

Turkey: Submission to the United Nations Human Rights Committee 132nd Session (28 June to 23 July 2021)

3 May 2021

Enhancing Protection for Male Syrian Refugee Victims/Survivors of Conflict-Related Sexual Violence in Turkey under the International Covenant on Civil and Political Rights (ICCPR)

The armed conflict in Syria has resulted in the forced displacement of millions of people, including over 3.6 million who have fled to and are now living in Turkey.¹ Conflict-related sexual violence (CRSV) can be a driver of forced displacement, while displacement can also increase vulnerability to CRSV. Although women and girls have been disproportionately affected by CRSV in Syria, men and boys have also been targeted, and male refugees² from Syria have been vulnerable to rape and other forms of sexual violence during flight to and within Turkey.³

This submission focuses on Syrian men and boys in Turkey, including those with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC),⁴ who are victims/survivors⁵ of CRSV perpetrated in Syria or in the context of displacement in Turkey. It focuses on male victims/survivors because they represent a category of people that is often less easily identified or supported within existing responses to CRSV. This submission is therefore intended to complement efforts to address CRSV against women and girls, recognising the disproportionate impact of CRSV on them and the ways in which gendered inequalities, institutions, and identities drive CRSV.

Turkey deserves recognition for hosting the largest Syrian refugee population in the world and for the significant support it has provided to that population. Nevertheless, the rights of Syrian men and boys, including those with diverse SOGIESC, who are victims/survivors of CRSV living in Turkey have not been adequately protected or fulfilled. This submission addresses three areas of concern:

- First, insufficient availability of and access to safe, timely, quality, survivor-centred medical care and mental health and psychosocial support services for Syrian men and boys who are victims/survivors of CRSV (**articles 2, 6, 7, 12, 24, and 26**).
- Second, the lack of justice for Syrian men and boys who are victims/survivors of CRSV perpetrated in Turkey (**articles 2, 6, 7, 24, and 26**).
- Third, the risk of refoulement faced by Syrian refugees, including men and boