as:

“the rendering of the attorneyship services described in the present Code for the benefit of those who do not have the wherewithal to pay attorneyship fees and other adjudicatory expenses.”

Article 35 and 35/A of the Code states that lawyers have a professional monopoly on: providing opinion in legal matters; litigating and defending the rights of real persons and legal entities before courts, arbitrators, and other bodies invested with jurisdictional powers; and managing all associated documentation. Lawyers are also entitled to conduct all types of action with public offices, and to seek out of court settlements.

According to the Code, each Bar Association establishes its legal aid office to render legal aid services with power to decide on who is eligible and to appoint lawyers. Legal aid is not formally restricted to representation in the court and encompasses all legal services. In practice, Bar Associations primarily only appoint lawyers for representation leading to the false impression that legal aid grants are limited to representation.

The Legal Aid Office in each Bar Association has its own process and may request that the applicant provide any of the following documentation related to their financial status:

- Residence registration from the mukhtar
- Declaration of poverty by the mukhtar
- Copy of the ID card (refugee registration cards are now considered to be acceptable)
- Title deed registry asset declaration
- Income document / salary statement, if the person is working or social security document if they are not employed
- If the court case is already ongoing, a copy of the court case file
- If the applicant is renting a house, a copy of the rent contract or payment receipt
- If they don't pay rent, a copy of the land title registry of the property where they reside

Once it has been decided that someone is entitled to legal aid, a lawyer is appointed, meaning that it is not possible for a client to choose their own lawyer. The legal aid office notifies both the lawyer and client about the appointment. The client must visit the lawyer in

his office and bring a notarized power of attorney document. The client is responsible for the payment of notary and court fees.⁸

Civil Legal aid lawyers are paid according to the Minimum Fee Tariff of Lawyers of the Union of Turkish Bar Associations. Each Bar Association receives an allotment for legal aid cases and makes local decisions about its expenditure. There is no prescribed quota that would limit the number of legal aid cases.

Legal aid in the Law on Foreigners and International Protection

The Law on Foreigners and International Protection states that applicants and international protection beneficiaries are entitled to apply for Bar Associations' legal aid if they are unable to afford the attorney's fee.

The Article 81 of the Law titled "Legal services and counseling" states that:

- (1) Applicants and international protection beneficiaries may be represented by a lawyer regarding activities and actions stipulated in this Part, provided that the [attorney's] fee is covered by them.
- (2) In cases where the applicant and international protection beneficiary is unable to afford the attorney's fee for their judicial appeals regarding activities and actions stipulated in this Part, legal assistance shall be provided pursuant to the provisions on legal assistance stipulated in the Attorneyship Law № 1136.
- (3) Applicant and international protection beneficiary may make use of counseling services provided by non-governmental organizations.

The Article 53 of the Temporary Protection Regulation titled "Legal services" states that; "persons benefiting from temporary protection may be represented by a lawyer in the administrative proceedings provided that they cover the relevant costs. This is without prejudice to the provisions on legal aid of the Attorneyship Law No.1136 dated 19/03/1969"

Legal aid in accordance with the Code of Civil Procedure

Legal aid in the Code of Civil Procedure has been established in Articles 334 to 340. As stated in Article 334, persons who are entitled to legal aid are defined as;

"Persons, who have no ability to partially or totally afford necessary litigation or enforcement costs without putting the livelihood of himself or his family in a significantly difficult position, may apply for legal aid in his claims and pleas, demand of temporary protection and enforcement providing that their demands are not explicitly without ground."

In 2015, 44,319 persons were appointed a legal aid lawyer in accordance with the Code of Lawyers and only 358 persons were appointed a legal aid lawyer from the legal aid service

⁸ According to Article 6 of the Union of Bar Associations in Turkey Regulation for Legal Aid in exceptional situations these expenses might be covered from legal aid budget of the Bar Association.

in accordance with the Code of Civil Procedure.⁹ Taking into consideration that appointing a legal aid lawyer through the Code of Civil Procedure is not frequently used by Turkish judges, this type of legal aid has been understood by Turkish legal practitioners as an exemption from court fees.

According to the Article 323 of the Code of Civil Procedure court expenses are:

- *Hearing, judgment and writ fee;*
- *Notification and postage expenses;*
- *File and other paper expenses;*
- *Expenses regarding temporary legal protection measures and protest, denouncement, certificate of protest and power of attorney document;*
- *Viewing expenses;*
- *Expenses and payments for witness and expert witness;*
- *Levies, tax, fee or other expenses made for the documents from state offices;*
- *An amount of money which will be decided according to the judge's discretion to cover per diem, travel and accommodation expenses;*
- *Fee of attorney determined by the judge according to law for the cases in which a lawyer is involved;*
- *Other expenses spent during litigation.*

The rules set in the Code of Civil Procedure are also applicable for administrative cases, by reference in the Code of Administrative Procedure.¹⁰

The funding of legal aid in accordance with the Code of Civil Procedure is provided from the state budget. Article 340 of the Code explicitly states that fee of the lawyer appointed by the Bar Association upon the request of court is paid from State Treasury as a litigation cost.

Legal aid in accordance with the Code of Criminal Procedure

The Turkish criminal system guarantees that the suspect or the accused may request appointment of a defense counsel. Upon the request, a defense counsel shall be appointed under Article 150/1 of the Code of Criminal Procedure. According to the 2nd and 3rd paragraphs of the same Article if the suspect or the accused is a child, or an individual who is unable due to disability to make a defense, or is deaf or mute, or is under investigation or prosecution for crimes that carry a punishment of at least five years imprisonment, then defense counsel shall be appointed without request.

The same rights are given to the victim, claimant and to an intervening party. Article 234 and Article 239 order the appointment of a legal aid lawyer by the Bar Association in cases of sexual assault, and in crimes that carry imprisonment of five years or less, upon request. If the victim or the individual who suffered damages from the crime is a child, is deaf or mute, or is an individual who is unable due to disability to make a defense, then a request is not needed in order to appoint a lawyer.

⁹ SILA Outcome V Needs Assessment and Recommendations, Annex II "Legal Aid Awards 2014 and 2015"

¹⁰ Code of Administrative Procedure, Law number 5467, Article 31/1.

The judicial authorities who conduct the investigation or prosecution have no power to appoint a defense counsel. They must request the appointment of a defense counsel from the Bar. In cases where criminal legal aid applies, legal aid may be provided;

- a) During the investigation phase, upon the request of the authority that conducts the interview or the judge who conducts the interrogation,
- b) During the prosecution phase, upon the request of the court.

Bar Associations use automation systems to assign lawyers. These systems are provided by the Union of Turkish Bar Associations, or the private OCAS and SDD systems. The lawyer receives a SMS message on their phone, providing them with access to selected details about the case. The lawyer is required to confirm whether they will accept the case immediately, and is expected to attend the police station, often within one hour unless the police station / gendarmerie is located in a rural area.

When the Code of Criminal Procedure orders that the representation is mandatory it is not possible to continue the trial in the absence of a defense counsel.

Criminal Legal Aid fees are paid according to the Ministry of Justice “Tariff Regarding to Payments to the Defense Counsels and Lawyers Appointed According to Code of Criminal Procedure”. Despite a notable raise in 2017, the professional rates are markedly lower than The Union of Turkish Bar Association Minimum Fee Tariff of Lawyers paid for civil and administrative legal aid.

It should be noted that legal aid lawyers have to submit their invoices and related expense vouchers to the prosecutor’s office to be paid. This has been heavily criticized by lawyers and the UTBA because it may result in actual or perceived influence exerted by the prosecutor upon the defense counsel, and it is contrary to the principle of equality of arms.

International Context for Training Legal Aid Lawyers

International scholarship, experience, research and litigation has resulted in an emerging consensus about the essential right to legal aid. The core premise of this right is recognized regardless of the legal system, and is applicable in a wide range of legal matters, with more urgent priority put on issues that have more severe consequences for individuals or that arise from circumstances of greater vulnerability.

UN Principles and Guidelines on Access to Legal Aid

This consensus was articulated in the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems published in 2013¹⁴. It calls out the requirement for additional protection to groups that face greater vulnerability, listing women, children and people with disabilities as examples. The Principles enumerate the right to legal aid and the state responsibility to ensure that legal aid is available without discrimination. It recognizes the best interests of the child and provides guidance on effective and accountable legal aid systems.

A number of the Principles include commentary that is particularly relevant to this Outcome, focusing on obligations to provide training to lawyers and to the public. The following are excerpts from the Principles and Guidelines.

Principle 2. Responsibilities of the State

States should enhance the knowledge of the people about their rights and obligations under the law through appropriate means, in order to prevent criminal conduct and victimization.

States should endeavour to enhance the knowledge of their communities about their justice system and its functions, the ways to file complaints before the courts and alternative dispute resolution mechanisms.

...

Principle 8. Right to be informed

States should ensure that, prior to any questioning and at the time of deprivation of liberty, persons are informed of their right to legal aid and other procedural safeguards as well as of the potential consequences of voluntarily waiving those rights.

¹⁴ UNODC, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, June 2013. https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

States should ensure that information on rights during the criminal justice process and on legal aid services is made freely available and is accessible to the public.

...

Principle 10. Equity in access to legal aid

Special measures should be taken to ensure meaningful access to legal aid for women, children and groups with special needs, including, but not limited to, the elderly, minorities, persons with disabilities, persons with mental illnesses, persons living with HIV and other serious contagious diseases, drug users, indigenous and aboriginal people, stateless persons, asylum seekers, foreign citizens, migrants and migrant workers, refugees and internally displaced persons. Such measures should address the special needs of those groups, including gender-sensitive and age-appropriate measures.

...

Principle 13. Competence and accountability of legal aid providers

States should put in place mechanisms to ensure that all legal aid providers possess education, training, skills and experience that are commensurate with the nature of their work, including the gravity of the offences dealt with, and the rights and needs of women, children and groups with special needs.¹²

Each of these principles is further elaborated with specific guidelines, some of which warrant explicit attention:

Guidelines 11. Nationwide legal aid system

(c) To promote coordination between justice agencies and other professionals such as health, social services and victim support workers in order to maximize the effectiveness of the legal aid system, without prejudice to the rights of the accused;

...

States should also take measures:

- (a) To encourage legal and bar associations to support the provision of legal aid by offering a range of services, including those that are free (pro bono), in line with their professional calling and ethical duty;
- (b) To identify incentives for lawyers to work in economically and socially disadvantaged areas (e.g., tax exemption, fellowships and travel and subsistence allowances);

...

Guideline 15. Regulation and oversight of legal aid providers

States, in cooperation with professional associations, should:

- (a) Ensure that criteria are set for the accreditation of legal aid providers:

¹² UNODC, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, June 2013. https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

...

Guideline 16. Partnerships with non-State legal aid service providers and universities

States should, where appropriate, engage in partnerships with non-State legal aid service providers, including non-governmental organizations and other service providers.

...

Guideline 17. Research and data

States should ensure that mechanisms to track, monitor and evaluate legal aid are established and should continually strive to improve the provision of legal aid.

For this purpose, States could introduce measures:

(a) To conduct regular research and collection of data disaggregated by the gender, age, socioeconomic status and geographical distribution of legal aid recipients and to publish the findings of such research;

Not only is the provision of legal aid a requirement, but these UN Principles and Guidelines create positive obligations on states to work with Bar Associations and civil society to tailor those services to the national context. Legal Aid for the vulnerable requires the highest level of service and expertise. To prioritize legal aid for those who need it most requires accepting an increased obligation on states, from a funding perspective, and on lawyers and other legal professionals, from a professional and ethical perspective. Ensuring that the most vulnerable can act on their rights is a shared responsibility.

Further, lawyers are in a professional position to protect the rights of those whose circumstances are unpopular, or difficult to advance within the majority social structure. Lawyers are advocates for their clients, regardless of the social, political or economic views of their communities, or their own views.

Service Standards and Codes of Conduct

In many countries the profession has embraced this obligation by adopting a service standard or code that guides lawyers' conduct. A comparative look at legal aid service standards reveals a range of approaches depending on the structure of lawyer regulation in each country. The common features of legal aid service standards include a positive statement of the obligation of lawyers to meet the high standard for all clients equally.

A range of examples are highlighted here, representative of the approaches developed in different jurisdictions. These are included as a range of possible approaches that could inform the development of a Turkish approach.

Model Codes of Conducts have been adopted by national federations of bar associations or law societies, to be adopted and enforced by local bar associations.¹³ These generally begin with a statement of the unique professional role of the lawyer. In the first paragraph of its preamble, the American Bar Association's model code of professional conduct states:

A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.¹⁴

France requires all of its lawyers to take an oath that sets out the ethical framework:

"I swear, as a lawyer, to perform my duties with dignity, conscience, independence, integrity, and humanity".¹⁵

Samples of Codes of Conduct go on to itemize specific expectations relevant to the provision of legal aid to people belonging to vulnerable groups.

The Lawyer as Advocate

The independence and active role of the lawyer as an advocate is a consistent theme in these approaches. The Canadian Model Code has a section entitled "The Lawyer as Advocate" under which it states:

5.1-1 When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law, while treating the tribunal with candour, fairness, courtesy and respect.¹⁶

The explanatory comments instruct the lawyer to act fearlessly for the client.

The role of the legal aid defender in the U.S. is further articulated by the National Legal Aid Defender Association in its Guidelines as requiring "zealous and quality representation at all stages of the criminal process."¹⁷ These standards also stipulate that clients receive the same level of representation, attention and effort regardless of the fees or source of funding.

The American Bar Association puts a positive obligation on all lawyers to provide free legal services to meet the needs of people belonging to vulnerable groups as part of the lawyers' obligations. Rule 6.1 of its model code states:

¹³ The American Bar Association and the Federation of Law Societies in Canada have both adopted this approach

¹⁴ American Bar Association, Model Rules of Professional Conduct, Preamble, www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_preamble_scope.html

¹⁵ Conseil National des Barreaux, France: www.cnb.avocat.fr/Being-a-Lawyer-in-France-Professional-Regulations-Obligations_a1741.html

¹⁶ Federation of Law Societies of Canada, Interactive Model Code of Conduct, www.flsc.ca/interactivecode/

¹⁷ National Legal Aid and Defenders Association, Performance Guidelines for Criminal Representation, 2006, Guideline 1.1, www.nlada.org/defender-standards/performance-guidelines.

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.¹⁸

The Lawyer as Voice of Client

International examples of lawyers' codes include an explicit requirement for the lawyer to act as the voice or agent of the client's interests, regardless of personal belief. In Canada, the lawyer must "refrain from expressing the lawyer's personal opinions on the merits of the client's case"¹⁹ while in France, the requirement for dispassionate representation is stated as follows:

"The principle of independence guarantees that the advice lawyers give to their clients will never be guided by personal interest or external pressure."²⁰

Guidelines set out the importance of the lawyer working to advance the client's interests, regardless of the popularity of those interests, or the opinions of others who try to influence the client, including family or medical professionals. This is particularly important with child clients or when clients are limited in their communication or capacity. The American Bar Association has addressed this in its model code of conduct:

Rule 1.14 Client With Diminished Capacity

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.²¹

Increased attention to the legal needs of the most vulnerable

In the U.K., lawyers providing legal aid services must have a Specialist Quality Mark achieved through training and annual audits of their legal aid services, both conducted by the Law Society. The training of the lawyers to receive this Mark includes learning about the needs of people belonging to vulnerable groups and ensuring that all aspects of their practice, including the conduct of their support staff, reflect this attention to the needs of people facing disadvantages.²²

¹⁸ American Bar Association, Model Rules of Professional Conduct, Rule 6.1, www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service.html

¹⁹ Federation of Law Societies of Canada, Interactive Model Code of Conduct, Commentary [5] www.flsc.ca/interactivecode/

²⁰ Conseil National des Barreaux, France: www.cnb.avocat.fr/Being-a-Lawyer-in-France-Professional-Regulations-Obligations_a1741.html

²¹ American Bar Association, Model Rules of Professional Conduct, Rule 1.14, www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_14_client_with_diminished_capacity.html

²² Legal Aid Agency, U.K., www.gov.uk/guidance/legal-aid-agency-quality-standards

Specific Service Requirements in Legal Representation

Codes or Guidelines for criminal defence counsel or civil law cases include specific instructions about lawyer conduct. The National Legal Aid Defender Associations' Guidelines require lawyers to be thorough, active and vigilant at every stage²³. It's very detailed approach stipulates the role of the legal aid defender in advancing a theory of the case, challenging the evidence of the Prosecutor and advocating for the clients' interests in sentencing and appeal decisions. Of note, the Guidelines require the lawyer to conduct an investigation, in addition to the state's investigation.

Guideline 4.1 (a) Counsel has a duty to conduct an independent investigation regardless of the accused's admissions or statements to the lawyer of facts constituting guilt. The investigation should be conducted as promptly as possible.

Training Lawyers to the Standards

In jurisdictions that have established service standards or codes for legal aid, there are also requirements to achieve basic and ongoing professional credentials. In some cases, this is structured as an annual professional development requirement of legal aid lawyers or of all lawyers. In other examples it is a requirement prior to assignment of legal aid cases. The U.K.'s programs of Professional Development range from the online training offered by the Legal Aid Agency with a member sign-in structure²⁴ to private or non-profit training agencies such as LawWorks which offers training on substantive legal issues and on professional skills for civil lawyers including "dealing with Vulnerable Clients and Difficult Situations."²⁵ In France lawyers are required to complete twenty hours of approved continuing education each year, with Bar Associations responsible for overseeing the process and disciplining lawyers who fail to comply with ongoing training requirements. Canada's professional development obligations are managed provincially by each Law Society and allow lawyers to select different areas of training, with an annual requirement for professionalism training, which can include a focus on vulnerable groups. These training programs are offered in person, or on-line, by the Law Society and by other accredited trainers.²⁶

Each of these examples present a model for meeting the Principles set out by the United Nations and accepted as critical to maintaining the rule of law. The exact configuration of a service standard, a code of conduct and a training model to ensure compliance must reflect the legislative, regulatory and practical parameters in Turkey.

²³ National Legal Aid and Defenders Association, Performance Guidelines for Criminal Representation, 2006, Guideline 2.2, www.nlada.org/defender-standards/performance-guidelines.

²⁴ Legal Aid Agency www.legalaidtraining.justice.gov.uk/

²⁵ LawWorks, www.lawworks.org.uk

²⁶ Law Society of Upper Canada, www.lsuc.on.ca/CPD-Requirement/

Field Visit Summaries

The Expert Team visited five provinces - Muğla, Edirne, Izmir, Samsun and Mardin - and met with a number of national and international organizations in Ankara. In each location, the Team was warmly welcomed by all of the organizations and we are grateful for the time and attention this project was given. It is evident to us that the Outcomes of this project are welcomed by both the legal community and those who serve disadvantaged groups, all of who are committed to improving the legal aid experience for everyone.

Muğla

Muğla Bar Association, The Child Abuse Prevention Association

In our first meeting, the Expert Team met with the Vice President and Secretary of the Women's Rights Commission of the Muğla Bar Association to focus on the work the Commission does to support the legal position of women who have been subject to violence. We were joined by the President of the Child Abuse Prevention Association, a separate civil society organization. This organization does not provide legal services directly to child clients.



They told us that the current legal aid system does not easily support the assignment of experienced and trained lawyers to complex cases involving abuse of women and children. Rather, the criminal legal aid automated system randomly assigns from a list of mainly young and inexperienced lawyers.

They did acknowledge that the Bar Association assignment of civil legal aid lawyers has the ability to be more directed. The low legal aid fee and lack of funding for disbursements such as travel was also noted as a barrier to providing legal aid services. The balance that lawyers must strike between the provision of adequate services and the low fee for criminal legal aid cases was raised as a challenge.

The Women's Rights Commission provided us with a thorough set of recommendations for training.

We discussed outreach efforts by the Child Abuse Prevention Association to introduce education on children's rights and the prevention of child abuse into schools and families. Part of this education is focused on empowering children both to prevent abuse and to assert their legal and social rights if they become a victim.

In the afternoon, we were welcomed by the President and Vice President of the Bar Association and a large group of nine leaders from the Bar Association, including the heads of a number of commissions, including the Legal Aid, Women's Rights, Human Rights, Training, and Refugee Commissions.

The Muğla Bar Association provides legal aid in criminal cases using an automated system of lawyer assignment, which does not easily support the directed assignment of lawyers, and uses lists created by the Bar Association Commissions to assign lawyers for civil legal aid and for victims where possible. There is no shortage of lawyers in Muğla willing to work on legal aid cases and no case is ever turned away for lack of a lawyer. However, there is a challenge ensuring that lawyers with particular areas of expertise are assigned to complex cases involving people belonging to vulnerable groups.

We noted a high degree of engagement by the Bar in the support of vulnerable groups and legal aid. Clearly, the Muğla Bar Association and its members are interested in providing appropriate and effective legal aid. However, it was evident that both the lawyers and the Bar Association feel hampered by the structure of the system, including the level of compensation, the automated assignment system, and the inability of clients to choose their own lawyer.

The Bar Association provided us with potential solutions for improving the information available to lawyers and for improving the system, including:

- A common message and set of promotional material from the UTBA to promote legal aid services in the community;
- A model of legal insurance rather than a legal aid system, with the state coverage of insurance for those who cannot pay; and
- Support and training for lawyers with child clients through text messages with helpful hints and checklists.



Association for Solidarity with Asylum Seekers and Migrants (ASAM) / Sığınmacılarla ve Göçmenlerle Dayanışma Derneği (SGDD) /

The Expert Team met with a lawyer, a staff member and a social worker for ASAM in Muğla to speak about the experience of refugees in that province with legal aid. ASAM provides

direct social services and legal consultation for refugees. However, when a refugee requires a lawyer to represent them, ASAM contacts the Muğla Bar Association for the assignment of a legal aid lawyer. ASAM provides expert substantive legal support and interpretation services for legal aid lawyers as required and where possible.

Overall, this organization reported a reasonably positive experience with the legal aid lawyers assigned to refugees in Muğla. Specifically, they reported that the Muğla Bar Association, through its Refugee Commission, has made efforts to increase training including local and UNHCR training, which has resulted in more lawyers taking refugee work.

They reported that, in their experience and from what their clients have told them, they have not encountered legal aid lawyers who display negative biases towards refugees. ASAM and legal aid lawyers have been working to find proxy methods for supporting refugees without identification to obtain a power of attorney.

Mentese Kent Konseyi (City Council of Mentese) and Civil Society Organizations

The Expert Team met with four individuals, including a psychologist, two city council members and the president of the city women's parliament. In addition to their work with the city council, most of these women also represent civil society organizations. This insightful discussion focused on the needs and experiences of women and those with disabilities when accessing the justice system and in particular legal aid. While the city council does not provide direct legal services to people with disabilities, the women's associations provided both legal and social support to women who have an active legal case.

With respect to women's experiences, they noted that the Muğla Bar Association is working to improve the assignment of experienced lawyers to women victims of violence. They indicated that they would be willing to work with the Bar Association to continue to provide training for lawyers or to support individual cases. Their greatest concern was the lack of understanding of gender equality displayed by many legal aid lawyers.

With respect to the issues faced by clients with disabilities, the key concern noted was that these clients are less likely to seek legal advice or assistance. They do not know their rights and they are either unable or unwilling to come forward. Often they face discrimination both socially and within their families. It was noted that some effort by the Bar Association to work with organizations that serve the disability community may support an increased awareness and trust among these clients.



Reflections from our meetings in Muğla

It was clear to us that the legal community in Muğla is engaged in supporting clients facing disadvantages. Both the Bar Association and the civil society organizations reported a strong community of lawyers providing services to legal aid clients, with experienced lawyers assigned to cases for refugees and women in particular. The civil society organizations also demonstrated an interest in working collaboratively with the Bar Association.

There are a number of best practices to be found in Muğla, especially with respect to legal aid services for refugees. It was noted, both by the Bar Association and by the civil society organizations, that the Muğla Bar Association, through its Refugee Commission, has made efforts to increase training, including local and UNHCR training, which has resulted in more lawyers taking refugee work.

The Bar Association is making efforts to assign specially trained lawyers to refugee cases. The Bar Association also has a positive relationship with the local office of ASAM, leading to more lawyers reaching out to ASAM for substantive and interpretation assistance on cases.

It was reported that legal aid lawyers do not display negative biases towards refugees. Indeed, ASAM and legal aid lawyers have been working together to find proxy methods for supporting refugees without identification to obtain a power of attorney.

The Bar Association has been engaged in community projects with other organizations in order to support refugees. The Bar Association participated in a project with the Ministry of Education to support the registration of refugee children for school.

Civil society organizations note that the Muğla Bar Association is working to improve the assignment of experienced lawyers to women victims of violence. We observed a significant level of dedication by the Women's Rights Commission to ensuring that women victims of violence receive appropriate and experienced legal counsel.

However, there remain some challenges with respect to the provision of legal aid services for people who are vulnerable in Muğla. There is a lack of common training for all lawyers on the legal aid lists who serve disadvantaged groups, in particular with respect to lawyers on the criminal legal aid list, where the Bar has a reduced ability to direct the assignment of lawyers to cases.

It was observed that lawyers here struggle from many of the common challenges that we have heard across Turkey, including an inability to communicate effectively and empathetically with their clients. In particular, a lack of training and understanding with respect to child clients and disabled clients was raised repeatedly.

Edirne

Edirne Bar Association

The Expert Team was welcomed by the President of the Bar Association and then met with twelve members of the Bar, the Presidents of the Legal Aid Commission, the Women and Children's Commission, and lawyers who focus on refugee and women's issues.



The Edirne Bar Association provides civil legal aid primarily for women, children and refugees. It described a well-coordinated referral process in which a sufficient number of lawyers have self-identified to represent these groups. The lawyers feel that their training is sufficient and they make effective referrals to shelters and social services. They emphasized the importance of legal aid services to unemployed women in divorce cases. The Bar maintains a voluntary list of refugee lawyers. We were told that in cases involving children, lawyers take instructions from their parents. We were told that the Bar has not received legal aid requests from either LGBTI people or from people with disabilities, though some speculated that this was due to the financial stability of these communities or their access to social services.

The Bar Association is doing outreach to schools about child marriages, offers seminars to women about their rights, held at the Bar's office. The lawyers agreed that the small size of the region makes it easy for lawyers to meet regularly with clients and to support each other through informal mentoring. Edirne was described as having a stable social life.

Between 10-15% of applications are being rejected due to financial eligibility and all people from vulnerable groups are accepted. The intake process does not assess financial eligibility for women or refugees. We were told that all criminal legal aid requests are adequately met by the Bar association and there are no issues in the administration of legal aid. The Bar has a culture of cooperation and legal aid files are taken by lawyers at all stages of their career (approximately 75% of the Bar is on the list), who do not view legal aid in financial terms. The Bar Association has never had a complaint about a civil or criminal legal aid lawyer and is meeting all legal aid requests without issue.

Edirne Child Monitoring Centre (ÇİM)

The visit to the Child Monitoring Centre included a meeting with two social service experts, two legal interviewers, a psychologist and a physician followed by a tour of the facility. The Centre is located on the edge of a hospital property, in a separate building painted to be child-friendly.

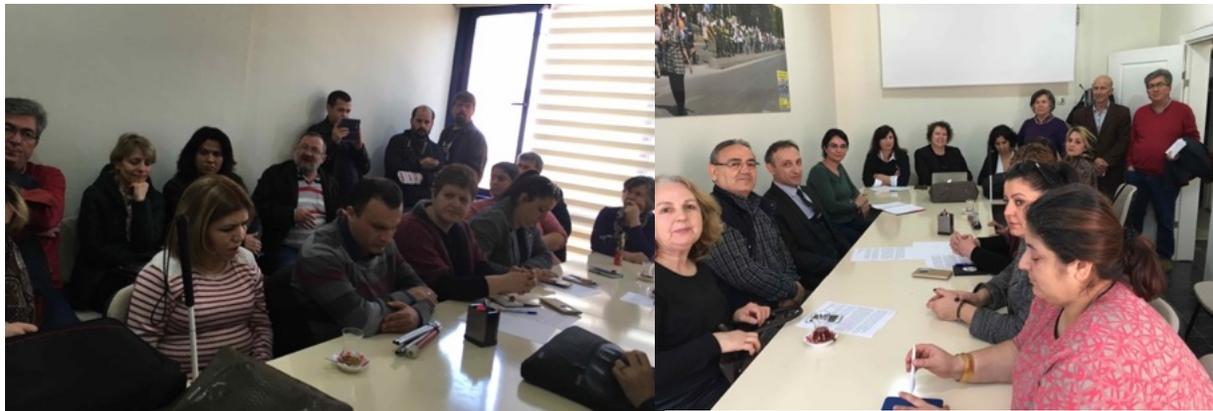
The staff at the Centre have a very child-focused approach to conducting legal interviews and making service referrals. The Centre receives children and adolescents under 18 either directly, or when referred by police or health professionals. Many of the children at the Centre have disabilities or developmental issues. The Centre sees many adolescents



referred because of underage pregnancies that signify child marriages. Once referred, the pregnancy is treated as evidence of abuse or exploitation and the older of the two adolescents is prosecuted. Legal aid lawyers arrive at the Centre, when the prosecutor is present and often take instructions from the parents. The staff expressed frustration that the video of the legal interview is designed to replace any in-person testifying is not being used and children are re-testifying in court.

Members of Civil Society Groups in Edirne

This meeting was organized by a lawyer, active within the Bar's Commissions and within the city council. She invited people from civil society groups. Over the course of the meeting 25 people attended, representing the deaf community, people with disabilities, the Roma community, women's groups, the LGBTI community, refugee associations, and visually impaired people in Edirne. There was sign language interpretation for five attendees, provided by the Ministry of Social and Family Affairs. Key issues were identified for each different group. Attendees were passionate about the extent of unmet needs and the lack of access to lawyers. They shared personal experiences, typical legal issues and ideas for increased training, coordinated services and effective referrals. The Expert Team noted the candor and passion of the attendees who voluntarily contributed their time.



Reflections on our Meetings in Edirne

The Bar in Edirne has a remarkably collegial relationship, offering each other formal and informal support on individual files. The percentage of lawyers enrolled on the legal aid lists was very high, with broad distribution regardless of the experience or age of the lawyers. Legal aid is seen as a professional obligation, undertaken because people need assistance. Financial compensation is not a motivation for offering legal aid.

The small size of the region minimizes the travel costs and makes it easier than in other regions for lawyers to visit their clients as needed. The Commission and the Bar have produced brochures and posters, embracing their obligation to proactively help people learn about and understand their rights.

There is a disconnect between the harmonious and effective vision of legal aid services presented by the Bar and the description of legal aid needs raised by civil society groups. We see that as indicative of a need for more cooperation with NGOs and better connection to the community. Lawyers are obviously very committed to providing legal aid, but are not completely reaching the high needs groups.

Police surveillance in this border community tends to focus on smuggling, leading to mistrust and a lack of awareness of the protection police can offer in cases of abuse. Roma communities are somewhat isolated from other community services and require direct outreach. Legal information is required in advance of police incidents and needs to be presented in straightforward language, encouraging people to rely on the justice system for protection.



As a small border city, Edirne struggles with limited resources to meet the challenges typical of sharing a border with other countries, including differing treatment of refugees.

There is a large and well organized disability community in Edirne, with social, sport, and community living organizations. They raised concerns about the sufficiency of social services and their inability to enforce government entitlements, asking for legal assistance on these systemic matters. While it was not clear to us if these issues would be covered by legal aid, we were struck by the contrast between this description of discrimination and hardship, and the perspective of lawyers that the Ministry of Social and Family Affairs is adequately meeting these needs.

We heard very clear concerns about discrimination against some LGBTI people at every stage of the justice system, including police, detention facilities, lawyers, judges and court

staff. The result of this extensive mistrust is that some LGBTI people report that they cannot act on their rights in civil or criminal cases because of this stance.

Organizations working with women and children described efforts to offer legal information sessions to the public. They insist that these sessions need to be in the community and cannot require members of the public to go to the courthouse, the Bar Association or other intimidating buildings.

We were struck by the level of interest and urgency of the civil society groups who offered to work with the Bar or participate in trainings to increase the awareness within the community.

The Child Monitoring Centre's services are not always being used as much as they could be by the justice system. Staff told us that most adolescents have to re-testify in court and that the video statements made at the Centre are not used to replace in-person testimony. This creates the potential for the re-traumatization of the child through repeating the events in a public setting, with the accused present. However, we understand that some court locations have closed circuit video options so the victim can testify in another room to reduce the potential for trauma. We heard concern that assigned legal aid lawyers without specialized training are not standing up on behalf of the child to resist these procedures, nor are they active in the investigation stage. In contrast, lawyers with training about trauma have good communications skills and are offering information about the process, anticipating the fear and intimidation that children and families feel.

The cohesive approach of the Edirne Bar Association and the existing culture of protecting rights as professional obligation is a resource that could be applied to the high needs identified by disadvantaged groups.

Izmir

Izmir Bar Association

A morning meeting with four lawyers from the Commissions for Children's Rights, Legal Aid, and Refugees as well as the Vice President of the Bar Association focused on the administration of legal aid. An afternoon meeting included an additional ten lawyers involved in the Disability, Women's, Children's and Refugee Commissions, the Lawyers' Rights Centre, the Human Rights Centre and the Intern representative to the Bar.



Izmir has 7000 lawyers, 2200 of which are on the criminal legal aid list and 2000 of whom are on the civil legal aid list. Almost 600 lawyers have received specialized training on women's rights or refugee rights. Lawyers are assigned a civil file approximately once every 18 months and 25-30 criminal cases per year. Young lawyers build their careers by taking legal aid cases, but eventually take fewer because the fees are so low. There is a recognition that lawyers on criminal legal aid assignments ask less questions and are unable to follow the case through to its conclusion. The training currently offered by the Bar aims to change the culture of legal aid to frame it as a duty, regardless of the fees.

The Izmir Bar Association maintains a duty counsel desk at the courthouse, staffed by lawyers paid a daily fee, who assist people with petitions, including victims' claims, custody cases, and divorce. Interns work with the lawyer at this desk. The lawyer makes referrals to shelters and services, before starting the legal procedure. Interns go with the client into court. Prosecutors, police and community organizations tell people about the service. Duty counsel services are available regardless of financial eligibility or citizenship.

People are referred to civil legal aid, as well as to employment programs. Civil Legal Aid focuses on family law and only represents women, refusing men who experience violence. The Civil Legal Aid Board meets every Monday and makes decisions on representation requests. Of the 7000 formal requests last year, 4000 were accepted. The Bar does not track the number of people who inquire about legal help but do not make a formal request because of the eligibility criteria. The clients' real estate ownership is the most frequent reason for rejecting cases. Some people are rejected because of their partial share in a property with no information about



how small that share is. The deed is not available to the lawyers. Last year only twelve assignments were made through the court assignment process.

The Bar has a protocol with the municipality and does outreach to businesses on workplace discrimination, providing application information for factory workers. The Bar meets periodically with the Prosecutor's office to address difficult issues. Particularly those that limit the ability of legal aid lawyers to fully defend their clients.

The Children's Rights Commission has regular engagement with civil society organizations including the distribution of brochures, visits to schools, and training for parents. The Bar receives many requests for legal aid from people with disabilities and has a Disability Commission. Criminal legal aid for people with disabilities has only been for victims as no requests for accused have been received. There are no civil legal aid requests from people with disabilities. Lawyers speculated that clients doubt the quality of the legal aid because the fees are so low.

Civil legal aid for women focuses on those experiencing violence, predominantly in divorce cases. The Women's Commission would like to see specialized appointments for criminal cases involving violence against women. The Women's Commission advocates do not want to represent perpetrators and see the conflict as one that affects their credibility and reputation with clients. They are concerned that the consequences of refusing an assignment are applied without recognizing that the refusal is based on conflict or principle.

Requests for legal aid from refugees come from the Removal Centre or from refugee organizations. We were told that the administrative authority at the Centre does not always advise of the right to legal aid and sometimes makes it difficult for refugees to meet with lawyers. The lawyers told us that the Centre sometimes does not provide the phone number of legal aid, limits the time for visits, denies the lawyer access if the spelling of the name is wrong, restricts the number of clients per day, and makes lawyers wait outside for hours. There are cameras and microphones installed in the private interview rooms and the lawyers cannot tell if the Centre is monitoring their private meetings. It is difficult for the lawyer to establish confidence or trust with the client. The power of attorney requirements are an

obstacle, made worse by the lack of certified translators, especially at notary offices. This treatment of lawyers results in professional fatigue and practical problems as a single case requires many lengthy visits.



In addition to the low legal aid rates, the Bar spoke of a problem in the payment of criminal legal aid fees. The lawyer submits a report to the Bar, which is submitted to the Prosecutor's office. It usually takes three months for the Prosecutor to prepare the invoice and another two months to pay it. The fees are reduced by income tax and administration fees, resulting in 38% or more deducted in taxes. The Prosecutor can also reduce any claimed costs and reduce the total amount paid out, regardless of the actual amounts spent. The net result is that there is very little incentive to take legal aid cases.

Child Monitoring Centre (ÇİM)

The Expert Team met with the ÇİM staff followed by a tour of the Child Monitoring Centre facility. The Centre is attached to the hospital, accessed through a separate door from within the grounds. The meeting included two legal interviewers, two psychologists, a child development specialist, a social services specialist, a nurse and a representative of the Ministry of Social and Family Affairs.

When a child arrives at the Centre, the staff take time to allow the child to get used to the facility and to discuss the incident, including indirect story-telling, use of play, and age-appropriate ways of discussing bodies and incidents. The staff inform the child and the family about the right to legal aid and submit the request for a lawyer. Staff exclude the family members from the facility if there is a concern that the abuser is within the family.

Once the lawyer and prosecutor arrive, they observed the filmed interview through a one-way mirror. The legal interviewer can see questions from the prosecutor or lawyer on a screen in the room. The child is informed about the interview process and the presence of the lawyer and the prosecutor. The legal interviewer records opinions about the child's cognitive level and understanding of the issues. Documents are provided to the family and the prosecutor. The DVD is given to the prosecutor, with a back-up kept at the Centre. The Ministry of Social and Family Affairs employee can identify and secure services if the child needs shelter or immediate services. Medical and forensic examinations can be done on site. Pregnancy and STI monitoring is done. Psychological treatment begins immediately. The Centre staff do social monitoring with surprise visits, interviews at the school with the ability to remove the child, recommend counselling, and provide economic support.

Lawyers assigned from the Child Rights Commission are well trained. However, lawyers without training are very passive and do not act as the child's lawyer, deferring to the prosecutor or the family. The Centre staff felt that children's cases must be treated as rigorously as any other case, regardless of the fee. Lawyers need to follow up on the trial and treat



the case holistically, protecting the child at all stages of the process.

Multeci-Der, Danish Refugee Council, Association for Solidarity with Asylum Seekers and Migrants (ASAM) / Sığınmacılarla ve Göçmenlerle Dayanışma Derneği (SGDD)

A meeting of the staff from three refugee-serving organizations was held at the offices of Multeci-Der. Three staff of Multeci-Der, a lawyer and multi-support staff from ASAM and a staff member from the International Middle East Resource Centre met with the Expert Team. Two staff of the Mixed Migration Program of the Danish Refugee Council were wrapping up an earlier meeting and joined for the first half of the discussion.

The attendees described frustration at the lack of access, lack of information about legal aid and the obstacles presented by the administrative authority of the Removal Centre. The Removal Centre administration has established protocols that are preventing people from exercising their rights, including requirements that the lawyer have the correct spelling of the person's name before allowing them to meet, restricting access to two people per day, limiting meetings to 30 minutes, making lawyers wait outside of the Centre, and using external interpreters who are asked for an official ID as an interpreter even though there is no such designation. Their clients report that they are encouraged to sign consents for voluntary returns, rather than speak to a lawyer.

The organizations, each of which provides services beyond Izmir, recognized that the Izmir Bar has a more inclusive approach, providing legal aid for refugees without regard for financial eligibility or legal aid budgets. They were pleased that the Izmir Bar Association makes same-day assignments and maintains a list of trained lawyers. The refugee organizations rely on being contacted by family members outside of the Removal Centre, or outside of the country, to advise them of detainees and to provide the names required to arrange a first visit at the Removal Centre. LGBTI detainees often contact an international NGO first and are then referred to local services.

Prisoners' Rights /Human Rights Agenda

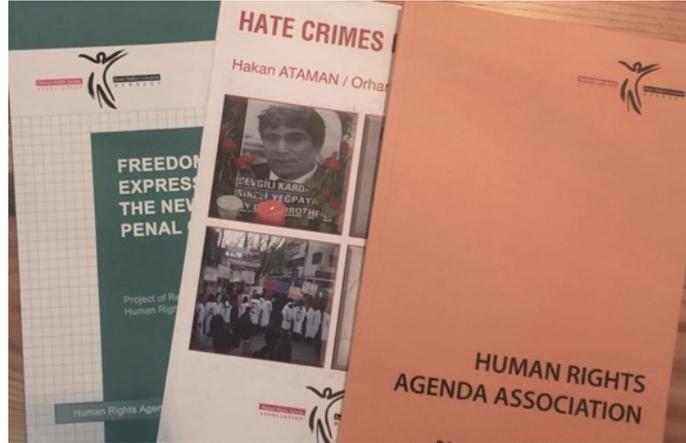
The Expert Team met with two members of Human Rights Agenda. They had also worked extensively in prisons, as part of the Committee monitoring prisons and the Human Rights in Mental Health Initiative (RUSHIAK).

Recently, there has been a significant change in the access civil society and monitoring committees have to prisons and Removal Centres. We were told that, after eleven years of regular access, collaborative problem solving and focus on the human rights, mental and spiritual health of inmates, the state institutions have restricted access to these organizations for the past three years. Access and counselling roles have been cancelled. Access is only given to charities who provide services, like Red Crescent, but not to monitoring groups.

We were told of a number of concerns related to disadvantaged groups, including that there are approximately 600 babies living in prisons in Turkey, born to incarcerated women. Elderly people and LGBTI may face human rights violations. There may not be safe spaces

for transgender prisoners and many are sexually assaulted in prison. Female prisoners may be strip-searched as an intimidation tactic. There is limited access to education or exercise. Outside books are rarely allowed. There are very few accommodations for people with disabilities. There is limited access to medication. The groups advised that lawyers could be more effective advocates for these basic human rights of their clients in prison if they were aware of the circumstances and the avenues for petitioning for change.

After the declaration of the state of emergency, some lawyers advised that they have had significant challenges accessing their clients in prisons. They told us that visits are limited, conversations are recorded or conducted in the presence of guards, and lawyer notes are read by prison administration. Prisoners who know about criminal legal aid do not know that they can request a civil legal aid lawyer for torture and mistreatment in prison. Even if they do, there is no way



to reach lawyers unless their family members contact a lawyer. Prisons are always on the outskirts making it difficult for lawyers to access the facility. Many lawyers do not know what they need to access the facility and so are turned away at first. Lawyers are made to wait for hours, with other visitors, arriving at 6-8 am and waiting in line until the afternoon.

Black Pink Triangle / Siyah Pembe Üçgen

Black Pink Triangle hosted the Expert Team at their offices and two coordinating staff attended. The organization has been focused on human rights issues in health, education, family and working life since 2006. It builds LGBTI cultural visibility as a strategy to prevent hate crimes. It offers private telephone counselling for people in Izmir and beyond, recognizing the lack of services outside of larger centres. An online forum lets people connect, get advice on issues like military service and share resources for organizing. Media monitoring is done in Ankara. The organization provides 90 minute trainings to 10-15 universities each year, as well as to civil society groups, introducing concepts, terminology and basic rights for LGBTI people.

People often call asking for legal help, but there are no lawyers in the organization. They have contact with some lawyers through the Modern Lawyers' Association (Çağdaş Hukukçular Derneği) who offer support or advice. Issues like name changes for transgendered people require legal help. Lawyers volunteer on these and on discrimination cases such as denial of service in a restaurant or access to health care. These are test cases and taken on a volunteer basis by the lawyers. The organization does not trust the legal aid assignment process and does not recommend it to people because the randomly assigned lawyers may have no training and are often discriminatory. If a legal aid lawyer pays less attention to the case, it may be perceived as discrimination and add to the mistrust. In Izmir, there is a core of committed human rights lawyers that are filling this gap.

Removal Centre

The Expert Team was met by the Director General of the Removal Centre, two Specialists, another staff member and the Centre's lawyer. We met to discuss legal aid services at the Centre and were then shown the part of the facility used for lawyer-client interviews.

The Director General described the size of the facility and the extent that people are circulated through. The average length of stay is 1-2 months; with a maximum of 1 year. The capacity of the facility is 750, though there were only 175 people (22 children) there at the time of our visit, with 165 staff. Transfers between Removal Centres are made by the Ministry. There is no process for informing a lawyer when their client has been transferred.

The Expert Team heard about the difficulty of managing the facility. We heard that the effective administration of the facility is a paramount consideration and access by lawyers to their clients must be managed within the overall context of this effective administration. The administrative needs of the facility were raised as the reason for recent restrictions on lawyers' access to clients, including 30-minute time limits on meetings and a restriction to two client meetings per lawyer per day.

One of the Specialists provided a description of the process for refugees, including their access to legal aid, explaining that the Centre informs them of the process, in multiple languages. The Specialist receives a file from law enforcement and, once people are settled into the facility, notifies them of their rights, relying on multi-lingual guards. The Specialist informs people of their right to a legal aid lawyer, or more commonly, people learn about the right from others detained in the Centre. The Specialists are trained about the consent to voluntary return and have connections with civil society organizations to facilitate these returns. They provide little information about other options. People are provided with multi-lingual brochures about voluntary return. It is unclear who has the obligation to advise detainees of their legal rights. If the person submits a petition for another option, it is referred to the Bar and within 3-4 days, a lawyer is assigned. The Centre has about 8-10 lawyers attending each day. The Centre will provide an interpreter if the lawyer does not bring their own.

The Centre Administrators felt that it would be beneficial if lawyers were informed about the running of the Centre and the difficulty in providing access to files or reviewing files before showing them to the lawyer. There is insufficient staff to pull and review files as requested. There was a meeting with the Bar, but the Administrators felt that the lawyers were not focused on the administrative needs of the Centre and only focused on rights violations. Meetings with the Bar are helpful to listen to complaints, but any resolution would require a protocol decided in Ankara.

Reflections on our Meetings in Izmir

The lawyers in Izmir have a dynamic approach to serving disadvantaged groups. It was evident that the Bar and groups of lawyers have experimented with different service delivery models that are responsive to the needs of vulnerable groups. Their commitment and passion for the issues was evident to the Expert Team.

We were particularly impressed with the duty counsel model of providing services in the courthouse to assist people with petition and basic understanding of their immediate legal issue. Not only does this model provide a needed service, it expands the reach of the civil legal aid service and provide interns with a supervised approach to gaining experience with clients and in the courtroom.

The various Commissions supported by the Bar have helped to develop a specialized list of lawyers trained and committed to meeting particular needs. However, these Commissions may be having an unintended negative impact by giving other members of the Bar the impression that the need has been addressed and that there is no obligation to learn about disadvantaged groups. There is no Commission to support the LGBTI community, despite the obvious need revealed in meetings with the civil society groups.

We observed a heated discussion about the tension between an assignment process designed to treat all lawyers equally and specialized lists designed to prioritize the needs of people facing disadvantages. Some members of the Women's Commission felt strongly that they should not be expected to represent people charged with abusing women, nor penalized in the assignment system for refusing these cases. While this tension can partially be addressed through a new assignment process, the discussion revealed an ideological tension. We are sympathetic to the interests of the lawyers working hard to meet the needs of women, and agree that women need specialized and passionate advocates. However, we are mindful of the need for lawyers to uphold the rule of law. This tension needs to be addressed to prioritize the expertise of these lawyers, without developing a divided bar or reducing access to lawyers for people charged with unpopular crimes.

The Expert Team found the situation for refugees at the Removal Centre to be serious, both in terms of their rights at the Centre and their access to lawyers and support. Even within the limited discussion about the right to legal aid, it was evident that the Administration at the Centre has limited understanding of the international rights or protections owed to the people in their care. They described lack of mobility within the Centre, linguistic isolation, lack of access to education, including for children, deference to private security guards to provide translation and direct services. Despite being a facility equipped with secure play spaces, capacity for 700 and many vacant interview spaces, the Administration stated



that these spaces were not used for administrative reasons. They described a process of encouraging people to sign Consents to Voluntary Return without access to legal advice or information about options. The printed description of the right to legal aid that we saw was incomprehensible and inadequate. The fact that there is a limited appreciation for the role of lawyers in the lives of refugees, including at the Centre, has resulted in both substantive and logistical obstacles to enforcing international and domestic rights.

However, there are significant opportunities for lawyers and other civil society organizations to work together as many of the civil society organizations have developed successful protocols for translator and power of attorney problems. They are eager to provide assigned lawyers with sample materials and other assistance to streamline the process. The organizations that worked regionally or across the country identified issues with other Bar Associations, creating an opportunity for the Izmir Bar Association to provide leadership, mentoring or to share their model of service delivery.

The legal issues LGBTI people face are critical to their safety and well-being and there is significant need for focused legal support. The lack of civil or criminal legal aid requests to the Bar may be more indicative of this fear and mistrust, than a lack of legal needs. Lawyers could develop a strong referral relationship with LGBTI organizations to ensure that people who face overlapping vulnerabilities, can access lawyers, and start to shift their perception of the justice system.

Samsun

Samsun Bar Association

The Expert Team met with five leaders of the Samsun Bar Association, including members of the Women's, Children's and Legal Aid Commissions, to discuss the provision of legal aid services to vulnerable groups. We met at the Bar Association's office space in the Samsun courthouse.



The Bar Association advised us that they have done a significant amount of outreach to ensure that the population is aware of their rights to legal aid, including through radio and television appearances. They noted that after these appearances there was a noticeable increase in legal aid applications.

The Bar Association has a sufficient number of lawyers on the Bar's civil legal aid lists, such that each lawyer is only assigned one case per year. For civil legal aid, the Bar Association attempts to match clients to experienced and trained lawyers but for criminal cases, the automation system prohibits this. For criminal legal aid cases, lawyers get assigned approximately 25-30 cases per year. Training for criminal legal aid is offered once a year. Lawyers who receive their attorney licenses and become practicing lawyers before the date of the training do not have to wait for the training to be assigned. Mandatory training was abandoned at the Samsun Bar Association ten years ago, as many lawyers objected to it.

At the Bar Association office, there are lawyers who volunteer to review legal aid applications for eligibility. They are compensated by being awarded an extra case per year. The Bar Association office accepts applications two days a week between 14:00-17:00. Applications are made to the lawyer on duty and assessed according to the eligibility criteria.

Approximately 30 to 40 people file applications for legal aid services on each designated day. The legal aid front office has a designated telephone line and reports are kept on the applications. More flexibility is shown to women with respect to the legal eligibility criteria. The majority of applications are accepted.

The Women's Rights Commission at the Bar Associations conducts activities in coordination with civil society groups working for women's rights and the ŞÖNİM Centre to Prevent Violence.



Elvinder Women's Association

The Expert Team met with the President of this Association to discuss the experience of women in the legal aid system. This organization does not offer services directly to women but monitors and reports problems to the decision-makers. They are aware of the experiences of individual women in the justice system.

This organization noted that it has a positive relationship with the Samsun Bar Association and that there are a number of highly qualified women lawyers in Samsun working on cases for women both through legal aid and doing pro bono work.



It is this organization's position that changes in the legal aid system must be led and supported by the government through law reform. However, they are supportive of efforts by the Bar and willing to assist in the development and training of lawyers on these topics as needed.

Deputy Chief Prosecutor in Charge of Victim Rights

Members of the Expert Team met with the Chief Prosecutor at the Samsun Courthouse. The Prosecutor also facilitated the Team's visits to the ŞÖNİM and the ÇİM in Samsun, which was appreciated. He provided an extensive tour of the facilities within the new Samsun courthouse.

The Team had the opportunity to discuss services for victims, including the process in court and the size of the caseload in Samsun. We also discussed the process when a complaint is made against a prosecutor. It was noted that there is a positive relationship between the Samsun Bar Association and the Prosecutor's Office, which facilitates support for victims.

In addition, the Team was able to view the new child-friendly interview rooms in the Samsun courthouse prepared as part of the Ministry of Justice's pilot project. In that pilot, the Ministry of Justice Directorate for Criminal Affairs, Victims Rights Department has set up 32



special interview rooms in 26 courthouses across Turkey. These rooms are intended to reduce trauma to victims, in particular women and children, when providing information or testimony.

ŞÖNİM Centre to Prevent Violence

The Expert Team visited the ŞÖNİM in Samsun in order to understand and discuss the experience of women victims of violence at the earliest stage of the criminal process. We met with the Director as well as the Ministry of Social and Family Affairs representative and the lead Police Officer.

The focus of the ŞÖNİM is to handle the first 8 hours following an incident of violence against a woman. The woman may come to the Centre from the hospital, the police or on her own. At times, the staff at the Centre will seek out women that they know to have been victimized or who are in a vulnerable position. The statement of the woman to the police, an early health check and access to social workers and shelters are all done at the ŞÖNİM.



When women attend the ŞÖNİM, they are asked whether they need a lawyer. They noted that women who are victims of lesser assaults often refuse a legal aid lawyer, and the Centre is only able to compel the victims to take a legal aid lawyer in cases of sexual assault. If a woman needs a lawyer, the Bar Association is called and a lawyer is assigned. However, the ŞÖNİM also maintains a list of pro bono lawyers who will attend to provide legal information to women. This service was developed because women were not receiving basic information from their criminal legal aid lawyers and because civil legal aid lawyers are not sent to the ŞÖNİM.

Child Monitoring Centre (ÇİM)

The Expert Team visited the ÇİM in Samsun to observe the process and discuss the experiences of child victims of sexual assault with the legal aid process. We met with seven people, including key staff and the head administrative doctor of the hospital.

The ÇİM receives children who are believed to have experienced sexual assault. Children are met and assessed by expert staff before the court process begins. When a child comes to the ÇİM, the centre notifies the Bar and within an hour, an assigned legal aid lawyer arrives for the child. They provide a statement to the staff member, recorded and overseen through mirrored glass by the prosecutor and a lawyer for the child. The ÇİM also conducts the medical examination of the child where required.

Overall, this organization did not report a successful experience with legal aid lawyers. Their view was that legal aid lawyers do not meet their mandate, either in terms of the legal service they provide nor in other kinds of support for the child client. Their main concerns were that legal aid lawyers do not actively engage with the child or, where appropriate, the child's family. Lawyers do not adequately represent the child's interests to the prosecutor during the child's statement at the Centre, including stepping in to prevent unnecessary physical examinations. They do not work with the court to prevent children from having to re-testify in court.

Reflections from our Meetings in Samsun

It was evident from our meetings in Samsun that there are some very dedicated and experienced lawyers who provide legal aid and pro bono services to disadvantaged groups, in particular to women. We heard from those who work directly with women that lawyers assigned by the Bar are kind and women feel comforted by their presence.

The Bar Association is active in the community, doing outreach and media appearances to promote the availability of legal aid and working with civil society organizations to support women in crisis. The Bar also advised us that they do training with civil society organizations and in schools, particularly for those working with women and children. However, it was noted that some organizations indicated that they had reached out to invite the Bar Association to assist in training lawyers on child protection in exchange for legal training for staff and the request had not yet been met.

Training for lawyers appears to be promoted by the Bar Association, including refugee rights training through international agencies, particularly the UNHCR.

We noted a high degree of cooperation between the Bar Association and the Public Prosecutors Office in the courthouse in terms of promoting and protecting the rights of victims.



However, there were some significant issues noted in Samsun with respect to the variation in quality of lawyers assigned through the criminal system and to victims, particularly child victims. The Bar Association noted this variation and expressed frustration with the automatic assignment system that removes control over the assignment of cases.

With respect to the quality of services for women and children, it was noted numerous times that assigned legal aid lawyers perform the bare minimum tasks for their client. Most criminal legal aid lawyers assume that they attend only for the taking of the statement, do not actively support or represent the client during the statement (often never speaking directly with the client), do not support social workers in conflict with the prosecutor with respect to the best interests of a child victim, and do not directly engage with the client about the process, options or next steps. It was further noted that there is a lack of follow up with clients after their statement, leaving women and children without legal direction or support.

We heard repeatedly that women seek legal advice from police officers, rather than their own lawyer. We also heard that often, while a criminal legal aid lawyer will attend for the period of the statement and then leave, if a woman has questions about her case, she will have to seek out a pro bono lawyer for advice.

This conduct by assigned legal aid lawyers often leads women and children to view their lawyers as working for the police or the prosecutor, rather than as their legal representative. This issue is exacerbated by regular turnover of legal aid lawyers on the criminal list, who were observed to be junior lawyers. There was a universal sentiment in Samsun that the automatic assignment of lawyers to women and child victims of violence is not the best way to serve these clients.

We did not see a focused effort on refugees, people with disabilities or the LGBTI community in Samsun. We only heard of these groups where they intersected with women and children's interests.

Mardin

Mardin Bar Association

The meeting with the Mardin Bar Association included seventeen lawyers, with a wide mix of young and experienced lawyers as well as the President, Coordinators of the Prison, CCP, Children's Rights, and Lawyers' Rights Commissions. The meeting began with the President raising a number of issues unique to the region and then moved to the Expert Team's questions that had been sent in advance.



MARDİN BAROSU

The President raised four issues that inhibit Mardin lawyers from providing effective legal aid services. This is a record of the issues he raised:

First, the court is associating the lawyer with the crimes of the client. Even when the lawyer is assigned a file through the automation system, the prosecutor and the judge question the lawyer for representing people (particularly for those accused of terrorism crimes). When lawyers attempt to explain the process to clients, the judges perceive this as obstructing. The lawyer is questioned, and sometimes arrested or detained, for providing basic representation.

Secondly, the police interpret the lawyer's actions as obstructing and make reports when lawyers try to assist their clients. The police interpret eye contact or communication between lawyer and client during the interrogation as obstruction, threatening to report the lawyer. Advising of the right to silence is interpreted as obstruction. Police are discouraging, or not even offering lawyers for crimes with sentences under 5 years, but are still indicating on the file that the person has been advised of a right to a lawyer. Until recently, the forms were pre-printed with that box checked.

Third, the police and prosecutors are making it difficult for lawyers to do their job. Lawyers are searched when they enter the station, contrary to policy. They have been denied access to courthouse parking. There are now cameras and microphones in the police meeting rooms that lawyers believe are recording their client discussions. Complaints about this recent treatment have been denied by the administration or the court, which has backed the police. In response to the police mistreatment, the Bar Association cancelled the automated assignment system, providing criminal legal aid upon receipt of a fax. This has slowed the process and prevented the police from cancelling and reissuing the automated assignment if the lawyer has not arrived at the station.

Fourth, the perception of fairness in the trial process is in jeopardy. The presence of police in the courthouse has increased dramatically in recent months. The prosecutors have stopped taking calls from lawyers directly, requiring all requests to be made through a reception desk. In some cases, it has taken months to get a

response, even on court dates. Witnesses are being declared confidential and are being held until the trial, with no access or information to the lawyers about who the witness is. There are so many terrorism cases that the judges appear to have a predetermined opinion before the trial starts and use pre-drafted judgements provided on a flash drive. Lawyers feel that they have no impact on the trial process at all and are just there so that it can be noted that there was a lawyer for the accused. Lawyers are starting to feel that there is no point taking criminal legal aid cases as they are not effective and it puts them in personal jeopardy.

After a discussion of these fundamental obstacles, the meeting focused on the logistical issues in criminal and civil legal aid. There are some complaints from clients that their assigned lawyer did not work hard enough, or that there would have been a shorter sentence with a private lawyer, but these are rare. There are sufficient lawyers volunteering for the criminal legal aid list. Some lawyers expressed a desire to provide legal aid assistance (criminal and civil) as the sole focus of their practice, if it were sustainable financially. It was suggested that the assignment system must be changed to assign the same lawyer from start to finish rather than making separate assignments for the investigation and trial stages.

Civil legal aid is focused on divorce, with approximately 80% of the recipients being women and 20% men. The Bar has prioritized family law because there are insufficient resources in the civil legal aid budget for other issues. Family cases include Turkish citizens, migrants and refugees. There is no specialized list or prioritizing of trained lawyers.

There are lawyers trained on refugee rights but there is no cooperation with the civil society groups or the public authorities. The Bar does not have the capacity to take refugee files. The interpreters provided by refugees are not professional and lawyers are not confident in their translation. At trial, police often translate for the court, leading to mistrust of the translation. However, some lawyers are able to speak Syrian directly to their clients.

The Bar representatives indicated that they had not received any requests for legal aid from the LGBTBI community. There are a few cases of perpetrators of crime also having a disability, although the Bar noted that when it occurs there are no appropriate psychological services available and it is very difficult to communicate with and on behalf of their client.

Lawyers need training on self-care after representing clients with disturbing and traumatic cases. Lawyers support each other informally. The Lawyers Rights' Centre at the Bar



Association does not provide this kind of support but will intervene where the lawyer is being prevented from doing their job.

In terms of training needs, lawyers would welcome training on

communication to create a relationship of trust with the client, to explain the case so that clients understand the process, the fees, and the consequences. The highest priority should be put on offering training about disadvantaged groups to the system as a whole so that prosecutors, judges, police and lawyers hear about the same techniques, are consistent in their treatment of people belonging to vulnerable groups, and understand why lawyers take certain actions.

Young lawyers talked about their enthusiasm for legal aid work, both criminal and civil. Some expressed an interest in criminal legal aid as a public service position.

RET International

The Expert Team met with the Director and a staff member of this civil society organization which provides health, education, employment and settlement services to Syrian and Turkish women. Services include the provision of Identify Cards, translators for health care, education on gender-based violence, reproductive health and the cultivation of employment skills and opportunities.

RET's staff have trauma-informed training and lawyers rely on these staff in sensitive discussions. Assigned lawyers are empathetic to the issues refugees face and seem to be working hard for the client, including in cases of domestic violence and divorce. Lawyers, at the prompting of the RET staff, are explaining the court processes well. They observed that women lawyers are most effective at communicating with women clients.



As the funding for the Syrian refugee crisis outpaces local funding, there is a tension between Syrian and Turkish communities. Syrians are being hired instead of Turkish workers because they are cheaper. This tension is also apparent when Turkish men take a Syrian woman as a second wife.

KAMER

Despite best efforts, the Expert Team was not able to schedule a meeting with KAMER in Mardin. However, by coincidence, the Expert Team encountered an organizational booth and had an information conversation with staff of the organization. By email, they provided links to projects relating to the project. In particular, KAMER is currently conducting a monitoring program, following women's experience through the justice system. Of the 100 women whose cases have been monitored, there is a mix of women with disabilities, refugee issues, complex family situations and other intersectionalities, as well as a number of women with legal aid lawyers. They have offered to provide this research, once complete to the Project. They also advised of media monitoring programs focusing on the coverage of domestic

violence cases. There is considerable opportunity to partner with KAMER on a national basis on research projects and locally on training initiatives.

Prosecutor's Office

The Chief Prosecutor welcomed the Expert Team and provided background to the office, explaining the role of social workers hired by the family courts. The office handles 9000 prosecutions annually with a team of 12 – 14 prosecutors. He arranged for a meeting with three prosecutors and a social worker from the family court.

People learn about the right to legal aid at the police station. It is written on posters on the wall and is on the form that people must sign. If the Prosecutor later thinks that the person did not understand that right, it will be reiterated at the Prosecutor's office.

The Prosecutors observed that some criminal legal aid lawyers simply show up in court but are not active defenders, complaining about the low fees as the excuse for their limited participation. The lawyers make no demands of the Prosecutors, are very passive, and are predictable. One Prosecutor, who had been a lawyer previously, acknowledged that fees are low and should be increased.

In response to the inaccessibility of prosecutors to defence lawyers, the prosecutors cited the intensive workload and stated that lawyers can always write a petition. Prosecutors prefer petitions to in-person conversations about cases. In cases involving terrorism, the prosecutors are more reserved because of confidentiality. They felt that lawyers in these cases come to the court too often, to put pressure on the Prosecutors.

The Prosecutors felt that young lawyers are more sensitive to the vulnerabilities of people and are providing better services. Most lawyers in this region are local and are sympathetic to the hardships of the area.

Prosecutors do not receive any special training about people belonging to vulnerable groups and have to learn on the job, citing some training in the Interrogation Techniques course at the Justice Academy.

Judges at Mardin Courthouse

We met separately with two judges, one Family Court Judge and the Chief Judge of the Penal Court.

The Family Court Judge observed that it is critical for lawyers to work to preserve the family unit and the sanctity of marriage when there are domestic violence and divorce cases. The availability of legal aid in family law is critical. In Mardin, women seem to know their rights. There is no noticeable difference in the quality of private or legal aid lawyers

In the criminal context, the Chief Judge stated that lawyers should be closer to their clients, with more contact. Private lawyers get involved earlier and are able to form a better relationship. Collegiality between judges and lawyers does produce better results, but,

especially in small places, it would be misunderstood by the public. The lack of interpretation is a big problem as Kurdish and Arabic are the most common languages and there are insufficient interpreters. Local people, family members, police and government officials are frequently relied on as interpreters, but they do not necessarily have any experience with legal concepts.

We noted that the prosecutors and judges at the Mardin courthouse are all new appointees to the courthouse and so have had less opportunity to form local relationships.

Joint Women's Cooperative Association Mardin / Mardin Ortak Kadın Isbirligi Dernegi

The Expert Team met with the Director and a staff person of the organization. They described their services and past experience training lawyers in Mardin and working with lawyers to establish a women's centre in the region. The organization offers training to men on domestic violence issues, as well as training for women on legal, health and economic issues. Mukhtars and opinion leaders are influential in communities and often advise women to stay in violent relationships or support second marriages. Training of men is necessary to change these practices. They offer programs to help women address trauma including arts-based projects (doll-making) and access to therapists.

It was their view that legal aid lawyers, both criminal and civil, do not produce as good a result because the fee is so low. Women do not officially complain about the lawyer because some help is better than none, but they do express their dissatisfaction to this organization and to each other.

The organization used to assist with the training of lawyers in Mardin, however with a change in the leadership of the Bar Association, the priorities changed and the specialized list of trained lawyers is not being maintained. Regular meetings between the Bar and civil society organizations would increase awareness, training and communication.



Reflections from our Meetings in Mardin

We found that the provision of legal aid to disadvantaged groups in Mardin faces very different obstacles than in the other cities. The concerns about trial fairness, the reduced role of the lawyer and the administrative and logistical barriers seem to make it difficult, if not impossible, to provide the basic representation necessary to a fair trial. The recent appointment of most of the judges and prosecutors to the region means that there is no relationship or history of working well together to resolve these issues. We were told explicitly that, while the fees are too low, that was not a primary concern of the Bar Association. The fundamental barriers to effective representation were much more important, including the personal fear and professional intimidation that lawyers experience.

We share the Bar's concern that the courthouse is not functioning as a place to protect people, conduct fair trials and provide a rigorous defence. In this region, lawyers, NGOs and prosecutors all raised explicit examples of deviations from the principles of trial fairness. The extent to which the Expert Team was advised of these issues in Mardin indicates that this is not an isolated or exceptional incident.

While the situation for Mardin lawyers representing people facing disadvantages is particularly dire compared to in the other cities we visited, the lawyers were also the most vocal about a principled approach to representation. They are passionate, prepared to work for the public good despite these circumstances, and committed to protecting the rule of law. The professional culture of ensuring a rigorous defence, regardless of vulnerability or finances, was very evident here. We were heartened to see the explicit attention to ethical and professional conduct of the lawyers, despite their concerns.

There is very little attention paid to the legal needs of people with disabilities or LGBTI people. The services to women or refugees provided by lawyers from a specialized list are appropriate, with good communication. It was obvious to us that the civil society organizations in Mardin are quite sophisticated, running training programs, research projects and multi-service centres. These organizations described a better working relationship with the Bar Association in the past. A shift in priorities has meant that some of these initiatives were not implemented. We heard a general frustration that there is not better coordination and actual partnership with the Bar Association. We see an easy opportunity to work collaboratively with these groups to use the Bar's limited resources to the greatest effect.

International Non-Governmental Organizations

The United Nations Agencies

The United Nations Agencies are active in Turkey supporting the rights of vulnerable groups. We met with the UNHCR and UNICEF to discuss their efforts in Turkey and how they support the provision of effective legal aid to clients facing disadvantages. We also spoke regularly with UNDP staff about the SILA project and its relationship to other UNDP projects. We met with the UNDP team at the beginning of the activities to determine the approach to this Outcome. Over the course of the field visits, we discussed the project regularly. UNDP staff members participated in all of the field visits and meetings with international agencies.



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It was evident to us that these organizations have a high degree of understanding of the impact that a skilled legal aid lawyer can make to a client from a vulnerable group. They have observed both positive and negative experiences and were able to provide insight into the practices across Turkey. In addition, these organizations have a wealth of information and training that they are able to provide lawyers, particularly on substantive legal issues.

UNHCR

The Expert Team met with five members of the UNHCR team, including the leads for refugee status determination, protection, policy and development. In addition to its work directly supporting refugees, this office of the UNHCR also provides training to lawyers across Turkey on refugee law. We asked both about their knowledge of legal aid needs and about the training they offer.

The primary concerns expressed by the UNHCR staff with respect to the legal aid experience for refugees were language barriers, refugees' lack of understanding of their rights, and the lack of knowledge of lawyers on substantive law.

We also discussed the variation in the skill and expertise of lawyers and the attention of Bar Associations across Turkey. In some areas where there are many refugees, the Bar Association and its lawyers have developed a list of skilled lawyers and are attempting to assign those lawyers to complex cases. It was clear to the UNHCR that refugees have benefited when lawyers with experience in refugee law and the practical skills and understanding of the refugee experience are assigned. In some locations, the UNHCR observed refugees being denied legal aid because they are filing a claim against the government or being rejected on the basis that the legal aid fund is low and the money should be spent on Turkish citizens. In some locations, the UNHCR will go through the court to have legal aid appointed, rather than through the Bar Associations.

The UNHCR noted that, overall, refugees are not afraid of the legal system but rather are afraid of drawing the attention of authority to themselves at all. They do not understand their rights and there are



limited resources in their language to assist them with that. The UNHCR noted that there are pamphlets now produced in partnership with the UTBA but that distribution of the pamphlets in Removal Centres and police stations has not been successful. The UNHCR/UTBA project was aimed at reducing refugee reliance on public authorities to explain their legal rights. The UTBA and UNHCR have signed a Memorandum of Understanding to facilitate cooperation on issues affecting refugees.

While the UNHCR training offered to lawyers does cover some of these issues, it does not appear to be broadly available to all lawyers. The UNHCR is willing to continue to support the training of lawyers through their own training, through the case-specific calls, and through SILA training, as requested. It is supportive of a basic skills course that could be a pre-requisite to its substantive training.

UNICEF

We met with the Justice for Children and Child Rights Monitoring Specialist for UNICEF to discuss the needs and experiences of children in the justice system in Turkey.

It was identified that children in the justice system do not understand the role of the lawyer and often perceive the legal aid lawyer as an agent of the state, rather than as an advocate for their rights. Because they do not understand their rights or the process, children are incapable of demanding support from their lawyer.

This issue is further complicated when legal aid lawyers assigned to represent children blur the line between representation of the best interests of the child, advocating for the child's wishes or taking instructions from family members.

We heard that lawyers lack understanding of the options available to children in the social system and therefore miss opportunities to commence other legal proceedings, such as protection measures or other social referral pathways.

The special vulnerability of LGBTI youth, homeless youth, and young sex workers was identified as an area in which legal aid lawyers lack knowledge or are not always appointed.

With respect to Bar Associations, those Associations with children's rights commissions containing lawyers with specific expertise were lauded and it was suggested that Bar Associations consider only appointing lawyers with experience to complex cases involving children. This would provide back-up for lawyers who are assigned difficult cases. We understand that the UTBA and UNICEF have initiated a collaborative project.



National Civil Society Organizations

Our Expert Team was fortunate to meet with a number of national civil society organizations that support vulnerable groups across Turkey. We appreciated the pan-Turkey lens they were able to provide to the challenges facing these individuals and their experiences with legal aid.

KAOS GL

KAOS GL is a civil society organization that supports the rights of the LGBTI community. It has a project in partnership with the UNHCR to support the rights of LGBTI refugees by providing site visits, legal and social assistance. We met with the lawyer who coordinates the Refugee Rights Program and with a social worker.

KAOS GL identified that the most significant issues that the LGBTI community faces with justice system discrimination and a lack of understanding and positive communication with the legal aid lawyer.

They said that, although they are aware of their right to legal aid, many members of the LGBTI community will not pursue their legal issues out of fear of maltreatment by the system, including by members of the justice system and Bar Associations. There are few laws in Turkey that enumerate sexual identity or orientation leaving the LGBTI community vulnerable to hate crimes or discrimination.



LGBTI refugees face the same issues with respect to unsafe conditions and discrimination but their issues are amplified by the refugee setting.

Concerns with legal aid lawyers were more prevalent in the criminal legal aid context than in the civil. There is a perception among LGBTI criminal clients that legal aid lawyers are too “friendly” with police and prosecutors and do not adequately fight for the rights of their clients.

With respect to Bar Associations, it was noted that there is variation in practice between Bar Associations. Some have committed to working for LGBTI clients and will readily assign lawyers but this is not common across Turkey.

Foundation for Women's Solidarity / Kadın Dayanisma Vakfi

The Expert Team met with a representative of the Foundation for Women's Solidarity, an organization that uses volunteer lawyers to support women in the legal process. Often women apply to this organization after they have had problems with their legal aid lawyer or some part of the justice process.

This organization stated that there are systemic problems within the legal aid system, including the low fee which results in inexperienced lawyers taking cases and the financial eligibility threshold which excludes many women.

They also noted that there is variation in the methods of different Bar Associations, including whether Bar Associations reach out to NGOs to provide training and whether Bar Associations assign experienced lawyers to difficult cases.

With respect to the lawyers themselves, women have complained of impatience, insufficient information from lawyers about the process, ignorance on the effects of trauma, lawyers making decisions on behalf of the woman, and lawyers taking a judgmental approach towards victims of violence or sexual abuse. They also observed that women have a negative perception of legal aid lawyers, viewing them as state representatives and expecting that the lawyer will not work hard for them. They commented on a low level of trust by women in the justice system. Many women are discouraged by people in positions of authority, including some lawyers, from bringing their case forward.

It was noted favourably that in some Bar Associations, they try to appoint an experienced lawyer and often a female lawyer for victims of sexual assault.

Civil Society Organization relating to Children's Rights

The Expert Team met with two representatives from a children's rights organization that is now closed by decree law no. 677, 22 November 2016. It had provided services to support children's rights, including in the justice system.

The key issues for children cited by this organization are the biased perceptions of lawyers, the lack of expertise of assigned lawyers and the approach that legal aid lawyers take towards the cases.

With respect to the biased perceptions, they said that lawyers have displayed prejudice against children who are accused of crimes and children who have been victims of sexual abuse. This bias is evident in the language used by the lawyers towards the children, including blaming, disregarding the child's story, failing to take instruction from the child or failing to treat the child as an individual with separate rights. Many lawyers do not consider children to be capable of providing instruction and lawyers will make decisions or put themselves in the position of parent.

This organization suggested that Bar Associations encourage lawyers to take children's cases and to see them as rewarding.

Association for Solidarity with Asylum Seekers and Migrants (ASAM) / Sığınmacılarla ve Göçmenlerle Dayanışma Derneği (SGDD)

We met with a representative of this national organization to discuss the complex nature of the challenges facing refugees, including the fact that refugees are often also members of other vulnerable groups.

The approach that Bar Associations take to assigning lawyers to refugee cases, particularly administrative cases, was observed to be different across the country, with many Bar Associations declining to provide legal aid to refugees who are suing Turkey. In other situations, Bar Associations are willing to provide legal aid to refugees but do not have the funding. Some Bar Associations are very good at providing legal aid service to refugees and offering training to lawyers.

A significant concern for refugees is the cost and challenge associated with completing the power of attorney. The fees can be very high and are not covered by legal aid. In addition, refugees frequently do not have identification. Often lawyers are reluctant to take these cases because the extra effort required when the refugee does not have identification is not covered by their payment.

We were told of other barriers for refugees to accessing legal services. For example, when refugees inquire about their rights or attempt to submit an application, they may be discouraged from doing so by authorities. Additionally, we were told of refugees being moved between Removal Centres without notification to their lawyer or not being provided an interpreter when calling a lawyer.

Federation of Turkish Women's Associations

This organization was concerned that, while the law to protect women is reasonably well written, in practice it does not function well. Many of the systemic protections required for the law to support women are not properly funded or do not exist.

They noted that there is a very low level of understanding of the right to legal aid among women in Turkey, along with a generally limited understanding of the functioning of the justice system.

This organization does not direct women, particularly Syrian women, to the Bar because of the perceived poor quality of legal aid lawyers. They related this poor quality to the low fees paid for legal aid work. They observed that there is high turnover of lawyers who do legal aid work such that even those who are trained do not do the work for very long.

In Ankara, this organization works closely with and refers women to the POPPY project, which they view as a successful implementation of protections for women.

Additional Meetings

Ankara Bar Association



While not a national body, nor a member of the five pilot provinces in this outcome, the Ankara Bar Association is extremely active in lawyer training and in legal aid services to vulnerable communities. It is also the home of the POPPY Project, the only legal clinic in Turkey exclusively providing legal services to female victims of violence. We met with the Treasurer of the Bar, the Chair of the Refugee Law Commission, members of the Disability Commission staff of the POPPY project and other leaders in the Bar Association.

They stated that, while legal aid is a professional obligation of the Bar Association, it is not a legal obligation for individual lawyers. Consequently, the Bar is seeking ways to motivate lawyers to participate in legal aid. For example, while a lawyer cannot be designated a “specialist”, they can indicate that they have taken training and use phrases such as “Children’s Defender” on their business cards. The Bar has noticed that this incentive has motivated younger lawyers and they have had a high enrollment in trainings, especially for the recent children’s initiative.

The Bar Association has seen a high degree of satisfaction from lawyers who have taken refugee training who now feel more knowledgeable and able to serve the complex needs of refugees.

With respect to the POPPY centre, whose main objective is service to women, children and LGBTI people who have been subjected to violence, only female lawyers with a high degree of expertise work with vulnerable victims of violence. These lawyers provide an initial intake and assessment and then, if required, pass the case to a lawyer assigned by the Bar Association.

The Bar Association is in a prominent location in Ankara and offers services to the public. They advised us that the security guard at the door to the Bar Association is trained to welcome everyone, rather than to turn anyone away.

The Bar did note that some lawyers do not treat their legal aid assignment in a serious manner and commented on the need to train lawyers to understand that they have the same obligations and professional responsibilities to all clients.

With respect to reporting requirements, while there are certain obligations for criminal legal aid cases, they are procedural reports about the stages of the case. There are no reporting obligations for civil cases. There are obligations to report the



number of hours spent on pro bono work.

We held a separate discussion with the representatives for the Disabled Lawyers Commission. They stated that, overall, clients with disabilities are not assigned experienced lawyers either in criminal or civil legal aid cases, as most legal aid lawyers are young and the fees are too low to attract experienced lawyers. They indicated that this is a compounded problem for clients with disabilities. Lawyers are not educated or well acquainted with clients with impairments and do not have adequate interview skills to ask meaningful questions and create trust with the clients.

They indicated that a further disincentive for legal aid lawyers with clients with disabilities is that the use of aids, such as sign language interpreters, is an expense borne by the lawyer.

They noted that, while there is a Disability Rights Commission in some Bar Associations those commissions do not have input into the assignment of cases through the legal aid commissions. There is a limited community of disabled lawyers and of other lawyers who are able to provide experienced legal services to clients with disabilities.

Study Tour to Canada

In March 2017, the Project conducted a Study Tour to Toronto, Canada in order to discuss best practices, lessons learned and suitability of potential approaches to legal aid services with key experts and organizations.

A key focus of the Study Tour was on methods of enhancing lawyer capacity to provide services to disadvantaged groups, including training practices, credentials and specialization and development of delivery models and services for victims.

Toronto is Canada’s largest city and is considered the most diverse city in the world. Lawyers providing legal aid must serve all of the disadvantaged groups that are the focus of Outcome II. In addition, Toronto is the home of the central administrative bodies for all of the legal delivery in Ontario, including Legal Aid Ontario, legal clinics that specialize in services to disadvantaged groups, the regulatory body for lawyers (the Law Society of Upper Canada and the Ministry of the Attorney General. Ontario’s legal aid model is considered the most effective model in Canada.

While Toronto was the main location for the study visit, the team also travelled to a court location in a combined rural and urban setting to explore the application of the legal aid framework outside the city.

The table below sets out the list of meetings and visits that occurred. These meetings provided an overview of Ontario’s legal aid structure, application to particular groups, practice, and administration. The group met with system administrators (Legal Aid Ontario, Legal Aid founders), the government ministry responsible for legal aid (Ministry of the Attorney General), the regulator of lawyers (Law Society of Upper Canada), lawyers and legal aid providers at specialized clinics serving people who face disadvantage (Parkdale Legal Clinic, Barbra Schlifer Clinic, ARCH Legal Services), lawyer support (Ontario Bar Association) and with judges, prosecutors, court workers and in-court service providers at two court visits. For further details, please see the Canada Study Visit Report.

Organization	Expertise	Discussion Points and Learning Opportunities
Legal Aid Ontario (LAO)	Legal Aid model and history, financial oversight and practical administration Mentorship, training, specialization and credentials	<ul style="list-style-type: none"> Financial/allocation model Use of technology Administration of legal aid system Models of allocation based on specialization Methods of training, mentoring, oversight
Parkdale Legal Clinic	Provides Legal aid services – focus on refugees, immigrants,	<ul style="list-style-type: none"> Observe system in practice, discuss lessons, strengths, opportunities

	clients in poverty	<ul style="list-style-type: none"> · Training and specialized practice for particular groups · Observe a very busy urban clinic with a particular focus on disadvantaged groups including refugees and poverty · Demonstration of integrated law school model
ARCH Legal Clinic	Legal aid for clients with disabilities	<ul style="list-style-type: none"> · Observe practice of legal aid for one specific target group · Discuss methods of training and specialization
Law Society of Upper Canada	Regulatory body for lawyers in Ontario	<ul style="list-style-type: none"> · Training, credentials, specialization and professional development models · Specific training for lawyers on obligations to people with disabilities · Lawyer performance and regulatory oversight
Court Tour and Meeting with Judge	Youth Criminal and Family Court	<ul style="list-style-type: none"> · Observe criminal and other child/youth-related court matters · Discuss practice with judge, lawyers and court workers · Review client supports available at courthouse, including legal aid lawyers and information for family clients (Family Law Information Centres)
Ministry of the Attorney General	Administration of courts and regulation of legal aid and Law Society, Victims Services	<ul style="list-style-type: none"> · Discuss regulatory relationship with legal aid and Law Society · Discuss services for victims
Founders of Legal Aid in Ontario	History and development of legal aid model, including the relationship with lawyers	<ul style="list-style-type: none"> · Lessons learned through development process, models considered · Experience with policy, practice and regulation of the system
Community Legal Education Ontario	Not for profit organization providing public legal information	<ul style="list-style-type: none"> · Neutral organization enhancing legal capacity of lawyers and the public through print and online information
Ontario Bar Association	Lawyer Association, Support for lawyers providing legal aid, Specialized training	<ul style="list-style-type: none"> · Lawyer self-care, support for lawyers experiencing secondary trauma · LGBTI lawyers and serving

		the LGBTI community
Barbra Schlifer Clinic	Specialty legal aid clinic for women and victims of domestic violence	<ul style="list-style-type: none"> · Women-centred approach to legal issues, intersectionality of legal issues, discussion on domestic violence, models of training lawyers, data collection
Court Tour Outside Toronto and meeting with Judge	Visit to courthouse outside Toronto (St. Catherines Ontario)	<ul style="list-style-type: none"> · Discussion on issues, practice and training for legal aid lawyers in non-urban setting · Meeting with judge, prosecutor, client service organization · Protections for victims

Assessment of Needs

Our field visits revealed substantial variation in philosophy, practice and approach to legal aid between regions and between types of service providers. However, many common themes emerged - calling out clear evidence of the challenges facing disadvantaged groups when engaging with the legal aid system. This section examines the problems that people belonging to vulnerable groups face in their dealings with legal aid and the justice system. Key themes include access to information, building trust between lawyer and client, advocacy, relationships between Bars and civil society, and systemic barriers.

In many of our meetings people raised concerns about the rights of prisoners and the ineffectiveness or inaccessibility of legal aid lawyers to address their issues. It is apparent that legal aid lawyers are not currently able to advocate effectively for these clients. We note that prisoners are also members of the disadvantaged groups addressed in this Outcome and many of the needs identified here apply equally to them.

For the purposes of ensuring clarity with respect to the concerns, we have generalized the needs, with no qualifications. We know and acknowledge that there are always exceptions and differences and that there is no universal or uniform experience. We met individual lawyers and heard about projects run by Bar Associations that are exceptions to our general observations. Some lawyers are providing high quality and responsive services to people facing disadvantages. However, staff at NGOs and lawyers in every pilot province reported that the majority of lawyers lack the skills or attitudes necessary to meet the needs of people belonging to vulnerable groups. We have concluded that these behaviours are so widespread and so problematic that they cannot be dismissed as relating to only a small number of lawyers. For the needs raised below, we feel confident that these concerns are frequent enough across the jurisdictions to be considered common realities.

As this Report is focused on lawyers and the legal aid system, we have not commented on needs in the other aspects of the justice system nor made recommendations for other justice professionals. This Assessment comes from the observations made by lawyers and civil society organizations.

Women

We heard repeatedly that women do not come to the justice system with a strong understanding of their rights or the process of the justice system. This includes not knowing about their right to legal aid or how to access it. This poses a significant threat to the ability of the woman to navigate her way through the process, particularly when she is in crisis. It is incumbent on legal aid lawyers to address this gap.

The role that the legal aid lawyer plays when representing a female client can make a tremendous difference in the impact of the process and the outcome on the client. Unfortunately, we heard a number of concerns about the role that legal aid lawyers, particularly criminal legal aid lawyers and those assigned to female victims of violence, play in the conduct of the case. Female clients in these circumstances have significant and specific needs that are not being reliably addressed by legal aid lawyers.

One of the key concerns expressed by both civil society organizations and by Bar Associations members is that legal aid lawyers do not appear to understand or empathize with the women they serve. Without an ability to understand the experience of a female victim, the lawyers are unable to gain the trust of or effectively serve the client. This includes a lack of understanding of the systemic barriers that women face.



There are active Women's Rights Commissions at all of the Bar Associations we visited, as well as national coordination on women's rights issues through the UTBA. The lawyers in these Commissions have shown considerable leadership by raising awareness about these issues, offering pro bono services and developing professional activities to increase the capacity of the local Bar. A few committed lawyers in each location do meet the needs of women with the appropriate approach. This leadership is a significant strength that can be used to address the needs of women.

Access to Information

Knowing their rights

- Women in crisis do not know they have a right to a legal aid lawyer, either as an accused, a victim, or in a civil matter such as divorce.
- Women of non-Turkish origin struggle to communicate in Turkish and do not know Turkish laws, including early or polygamous marriages.
- Women do not know the laws of property and inheritance and are often pressured by family to relinquish property rights.

- Women do not know how to access the social-state benefits, including the justice system.
- Women are often dissuaded from exercising their rights when people in authority give them wrong information about their rights and the prospect of their case.
- The public availability of information about legal rights, including the right to legal aid, varies across Turkey, depending on the size of the community.

Knowing the Process

- Women who have been victims of violence do not know what will happen to them when they make a complaint.
- Legal aid lawyers do not provide women with information about the process of a legal case.
- Legal aid lawyers do not provide women with information about the process of their own case, answer their questions, or seek instruction from the woman about the conduct of her case.
- Women, even women who have already been assigned a legal aid lawyer, seek information from other sources such as police officers.
- Women, even women who have already been assigned a legal aid lawyer, may seek a pro bono lawyer to provide them with information about their case.
- Women do not know what the role of a legal aid lawyer is and the legal aid lawyer does not explain it.
- Women are not familiar with the courthouse and so, without the support of a lawyer, they will often fail to attend a courthouse to make their claim. There are often cultural or societal barriers that prevent women from attending at the courthouse.

Advocacy

- Women are discouraged by police and others in authority, including their own legal aid lawyer, from bringing their case forward for cultural or societal reasons.
- Female victims of violence often only see their assigned legal aid lawyer at the police station or ŞÖNİM when they give their statement.
- Women do not receive follow up calls or meetings with their legal aid lawyer after they have given their statement.
- The legal aid lawyer is not present when the police or ŞÖNİM make a decision to place a woman in a shelter.
- There is a lack of privacy in the police station and legal aid lawyers do not demand a private space to interview their client.
- Women victims of violence often have to retell their story many times and the legal aid lawyer does not prevent this.
- The legal aid lawyer assigned to women victims of violence appears to view their role as only to be present during the taking of a statement. The lawyer does not act as if they have a duty to the woman client that includes providing information on the process, legal advice, referrals, assisting with social needs

such as housing or protection, or continuity of advice or information after the statement is taken.

- In some locations legal aid lawyers are only assigned for discrete portions of a case, such as the initial statement or the testimony during trial. There is no continuity of a lawyer on the file.
- The legal aid lawyer does not seek instructions from the woman client but instead makes decisions about the conduct of her case on her behalf.
- Legal aid lawyers do not treat their legal aid cases with the same care or file management with which they treat their paying clients.
- Lawyers do not always respect the confidentiality of clients, in some cases inadvertently creating safety risks.

Building Trust Between Lawyer and Client

Perception of the Client

- Even when women are aware of legal aid, they have a negative perception of legal aid lawyers and do not expect that they will be helpful or work hard for them. This is particularly true of women who have had a previous interaction with legal aid lawyers.
- Women view their legal aid lawyer as an agent of the state. They see their lawyer being collegial and speaking with/sitting with police and prosecutors but not meeting with them or fighting for their case.
- Women do not perceive that their lawyer understands their circumstances, experience or the law as it applies to them.
- Legal aid lawyers do not appear to trust their women clients or believe them, particularly in cases of domestic abuse or sexual assault. Often legal aid lawyers will ask women what they did to provoke the assault.

Lack of demonstrated empathy

- Lawyers do not understand how to interview a victim of violence or a person who has experienced gender-based trauma, especially long-term physical or sexual abuse.
- Lawyers apply their own cultural biases to their clients, often presuming that a woman victim of violence has been the cause of her own misfortune.
- Lawyers use sexist or degrading language about women with their clients.
- Lawyers accuse women victims of violence of lying.
- Some lawyers encourage women to return to their homes, despite a claim of violence.
- Lawyers do not openly advocate for the safety of the woman client or push back against the recommendations of the police, prosecutor or judge.
- Lawyers do not appear respectful to women victims or accused, including not providing options and seeking instructions from their clients.

- There is a marked disparity between the behaviour of private lawyers and assigned legal aid lawyers with respect to the empathy, understanding and respect they display towards women clients.

Systemic Barriers

- The application of the legal aid eligibility test often means that women who have no actual money are denied legal aid on the basis that they are partial owners of property that is also in their husband's name.
- Women may also be denied legal aid if they receive a monthly income from their husbands or fathers, regardless of whether this may be taken away at the moment of complaint.
- Women who come to Turkey as second wives find that they have no legal rights with respect to children or property in the marriage.
- Some decision-makers and other people in authority may approach the cases of women with a predisposed desire to maintain the family integrity.
- Women who work in low paying jobs may not be able to take time off to attend court and may be forced to choose between their employment and their case.
- There are inconsistent social support mechanisms, such as access to social workers or psychologists, and woman may be too isolated to learn about the services that are available.
- The period of time that it takes for an application for legal aid to be processed may lead to further victimization.
- Courthouses do not have daycare centres or places for women to wait with their children.
- Social obstacles include discriminatory social norms, interpretations of gender, low levels of literacy among women, poverty, fear, lack of a sense of self-worth.

Children

Children are especially vulnerable when they enter the justice system. They do not know their rights, the process or what is available to them and they do not know where to learn that information.

There are no clients who are more dependent on effective representation by a lawyer than children. However, the role of a legal aid lawyer with a child victim client is, at best, unclear and at worst, insufficient. We heard repeatedly that lawyers for victim clients appear only to be present during the child's statement and do a negligible amount of advocacy. The level of actual engagement with the client is limited and does not fall within professional and ethical levels of legal representation.

Children have complex legal needs, as they are dependent on the circumstances of their parents, they are members of more than one disadvantaged group (children may also be women, refugees, disabled or LGBTI), they require significant social intervention, and they require communication of their rights and options at an age-appropriate level.



It is incumbent on the legal aid lawyer to gain the trust of their client, something that is generally done through a display of empathy towards the client's circumstances. When the lawyer's client is a child victim of abuse, this can be difficult but is even more important. It was evident to us that legal aid lawyers routinely fail at this - they are not able to display empathy or speak appropriately and their child clients do not trust them. Legal aid lawyers do not display an appropriate understanding of child psychosocial development.

However, in each region we visited there is a group of specialized lawyers, working through a Children's Rights Commission of the local Bar, to promote training about the rights of the child. This foundation of awareness and sensitivity to the different needs of children is well established amongst a small number of lawyers. These lawyers are the exception to our observations and may be able to provide leadership to their colleagues.

Access to Information

- Children do not understand their rights, the protections available to them, or the role of a lawyer.
- Because children do not know their rights or the process within the system, children are incapable of demanding support from a lawyer.
- Families often do not make complaints about abuse of a child and do not believe child's has a right to legal aid, even when advised by police.

- There is limited education in the school system or other community structures to provide information to children about their rights.

Advocacy

- Legal aid lawyers assigned to child victims do not do more than attend the child's statement.
- Legal aid lawyers do not explain process, rights, or potential outcomes to the child client nor, where appropriate, to their parents.
- Lawyers are not knowledgeable on the special needs or legal rights of children nor the special procedures that apply to children.
- Lawyers do not act as if children are independent people capable of making decisions and so do not seek instruction from their child clients. Sometimes, they put themselves in the role of the parent.
- Lawyers often blur the lines between representation of the best interests of the child and representation of the child's wishes.
- Lawyers do not actively participate when there is a disagreement between social workers and public prosecutors.
- Lawyers do not understand the role of the family when a child is their client. They do not step in to prevent family pressure on the child.
- Lawyers do not object to a judge's order to have a child testify in court when they have already given video evidence at a ÇİM. This results in further trauma for the child.
- Lawyers do not meet with their child clients who are incarcerated. This is attributed to the challenges (costs and time) associated with travelling.
- Lawyers are not well versed in the referral pathways and social options available to their clients.
- The role of the legal aid lawyer in representing a child is not well-communicated to lawyers or to other organizations supporting children.

Building Trust Between Lawyer and Client

- Legal aid lawyers do not stop to introduce themselves to the child client nor their parents.
- The behaviour of legal aid lawyers at the police station leads the child client to believe that the lawyer is an agent of the state, rather than a defender of the child's rights.
- Lawyers do not understand how to talk to child clients in age appropriate language.
- Lawyers do not understand child psychosocial development and how it affects decision-making, risk-taking and responses to authority.
- Lawyers have displayed bias against children who are drawn into crime and children who have been sexually assaulted. Lawyers have blamed children for their circumstances or disregarded their stories.
- Lawyers fail to understand that children rarely have one simple legal issue. Rather, children are usually facing complex problems with multiple options, both legal and social.

- Lawyers may become visibly disturbed by the facts of a difficult case involving a child, which does not help the child or instill confidence.

Systemic Barriers

- There are services for children as victims at centres such as the ÇİM but the mandate of these centres does not include children who are accused of crimes.
- The courts sometimes require children to testify in court, despite having already given their statement at the ÇİM. This may negate the good work done at the ÇİM and may have traumatic consequences for the child.
- There is no coordination or communication mechanism between the Bar Associations, and ÇİMs or civil society organizations to improve services for children. There is an annual meeting of the Child Coordination Council held within the Ministry of Family and Social Polices Directorate General of Child Services.
- There is no structured process for communication between lawyers and social workers or legal interviewers on specific cases.

LGBTI People

LGBTI people occupy a particularly precarious place in accessing justice services. There are frequent and widely shared experiences of discrimination at every stage of the justice system: from police, in detention, from lawyers, in courts, from judges, and in prisons. While sexual orientation is not criminalized, there are no positive legal protections for the LGBTI community. We were told of cases in which courts have stated explicitly that the Istanbul convention does not recognize LGBTI rights and refused to provide basic violence protections to LGBTI people.

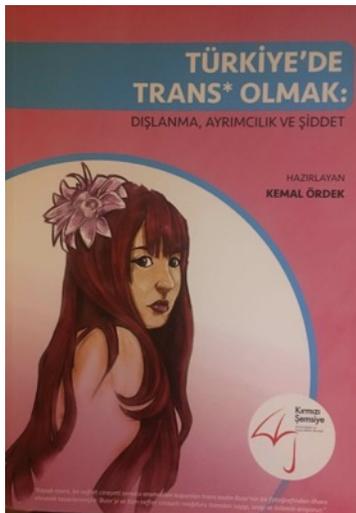
Transgender women face discrimination in the job market and many turn to unregulated sex work. Consequently, police and others in society assume that all members of the trans community are sex workers, increasing stigmatization and police interactions. Transgender people suffer harassment for carrying an ID card showing a gender other than their appearance. We heard instances of police encouraging aggressors to reframe an incident as threatening their manhood, as a defence to assault of a gay or transgender victim, rather than treat the LGBTI person as the victim. In some police stations, there is a bonus system to encourage arrests, in which a transgender sex worker is worth more points than others.

We heard that the instances of discrimination are particularly extreme for transgender people including employment, housing and even basic medical care.

Lesbians are invisible in society, often pressured with violence or lack of access to their children, to marry men or stay in marriages with men.

LGBTI refugees from particularly conservative countries of origin are sent to Turkish cities known for conservative attitudes, without services and resources appropriate to their claims.

We were told of gay men being discriminated against, assaulted and persecuted during their term of military service. Civil servants are fired or pressured to resign because they are gay.



The LGBTI community works quite closely to support people, find safe housing and provide referrals to tolerant and accepting service providers. As a result, individuals are not making requests for legal aid and do not trust that the random assignments will be safe or adequate due to the widespread social discrimination and ignorance of LGBTI rights. We were not told of any Commissions of Bar Associations focusing on this very vulnerable group of people, nor did we meet many lawyers who explicitly said they provide services to the LGBTI community. However, we understand that the UTBA has a newly established Sexual Identity Discrimination Working Group. We conclude that the proportionately low number of legal aid applications reflects the fear and lack of information, not a lack of need.

Access to Information

- The LGBTI community has limited knowledge of a right to legal aid.
- There is little understanding in the LGBTI community of the legal process, how to start a case or the extent of rights specific to this community.
- Community advocates have very little knowledge of how to refer individuals or how to find a lawyer who understand LGBTI issues.
- The community is very dependent on the few lawyers that will provide discrimination-free service.

Building Trust Between Lawyer and Client

- LGBTI people have experienced discrimination by legal aid lawyers assigned to them.
- Lawyers fail to appreciate the intersectionality of LGBTI issues.
- Lawyers fail to understand the extent of the safety concerns of transgender people and lesbians.
- There is a lack of understanding of the social and legal circumstances of transgender people.
- There is a lack of understanding of the extent to which social prejudice limits people's employment and housing choices.
- There is a lack of empathy for the social isolation and rejection by family experienced by many LGBTI people.
- Lawyers do not separate their own biases from their obligations to their LGBTI clients.

Terminology

- There is a nervousness about the terminology appropriate to LGBTI clients.
- Lawyers are reluctant or unsure of how to address clients.
- Lawyers are not sharing the appropriate terminology and pronoun use regarding their clients with the court to ensure the court can provide dignified treatment.
- Lawyers are not adopting the terminology and pronouns being used by their client.

Advocacy

- Lawyers have failed to object to discriminatory treatment of their client by police, prosecutors or prisons.
- Lawyers have perpetuated stereotypes about LGBTI people in the court process.
- Lawyers use language that reveals their own prejudice in front of the client and other members of the justice system.
- Lawyers have failed to object to discriminatory language used in justice processes.

- Lawyers do not anticipate and advocate for equitable treatment for their LGBTI clients in police detention and in prison. They must be vigilant against further assault and seek pre-emptive protections.
- The LGBTI community requires legal assistance to advocate for systemic changes or to challenge refusals of health and public services.
- Lawyers must reach out to the LGBTI community in light of the mistrust. Lawyers must recognize their professional and ethical responsibility to provide support to this disadvantaged group.
- Bar Associations must support the creation of LGBTI Commissions.

Systemic Barriers

- Lawyers and others in the justice system lack an understanding of the following critical issues affecting the LGBTI community:
 - legal requirements for the gender reassignment process;
 - rights of intersex people;
 - family violence experienced by lesbians;
 - psychological violence perpetrated by family members;
 - HIV+ status as manageable condition;
 - importance of access to and continuity of medications and hormones for transgender people;
 - additional isolation of detained LGBTI refugees;
 - fear of LGBTI refugees to seek out social and legal advocates; and
 - intersectionality of gender, sexuality, socioeconomic status, refugee status, disability, etc.
- Without positive protections of the LGBTI community, it is difficult for lawyers to start legal actions or respond to discrimination. Legal aid lawyers must understand the procedures to find other legal ways to protect their clients.

People with Disabilities

People with disabilities fight to access services and to control their legal matters. We heard about the extent to which lawyers, courts, and family members assume that people with disabilities cannot make their own decisions. Many people with disabilities do not know about their rights or how to bring a complaint. When services are not provided, or the legislation designed to protect them is not enforced, they do not know how to initiate a legal action. Court processes have not evolved to address specific vulnerabilities such as the risk of fraud for visually impaired people with no written signature.

The civil society organizations supporting people with disabilities have access to translators, technology and avenues for accessing services. There is very little coordination between the legal community and these organizations, nor recognition of the role they play in ensuring the autonomy of people with disabilities. We heard that lawyers often take instructions from family members and ignore the person with a disability.



Access to Information

- Legal information must be made available in print or online so that people can read and review it at home, using adaptive technology.
- Lawyers' offices and Bar Associations are often not physically accessible, making it impossible for people to request legal aid.
- Organizations that work with people with disabilities do not have access to or relationships with the Bar Associations to provide basic legal information or referrals to people with disabilities.

Access to Legal Processes

- Court forms are not available in braille nor available in advance to allow people to read the forms using adaptive technology, prior to being asked to sign documents.
- Adaptive technology allows for lawyers' documents to be 'read' by people with disabilities. Courts and lawyers must be more flexible to allow people access to documents in advance, or at home, to make use of these technologies.
- Lawyers only give information orally, preventing the client from reviewing it using their own technology.

Building Trust Between Lawyer and Client

- Lawyers are not educated or well acquainted with clients with impairments.
- Lawyers do not listen to people with disabilities about how they manage their lives.
- People with disabilities are often isolated within their houses, whether because of physical barriers to social participation or family embarrassment about the disability. Lawyers do not recognize this concern or find ways to reach their clients.

Advocacy

- Lawyers do not have adequate interview skills to ask meaningful questions and create trust with the clients with communication difficulties.
- Lawyers need to advocate for the retention of benefits, and avoid benefits being paid to a family member instead of to the capable person with a disability
- Lawyers must act vigilantly to verify documents and help the client understand the documents relating to their case.

Systemic Barriers

- Assistance for people with disabilities is often seen as charity, rather than an issue of rights.
- People with physical disabilities are often treated as if they are also not mentally competent, including in their interactions with legal aid lawyers.
- Disability benefits assume that people with disabilities always live with parents and cannot be transferred to a spouse.
- There is a huge need to enforce the legislation to reduce barriers in buildings and to ensure the adequacy of jobs provided under the law. People need lawyers to assist with these systemic issues.
- Employers often stretch the definition of disability when reporting on the requirement to hire people with disabilities to fill 3% of their workforce. The jobs given to people with disabilities are not matched to their skills. There is often a presumption that they will be happy with any repetitive, low-skilled job and people are treated as having limited cognitive capacity.
- The circumstances for people with disabilities is compounded by family shame, resulting in severe isolation. In some regions with frequent marriage between cousins, the rise in children born with disabilities results in further isolation within the family.
- The elderly are often isolated within the family home.

Refugees

Refugees, migrants, and those eligible to claim refugee status have a myriad of legal issues. In addition to the health, disability, gender, sexuality, and age-based rights afforded to them, refugees are entitled to protection on migration, as well as civil and criminal legal issues. However, they have multiple barriers to acting on their rights. The confusion, fear and risk individuals and families feel is exacerbated by their ignorance of Turkish and international law. We were told that refugees' knowledge of their rights is markedly worse in small centres or rural areas.

We heard that refugees are often dissuaded from seeking legal aid at their first interaction with police, who suggest it will negatively impact their families (particularly in the case of domestic violence), or their employment. Reception or security guards at Bar Associations often discourage applications by telling them that legal aid is only for Turkish citizens.

The barriers to finding a stable safe situation are made worse when public authorities do not actively inform people of their rights or create administrative barriers to receiving help. The administrative barriers to claiming refugee status or exercising migration rights, as well as the active discouraging of access to legal advice is a serious concern. Lawyers need to be trained on the range of strategies that can ease these processes. They also need to be trained on the other common rights infringements within detention facilities in order to request appropriate orders.

We heard of many people being unable to exercise their rights because of logistical and procedural problems, such as lack of appropriate identification. However, we also heard examples of protocols to overcome these problems. The Bar Associations are in a position to coordinate these solutions and work collaboratively to reduce these procedural barriers.

Effective communication between client and lawyer, and between the client and the court is essential to meaningful rights protection. The lack of adequate interpretation and the inflexibility of the system of interpretation is a serious problem related to us by lawyers, civil



society groups, and prosecutors in every location.

Lawyers specializing in the representation of refugees are dedicated to their clients and are ensuring adequate services in spite of the additional procedural and practical barriers. These lawyers are working hard to meet their clients' needs regardless of the fee structure. There are not enough lawyers working to meet these needs.

Access to Information

- Refugees have very little information about the Turkish legal system.
- Refugees are rarely informed of their right to a lawyer in a meaningful way by public authorities.
- Many people assume the laws and process will be the same in Turkey as in their home country.
- Refugees are afraid to ask about their rights for fear of drawing attention to themselves.
- Refugees, once established within a community, do not take full advantage of basic legal protections in the workplace or family law.
- Lawyers, courts and police are unable to communicate effectively with most refugees due to language and cultural differences.
- Lawyers need to actively outreach to some communities that have no knowledge of the legal system.
- Many people only learn about their right to a lawyer when a family member in another city, or even another country, contacts a civil society organization.
- Refugees tell each other about their legal rights and their right to a lawyer. They have no way to confirm the accuracy of this information.
- Lawyers and Bar Associations must ensure that their security guards and reception staff are welcoming of all refugees and do not prioritize Turkish citizens.

Countries of Origin / Differences between Legal Systems

We were told of a number of misunderstandings between refugees and legal aid lawyers because of the difference between Turkish law or culture and the laws in refugees' home countries.

- The expectations of the client of their criminal legal aid lawyer are high, expecting the lawyer to facilitate a quick release and to continue on the case throughout the process. The limits of legal aid coverage are rarely explained to the client.
- Refugees are unaware of the speed of the process and complain about the quality of services, assuming that the lawyer is not working hard enough, when the process takes longer than it would have in their home country.
- Some people blame their frustrations with the system, or the fact that the result is different from it would have been in their home country on the competence or attention of the lawyer.
- There are cultural differences in the role of a lawyer causing some clients to assume that the lawyer will help them on other legal issues and will frequently call at all hours with a wide range of questions and an expectation of ongoing representation.
- Some refugees have a misconception that lawyers are the representative of the government due to conversations between lawyers and prosecutors and judges.

Access to Interpreters

- Refugees do not trust that the lawyer has fully understood their experience when the interpretation is inadequate.
- Many places only have interpretation in one or two languages despite having refugees from many countries.
- The system of requiring Turkish citizenship before accrediting an interpreter prevents use of effective interpreters.
- Some judges accept police officers as interpreters, creating additional mistrust by the lawyer and the client.
- Casual interpreters such as family members have no knowledge of legal terms or nuances and their mistakes in translation cannot be identified by anyone in the courtroom.
- The requirement by Notaries of accredited interpreters means many people cannot access their legal rights at all because they cannot sign a power of attorney.
- Lawyers do not pay enough attention, especially at the beginning of the case, to the spelling of names, or other errors that delay procedures or result in prolonged detention.

Advocacy

- Lawyers lack knowledge of refugee status determination procedures.
- Lawyers lack knowledge of the international conventions and rights that refugees are entitled to in Turkey, including the international rights to education, family connection, health care etc.
- There is a lack of awareness among lawyers, prosecutors, police and judges, about early marriages, polygamous marriages, forced marriage or human trafficking.
- Lawyers do not have the cultural competency to identify and advocate for refugees' legal issues, including the right to education and other children's rights.
- Lawyers do not believe that foreigners are as entitled to legal aid as Turkish citizens.
- Many lawyers do not treat refugees as rights-holders.
- Lawyers do not actively ask refugees about civil legal needs.
- Lawyers do not spend as much time or are less active on refugee legal aid files.
- The expeditious assignment of a lawyer to a refugee case is critical to the success at the hearing.

Systemic Barriers / International Issues

- The inability of refugees to sign a power of attorney because of a lack of identification or the lack of an accredited interpreter at the Notary is a pervasive barrier to refugees pursuing their legal rights. Some jurisdictions have accepted alternative identification methods.

- The legal aid assignment systems and the fee structure do not recognize that refugees often have multiple hearings in different levels of court and tribunal to address a single assigned issue. Lawyers are providing representation for multiple hearings under one assignment.
- The mandates of state-run institutions, such as Removal Centres, does not appear to include the necessary access by refugees to lawyers.

Recommendations

Reforming Legal Aid

In addition to the training of individual lawyers, there are a number of areas where the legislative framework, and/or the practical administration and oversight of the legal aid system, could be strengthened to better support the provision of legal aid services.

Recommendation 1: Adopt a Service Standard for All Legal Aid

Service standards for legal services are an international best practice and support the reduction of variation in service levels - a problem that was evident to us across Turkey. We urge the UTBA and Bar Associations to adopt a service standard for lawyers providing legal aid services, to train to it, and enforce it through performance measures.

Recommendation 2: Establish a UTBA-led Body to Lead Legal Aid Improvements

There is significant variation across Turkey with respect to the provision of legal aid to disadvantaged groups, depending on the particular challenges of the region, the interests and resources of the Bar Association, the presence of civil society organizations and the local relationships between members of the justice system and other actors in society.

Given this disparity, it would be useful to have an independent body with a mandate to lead change that is supported by the Bar Associations. While this body will have to be mindful of the variation in needs across Turkey, a central coordinating effort can be more effective at working with government institutions, developing common standards and navigating between Bar Associations. We observed that the UTBA's current activity, despite its lack of specific authority, has with the support of the Bar Associations. Our recommendation is that the UTBA mandate be expanded to include the creation and operation of the central body for the transformation of legal aid.

Recommendation 3: Improve Data Collection

There are limited statistics being kept about legal aid, including incomplete data on when/why a legal aid application is accepted or refused, what services are provided by an assigned legal aid lawyer (especially in civil legal aid where no reporting is required), client demographic data (such as membership in a disadvantaged group such as LGBTI), case-type data useful when identifying intersecting legal issues, or client satisfaction data. Without reliable data, the Bar Associations have only anecdotal evidence with which to evaluate their services or assess the sufficiency of services, funding levels or outreach. We recommend establishing a coordinated data collection structure that includes client demographics.

Recommendation 4: Refine the Automated Assignment of Cases

While the automated assignment mechanism may facilitate equitable assignment of case load to lawyers, it has detrimental impact to cases involving vulnerable clients who require a lawyer with specialized skills. The concern about the assignment of an ill-equipped lawyer is so grave and widespread that, particularly with respect to vulnerable victims of violence, the taking of statements is being delayed while the clients and their supporters seek an alternate option to the legal aid lawyer.

This has been recognized by many Bar Associations who are already making directed and specialized assignments for vulnerable clients where possible. This is obviously more successful in civil cases that do not rely on the automated assignment model. Bar Associations treat the automated systems as a fixed or mandatory approach rather than exerting influence on the technology providers. Bar Associations should demand a more responsive assignment system from the technology providers to make it work better for lawyers and for people facing disadvantages.

We heard many suggestions with respect to alternative models, including permitting clients to select their own lawyers and developing lists of lawyers with specialized skills/training/experience and limiting assignment to those lawyers. It is our recommendation that, within the system as it currently exists (both criminal and civil), sufficient changes to could be made to any automated assignment system to permit the assignment of specialized lawyers.

Additionally, whether through a change in the automated system itself or in the practice of Bar Associations, assignments should continue from the investigation phase through the trial process with the same lawyer assigned to a client's case throughout.

Our recommendation is that priority be given to assignment based on matching skills to cases rather than equity in case assignment for lawyers. The determination of sufficiency of skills should be part of further discussion with the Bar Associations but, for all lawyers, the training outlined in these Recommendations regarding the basic skills required to serve disadvantaged groups should be a prerequisite to inclusion on all legal aid lists.

Recommendation 5: Increase Fees for Criminal Legal Aid and Cover Disbursements

Legal aid rates around the world are typically lower than the rates for privately paid legal representation. However, we heard repeatedly and we accept that the fee for criminal legal aid is so low that it creates a barrier to appropriate service for vulnerable clients. There are many detrimental effects from the low fee: only very junior lawyers take criminal legal aid cases and they are inexperienced in the complex needs of the vulnerable, the low fee results in limited lawyer activity on the file (lawyers only do the minimum required in order to receive the fee), lawyers cannot make a living doing primarily legal aid work and so it is difficult for them to become specialized, cases are often complex and have an array of legal issues but the fee only compensates for work on one issue.

An additional barrier is created by the limited recovery of disbursements and ancillary costs. We heard that travel costs to visit detained clients are insufficient for the time and distance required to travel to jails and Removal Centres and other out-of-pocket expenses for lawyers are not reimbursed.

We laud the increase to criminal legal aid that occurred in 2017. Our recommendation is that the fees for criminal legal aid be raised at least to the fee paid for civil legal aid. Our further recommendation is that coverage for disbursements be increased to cover the reasonable expenses that a lawyer would incur.

This would require a review of the mechanism for providing legal aid funds to Bar Associations to ensure that fees and disbursements are adequately covered and efficiently processed. Additional strategies to address the issue of fees should also be investigated including tax exempt legal aid fees and expedited processing of payments.

Recommendation 6: Monitor and Support Service Improvements

Once professional development has been implemented and a new service standard adopted, it will be critical to measure and monitor the ongoing service levels provided by legal aid lawyers. We only heard of negative performance consequences as a result of complaints. Lawyers are being denied case assignments or being subjected to disciplinary proceedings. A more proactive monitoring/support mechanism by the Bar would permit a positive and forward-looking approach to motivate improvements.

Formally, monitoring should include regular professional development reporting, service standard reporting, case tracking, use of data and analytics to ensure consistency of service and matching training to current client needs, and performance measures for lawyers providing legal aid services.

Informally, but equally as importantly, mentoring, group discussions and other networking opportunities at the Bar Associations Commissions level to support colleagues with challenging cases, and regular check-ins with civil society organizations would all assist lawyers providing legal aid services. It should be noted that informal support mechanisms should still be measured and tracked to support greater understanding of their value.

Recommendation 7: Establish Multiple Avenues to Initiate Legal Aid

There are a number of areas in which vulnerable clients are dependent on the actions of individuals in authority in order to obtain legal aid, including the commencement of a case, the assignment of a lawyer, and the determination of power of attorney.

A legislative review of these areas to increase the range of individuals and organizations who can trigger access to a legal aid lawyer would lead to more efficient and effective service for disadvantaged clients and reduced delay in case processing.

The Role of the Lawyer and the Rule of Law

It is the professional and ethical obligation of every lawyer and legal institution to uphold and safeguard the rule of law. In concrete terms, this includes an adherence to transparency of process and decision-making, fearless and tireless advocacy for all clients, and respect for the role that lawyers play in the proper functioning of a democratic society.

We found that these principles are in jeopardy within the functioning of the legal aid system in Turkey. However, there are opportunities to significantly strengthen this key pillar of democracy.

Recommendation 8: Strengthen the Role of the Lawyer as Guardian of the Rule of Law

We heard repeatedly that legal aid lawyers struggle to represent clients whose actions do not coincide with the lawyer's beliefs. We heard that the result of this struggle is that lawyers will either not take the case or, more often, will not provide a sufficiently rigorous defence of their client. This concern was expressed across a spectrum of beliefs - female lawyers who struggle to represent male abusers, male lawyers who struggle to represent female or child victims of sexual abuse, lawyers who struggle to represent transgendered clients.

In some locations we heard troubling stories of lawyers being associated by other authorities with the interests or activities of their clients. We were told that in some regions lawyers have been charged or imprisoned for representing legal aid clients accused of terrorism activities. We also heard of lawyers being suspected or accused if their client changes their story or opts not to talk after meeting with their lawyer. This intimidation of lawyers, even if only an occasional or regional issue, has very real risks for the rule of law.

As noted elsewhere in this Report, the role of the lawyer as a guardian of the rule of law is not well supported by the fee paid to lawyers who provide criminal legal aid services or the role mandated to lawyers as representatives of victims. Neither the fee nor the unclear mandate for lawyers with victim clients (mere presence during the initial statement for example) supports the appropriate level of representation required by the rule of law.

Finally, we observed a lack of understanding of the necessary role of the lawyer in either the victim, defence or the refugee process. With respect to the role of the lawyer for victims or accused, we heard repeatedly that the lack of rigour shown by legal aid lawyers has created a culture in which legal aid lawyers are not valued as a part of the process. With respect to refugees, at the Removal Centre we observed a distinct lack of understanding or belief that lawyers are

necessary to the process of managing refugees and therefore a lack of administrative planning at the Centre to provide lawyers access to their clients.

The rule of law applies to everyone, regardless of their crime or their unpopularity in society. Promoting the role of lawyers as guardians for the rule of law will make it easier to ensure rigorous defence of all accused and will elevate the role of the lawyer in the legal process, whether representing the victim or the accused.

The responsibility for changing this difficult dynamic is shared. Lawyers must be trained to understand and value their role as an advocate for a fair and effective justice system, regardless of the client they serve. They must be supported by the Bar Associations, the court system, and law enforcement in this endeavour. While this is a long term effort, there are real activities that can be undertaken immediately, including training of lawyers and activities by Bar Associations to advocate for their members.

Legal representation in the face of these concerns is a courageous effort by lawyers. Lawyers are, after all, members of their culture and their society and may be subject to the pressures of society. Support and understanding within the broader community is important. Part of the public legal information that is created to enhance awareness of legal aid should be devoted to explaining the valuable role of the lawyer.

Recommendation 9: Safeguard the Nobility of the Profession

In addition to the role of the lawyer within a case as a guardian of the rule of law, lawyers have a responsibility within the legal community to ensure that the community as a whole maintains its ethical, professional and democratic obligations.

During our visits with the Bar Associations, we were heartened to observe that lawyers were free to disagree with, or express alternate opinions and suggestions to, the leadership of the Bar. We were also appreciative of the actions of Bar presidents and leaders to find consensus or to support a range of views as part of the attempt to improve legal aid. A healthy debate among the legal community about the best ways to preserve the rule of law and strengthen legal aid is important to the functioning of the system. We encourage this ongoing dialogue.

In addition, we observed that, despite prevailing attitudes, lawyers in smaller cities are often better able to advocate for the rule of law because of the personal relationships and networks they have built in the community. We would recommend that a deeper analysis of the function of the Bar Associations and their members in large and small centres be considered in order to determine the best ways to strengthen the reputation of lawyers within the community regardless of size.

Recommendation 10: Support Lawyers Advancing Legal Policy for the Vulnerable

Throughout our field visits, we spoke with many lawyers who are enthusiastic advocates for the disadvantaged in Turkey. These lawyers work both within the legal aid construct and outside it, for example by providing free services for civil society organizations. Part of our discussion with these lawyers and with civil society organizations centered around frustration that the limited scope of legal aid does not permit the advancement of legal policies or principles through legal aid cases.

It is our recommendation that Bar Associations should harness the enthusiasm of many of their members by promoting work that advances test case litigation and systemic cases in support of human rights and the needs of the vulnerable. In addition to operating the legal aid system, Bar Associations should facilitate and recognize lawyers' voluntary pro bono work to advance equality under the law. We observed that there are many civil society organizations in Turkey that would be helpful in the identification and advancement of these cases.

Recommendation 11: Acknowledge the Special Responsibility of Lawyers with Child Clients

While the representation of all clients must be performed with rigour, there is a special responsibility that lawyers face when they represent children. Issues of power imbalance, abuse and consent are heightened with the child client. The lawyer is faced with ensuring that the child client is sufficiently informed to provide instructions where possible, has their best interests safeguarded and that the impact of the family is appropriate to the situation. This can require a series of very difficult judgement calls.

It was our observation that this special responsibility is not being met by legal aid lawyers assigned to child clients. Indeed, the role of the lawyer for the child victim appears to have degraded into a mere formality. This neither serves the client nor upholds the rule of law.

Clear expectations of legal aid lawyers with child clients are absolutely necessary to protect society's most vulnerable.

Relationship with Civil Society and the Public

The provision of legal aid services is where lawyers' work most closely overlaps with the work of civil society organizations, social services, and public expectations. When people are most vulnerable, they are most dependent on others to identify legal issues, make referrals and build their confidence in the legal processes. Lawyers are a critical part of the network of social workers, teachers, health care professionals, community leaders and civil society workers who offer support to people when they are vulnerable. Embracing this role as part of a network of service providers, and strengthening these connections will dramatically improve the quality of and access to legal aid in Turkey.

Recommendation 12: Coordinate with Civil Society Organizations

Without exception, the civil society organizations we met with want to work with Bar Associations to enhance legal aid awareness. They offered to assist with orientations about local needs, to facilitate public information sessions and to work collaboratively on outreach strategies. Staff are eager to discuss the realities of their clients with lawyers to identify emerging legal needs.

The staff at civil society organizations serving all five of the designated groups described their frustration supporting clients without any information about the legal process. They are unable to help people understand the process, the expected timelines or the even the role of the legal aid lawyer. These organizations have a valuable role to play in addressing people's fear and mistrust of lawyers and are willing to hand out pamphlets or help people understand legal terms. A minimal investment in training these professionals on the basic terms and roles of the legal aid lawyer would allow a wide network of professionals to inform people of the right to legal aid.

Recommendation 13: Establish a Formal Relationship between Bar Associations and Civil Society

Acknowledging the complexity of legal issues and the overlapping legal, health and education needs of disadvantaged people should include building a respectful professional relationship between Bar Associations and civil society organizations. An annual meeting hosted at the Bar Association at which civil society organizations were invited to share high priority issues for their clients would demonstrate this respect and provide the Bar Association with valuable insight into gaps in legal aid services. In smaller communities with few civil

society organizations, community leaders or individual advocates could be invited to attend.

The Bar Association Commissions offering focused services and training often have relationships with organization staff. However, these have tended to be one-directional relationships, focusing on legal aid services, rather than on assessing gaps in services. We heard of many innovative projects addressing women's health and employment, Turkish language classes for refugees, and social and community supports for LGBTI people and those with disabilities. Through a more active working partnership with civil society groups, these events could easily include an introduction to legal aid services.

Recommendation 14: Support the Development of Referral Networks by Individual Lawyers

Within any practice area, there are predictable social needs for people belonging to vulnerable groups, such as protection options and health care for children, financial advice for women, or advocacy for refugees' right to education or mobility. Lawyers committed to working with disadvantaged groups should develop a base knowledge of the agencies, professionals or services that can be accessed by the vulnerable client. While it is not the lawyer's role to become the social worker for all of the related issues a person is struggling with, the lack of effective referrals is contributing to people's dissatisfaction with their lawyer. The lawyer may be the first person with whom they have shared a very difficult and risky situation. Having a list of phone numbers and a basic awareness of the non-legal supports available within the region allows the lawyer to provide these crucial referrals without adding to their workload. Efficient referrals to these supports will also limit client expectations of the lawyer, will reduce calls to the lawyer's office, and will increase client stability.

Recommendation 15: Disseminate Basic information on Legal Processes and Timelines

We heard repeatedly that people do not understand the legal processes they are involved in. They do not feel in control of legal decisions and are confused by the pace of the process. We recommend that the UTBA or the individual Bar Associations develop a short outline of typical legal processes that includes information on typical timelines, the roles of the major players in the court and the major types of legal processes. This kind of information would not replace legal advice from a lawyer.

We heard from many Bar Associations that people prefer to get their information in person and do not like to read printed materials. This was consistently opposed by civil society organization staff who stated that people forget what their lawyer told them, get confused about who they were talking to and do not understand terminology. They also told us that some groups of clients need to review information again on their own, with a family member or using adaptive technology. The lack of basic understanding of legal terms is negatively affecting lawyers. Clients call more frequently to the lawyer's office, complain about the results or the speed of the process and distrust the advice they receive because they do not understand the basics of the system. Having a print and online source to revisit after meeting with the lawyer will help to set realistic expectations and address the fear people feel when facing legal matters.

This basic information about the legal system should be written in plain language, avoiding all technical legal terms. It should be available both in print form and online. Civil society organizations working with children and the LGBTI community reported that information that someone can read on their phone would be better received and would maintain privacy. In other countries, providing women in violent situations with online information has also been critical to ensure safety. A pamphlet that is discovered by a family member could lead to increased violence. This material should also be distributed by lawyers as a *client information package* as part of the lawyers' first meeting with clients.

It is widely accepted that people do not absorb information well when they are in a state of crisis or are afraid. Given the circumstances that make these groups vulnerable, it should be expected that they do not retain what they are told by the lawyer or the police. Some communities, such as the Roma community, are very isolated from Turkish society. Active outreach within this community, with multilingual materials, will increase their trust in lawyers and the likelihood that they access the system to enforce their rights.

Finally, a supplementary pamphlet could include information on the right to legal aid. In each region, we were told that the police advise accused persons and victims of the right to legal aid at the police station but both lawyers and civil society organizations expressed doubt that it is done consistently. In many cases, Bar Associations had specific evidence or anecdotes demonstrating that the police do not inform everyone of this right. A pamphlet produced by the UTBA or the Bar Association would ensure that this right is properly stated. We understand that the Department of Victim Rights has produced flyers, including a flyer on legal aid, for distribution in courthouses and police departments.

System Coordination

There is a need to improve coordination throughout the justice system to ensure that disadvantaged groups receive basic services. This would include coordination among professionals in individual cases, and coordination between institutions regarding the promotion of legal aid.

Recommendation 16: Work with Law Faculties to Teach the Role of the Bar in a Fair Trial

The attention to communication and interview skills and the needs of people facing disadvantages seems to vary greatly from one law faculty to another. In some cases, interns are included in outreach activities and in other locations not. The Bar Associations should advocate for the inclusion of this competency as a critical part of a legal education. There is great potential to expand legal aid services by involving law students and interns in public outreach activities, introducing them to the importance of this work. Law students and interns should not be assigned to represent people from vulnerable groups but can be involved in a file under the active supervision of a specialized lawyer.

We understand that the Department of Victim Rights will establish a program for law and social work students to volunteer with victim support units in courthouses.

Recommendation 17: Establish Active Communication with Monitoring Centres

Staff at Child and Violence Monitoring Centres are given very little training about the legal process and almost no information about the case of victims they support. These Centres should be seen as a valuable ancillary service to the court process. The staff of the Centre are never involved in or advised about the trial process. However, they have the ability to integrate knowledge of the trial process into the social monitoring or psychological support being provided to the child or family. They would like to be advised if an abuser is going to be returned to the community. These Centres have access to financial and social supports that could be provided before, during and after a trial, if they were updated on the stages of the process.

Recommendation 18: Coordinate with Refugee Organizations on Obstacles

Legal aid for refugees is often not integrated with civil society or international agency services. Lawyers and organization staff complained about the lack of private space to meet with clients. Access to interpreters and avenues for securing power of attorney are issues in every region. However, in some locations civil society groups have established protocols that could be relied on by lawyers. In other cases, Bar Associations are addressing transportation issues while civil society groups struggle to attend at the Removal Centres.

Better coordination about these strategies, and coordinated advocacy for basic rights of refugees would see more effective legal representation and more access to social services. Some Bar Associations even suggested stationing a lawyer within civil society organization offices to provide easy access to legal aid.

Building the Capacity of the Bar to Support Legal Aid

Adopting a sustainable professional development framework is an opportunity to build the capacity of lawyers to meet the needs of disadvantaged legal aid clients, and as ancillary results, better serve all clients, strengthen the rule of law, and address lawyers' needs. Much as laws change, so do the needs and dynamics of society. Representing people from vulnerable groups, in particular, requires awareness of the evolving social dynamics that create disadvantage, or that limit people's access to services. We were told of discriminatory practices such as prioritizing Turkish people over refugees in spite of the obligation to provide legal aid services, denying services to LGBTI people or diminishing women's experience of violence. These discriminatory behaviours on the part of lawyers and Bar Associations reflect the negative impact of social values on lawyers acting on their professional obligations. Professional development about these intersectional issues can shift this dynamic and empower lawyers to embrace the nobility of the profession.

Recommendation 19: Promote Professional Development as an Ongoing Element of Professionalism

Bar Associations can create a culture of professionalism that includes ongoing development of lawyer's skills and knowledge. While there is a strong track record of trainings, they address specific substantive areas of law, rather than the skills for effective representation. Adding programs to develop client communication skills and keep lawyers connected to the evolution of legal services will benefit disadvantaged groups, lawyers themselves and the justice system.

Recommendation 20: Require Skill Development of Lawyers on all Legal Aid Lists

Individual Bar Associations should offer a regular basic course in communication, trauma-informed practice and the social circumstances of disadvantaged groups. This minimum requirement will embed the role of the lawyer and the importance of rigorous representation of all clients. The professional development framework recommended below anticipates a basic designation, offered locally and remotely, as a requirement for all lawyers on the criminal or civil legal aid lists. Depending on the size of the Bar Association, the course could be offered quarterly, twice a year or annually. Bars with small memberships can arrange for lawyers to attend in another region or to complete the course remotely, ensuring that there is no barrier to participation in the provision of legal aid.

Recommendation 21: Offer Specialized Courses for Specialized Legal Aid Lists

Voluntary courses should be offered on the social circumstances, rights enforcement mechanisms and emerging issues affecting different disadvantaged groups for lawyers working through Commissions to provide specialized service. In some regions, there is either ongoing training or a history of training on refugee or women's issues. There have been well-received programs offered by the UNHCR and UNICEF in some locations. Lawyers showing leadership in the specialized Commissions for Women, Children and Refugees can be involved in delivering programs to colleagues, strengthening the local Bar. We recommend a minimum of twelve hours of specialized training, whether offered locally, by Bar Associations, or by NGOs, prior to inclusion of lawyers on these specialized lists. These programs should include an assessment of lawyers' knowledge at the end of the course and result in a certificate.

Recommendation 22: Offer Ongoing Support to Lawyers Serving People Belonging to Vulnerable Groups

Single trainings are not sufficient to shift a culture of practice or to support lawyers as they face new challenges. The implementation of new skills requires ongoing support for lawyers. The recommended framework below includes a model of peer support to discuss cases or challenges lawyers may face. It would promote peer support for lawyers working with clients who have faced trauma, integrating care for lawyers' well-being. We recommend that Bar Associations facilitate these avenues for support.

Recommendation 23: Involve Civil Society Organizations or Members of Disadvantaged Groups in Professional Development

Professional Development should include the direct participation of the disadvantaged communities. To improve the quality of legal aid to these communities, lawyers require new expertise in communication with these clients, in addition to substantive legal knowledge. All of the civil society organizations consulted in the field visits expressed a willingness to work with Bar Associations to deliver training about their client's needs. Those organizations working with people with disabilities reiterated the importance of listening to these communities and becoming familiar with the actual challenges of living with disabilities.

Structure of the Professional Development Framework

The proposed Framework for Professional Development to enhance legal aid services is designed to integrate the following considerations:

- Limited time and busy schedules of lawyers
- Preferred delivery formats
- Sustainability of long-term delivery of the program
- Delivery by Bar Associations of different sizes
- Adult Education pedagogy for effective learning
- Ongoing evaluation of the Framework

Recommendation 24: Adopt a Modular Professional Development Framework

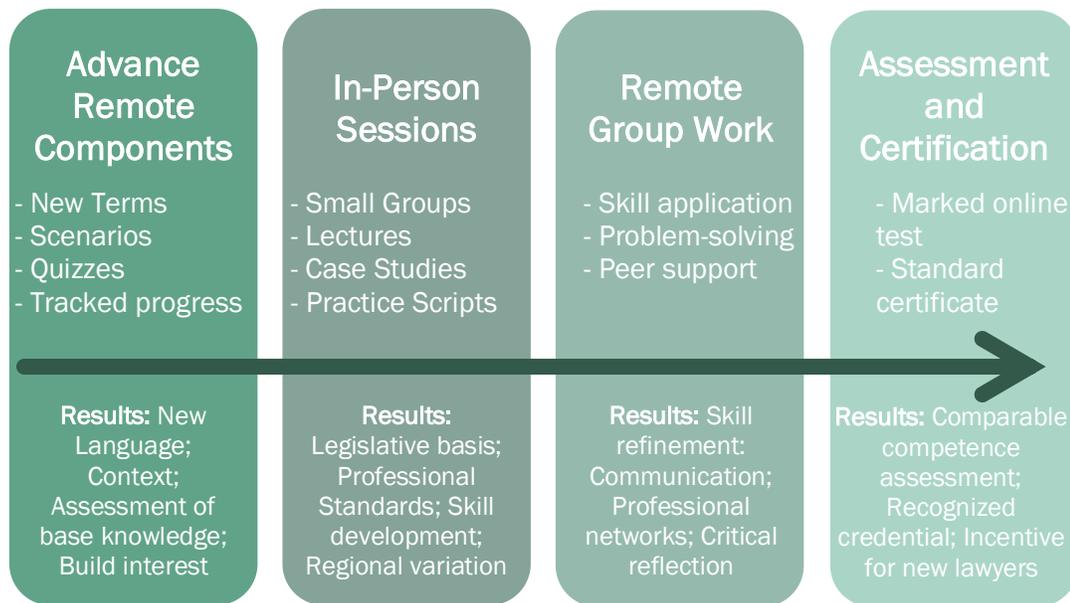
The UTBA and /or Bar Associations should adopt and maintain the modular Professional Development Framework to introduce a minimum required basic course for all legal aid lawyers with optional specialized programs on other topics. Using this building block approach will allow this Professional Development to complement substantive trainings and allow it to evolve over time. The Framework anticipates an assessment of lawyers' knowledge at the end of each module with a graded certificate, ensuring basic competence.

Recommendation 25: Adopt a Blended Model of Delivery

We heard conflicting opinions of the preferred delivery models. Some lawyers or Bar Associations insisted that in-person, conference style programs are preferable. Others indicated that they do not learn well in these environments and prefer small group, interactive sessions. Still others requested online components to make it easier to take courses within their busy schedules. While we did hear resistance to online formats, the majority of younger lawyers and interns requested it. Given the predominance of young lawyers taking legal aid assignments, this is an opportunity to respond to the identified training needs and evolve the culture of lawyer training. In recommending a blended model, we are taking these diverse preferences into account, as well as our educational expertise.

The blended model will require lawyers to sign in to a forum that will track their advance participation including reading materials, answering quizzes, reviewing scripts and contributing to case studies. An in-person component would then include interactive discussion and application of the content. After the in-person sessions, lawyers would remain active in small group work on the discussion forum working through case studies and scenarios to implement new skills and providing peer-to-peer problem solving support.

This blended model balances the sustainability of ongoing delivery of the Professional Development Framework and the different preferences of lawyers. It also emphasizes practical learning based on scenarios and case studies. Unlike substantive areas of legal knowledge, the skills for representing vulnerable people require adopting different ways of communicating and practicing models of engagement. This will be most effectively facilitated through the blended model. Lawyers in smaller regions were supportive of an ongoing online community to allow them to connect with lawyers in other regions when dealing with new issues.



Recommendation 26: Identify Trainers for the First Round of Delivery

When the Professional Development Framework is piloted in the first quarter of 2018, Bar Associations should identify local lawyers interested in becoming trainers in future iterations of the program. The basic, required module would be delivered locally, on a predictable schedule, by these trainers. Bar Associations should select people who will make a long-term commitment to deliver this training and who are active in legal aid delivery.

Content of Professional Development Framework

After meeting with lawyers, judges, civil society organizations and Bar Associations, there was almost uniform agreement about the necessary topics of professional development. Lawyers in every city were receptive to the topics suggested by civil society organizations, often emphasizing how critical these topics would be to their practice.

The basic skills are addressed in the first Module, recommended as a required course for all criminal and civil legal aid lawyers. Module Two should be required of all lawyers involved with specialized Commissions. Module Three and Four are voluntary, based on the interest of lawyers in a focus on the needs of the respective groups.

Overview of Training Module Schedule

Module	Advance Prep (scenarios, pre-reading in 3 weeks prior)	Day One In-Person Content	Day Two In-Person Content	Post Training (group scenario and online assessment)
1: Basic Skills	4 hours	8 hours		4 hours
2: Circumstances	2 hours		4 hours	2 hours
3: Refugees (optional specialization)	2 hours		4 hours (offered concurrently)	2 hours
4: Gender and Age (optional specialization)	2 hours		4 hours (offered concurrently)	2 hours
Total for required modules 1 and 2 and <i>one</i> of the optional specializations	8 hours advance work	8 hours	8 hours	8 hours post work

Recommendation 27: Deliver Modules 1, 2, 3, and 4 on an Ongoing Schedule

Module One: Basic Skills for Representing Disadvantaged People	
Estimated Time: 4 hours advance work; 8 hours in person; 4 hours post work (16 hours total)	Proposed Format: Advance work done through online forum, scripts and advanced readings; In-person session done in groups of 15 - 50 lawyers with specialized trainers; Post work conducted with assigned small groups through email or discussion forum; Final online test. (Prerequisite for UNICEF, UNHCR and other substantive training on international and domestic rights and protections)

Main Topics:**Representing Disadvantaged People**

This module will include concrete skills for interviewing, effective listening and explaining legal concepts to people who are in vulnerable situations. It will focus on differential communication styles, barriers to retention, the role of fear in preventing effective communication. An emphasis on empathy and trust-building will give lawyers skills for connecting with clients. The module will also introduce the service standard and focus on the importance of rigorous representation, regardless of fees, for society's most vulnerable. It will place legal issues within a spectrum of needs and introduce efficient referral and coordination strategies. Scripts for introducing legal services and discussing the process, adapted to each disadvantaged group, will be included.

Trauma in the Legal Aid Context

Introduce basic facts about trauma and its short and long term impact on people, including on their ability to make decisions, retain information, and manage other aspects of their lives. Basic information about the social circumstances that create vulnerability or trauma will be introduced as well as the intersection of human development and gender roles. The session will focus on how lawyers can adapt their approach, anticipate issues, provide referrals, and address client expectations.

The Impact of Trauma on the Lawyer

The session will identify the impact that working with people in trauma has on professionals. It will share techniques for professional self-care used in other professions, and by lawyers in other jurisdictions. It will provide lawyers with ways to identify and support each other, and to recognize the harm that crisis-based work can have on the individual, and their families.

Module Two: Social Circumstances that Create Vulnerability	
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Estimated Time:

2 hours advance work; 4 hours in person; 2 hours post work (8 hours total)

Proposed Format:

Advance work done through online forum, scripts and advanced readings; In-person session done in groups of 15 - 50 lawyers with specialized trainers; Post work conducted with assigned small groups through email or discussion forum; Final online test.
(Prerequisite for UNICEF, UNHCR and other substantive training on international and domestic rights and protections)

Main Topics:**Circumstances of Vulnerability and Disadvantage**

Lawyers will receive an overview of the social circumstances that affect the disadvantaged groups in order to better understand their actions, decision and compliance with legal expectations. In particular, this will include stages of child development, gender dynamics, shifting social values, terminology appropriate to the LGBTI and disability communities. Basic knowledge of different disabilities, adaptive technologies and issues such as guardianship and autonomous decision-making.

Legal Aid to Support an Equitable Society

The session will place legal services within the spectrum of needs and services vulnerable

people require, identifying avenues for coordination with civil society. Lawyers will examine the need for rigorous representation of vulnerable people as a critical component of the rule of law. Avenues for transformation of social circumstances through test-case litigation or individual rights enforcement will be examined as a strategy for promoting equality. Avenues for contesting treatment in prisons will be included.

Module Three: Effective Representation of Refugees

<p>Estimated Time: 2 hours advance work; 4 hours in person; 2 hours post work (8 hours total)</p>	<p>Proposed Format: Advance work done through online forum, scripts and advanced readings; In-person session done in groups of 15 - 50 lawyers with specialized trainers; Post work conducted with assigned small groups through email or discussion forum; Final online test.</p>
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Main Topics:
This module will include a general overview of the relevant international conventions and domestic instruments affecting refugees and migrants in Turkey. It will include country of origin information about the primary countries of migration in Turkey. It will identify differences between neighbouring legal systems and the misunderstandings these create. The session will address common issues faced by refugee communities including multiple and early marriages, human trafficking and forced marriage. Lawyers will develop familiarity with cultural systems and expectations. It will address strategies for working within the refugee system, including practical solutions to interpretation, power of attorney designation and coordination with public authorities.

Module Four: Gender and Age in Legal Aid Services

<p>Estimated Time: 2 hours advance work; 4 hours in person; 2 hours post work (8 hours total)</p>	<p>Proposed Format: Advance work done through online forum, scripts and advanced readings; In-person session done in groups of 15 - 50 lawyers with specialized trainers; Post work conducted with assigned small groups through email or discussion forum; Final online test.</p>
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Main Topics:
This module will provide an overview of gender dynamics and social circumstances affecting women and men in the context of marriage, domestic violence, custody and divorce. It will examine the way gender dynamics impact the LGBTI community in accessing their rights. The session will look at ancillary issues affecting women, including financial assistance, parenting, employment and how to refer or support women to reestablish themselves in society. Lawyers will be trained in the options available to children in and out of the legal system, including referral and protection pathways, civil services in custody disputes, and the availability of social services, including social workers. The importance of and strategies for protecting clients' privacy and advocating for the client even when families are involved in the case will be included.

Implementation

Pilot Delivery

All four modules will be prepared in 2017 and piloted in the first quarter of 2018. The Framework will be launched at a meeting of the Heads of the Training Commissions and piloted for approximately 300 CCP lawyers, including those identified by Bar Associations as future trainers. The pilot delivery will involve two full days of in-person sessions, delivered through a combination of case-based learning, small-group discussions and short lecture. Participants in the Pilot will be required to complete the approximately ten hours of advance work and the ten hours of follow-up tasks as part of the professional development. Participants will complete an assessment and, based on the results, a certificate of competence.

Long-term Delivery

Beyond the pilot delivery, Bar Associations and/or the UTBA will need to repeat the training on a regular schedule. Module One should be offered frequently, delivered by local trainers who participated in the pilot sessions. Its online components will be hosted through the SILA project site, avoiding any need for local maintenance of the online resources. The in-person components can be delivered in a single full day, or multiple part-day sessions. Lawyers from remote areas may choose to travel or to connect by video-conferencing to one of these sessions. Cooperation between Bar Associations of different sizes to ensure regular access to this required basic skills course should be cultivated.

Module One must be delivered often enough that there is no barrier to lawyers joining the legal aid list. We recommend that Bar Associations with 7000 people or more offer the course quarterly, Bar Associations of 4000 – 7000 lawyers offer it twice a year. Bar Associations with between 1000 – 4000 lawyers offer it once a year and those with less than 1000 lawyers offer it every year through coordination of regional sessions. In addition, Bar Associations can share the scheduled trainings, allowing lawyers from another region to attend when necessary.

Module Two should be offered twice a year to permit lawyer specialization. Module Three and Four may be offered as needed, or on a national basis. Neighbouring Bar Associations may choose to jointly offer these courses. Each of these three modules requires 4 hours of in-person training, making it possible to offer it in one evening, or on a weekend. Module 3 and 4 should be delivered in partnership with civil society groups working with the related vulnerable group ensuring professional networking and up-to-date discussion of emerging issues.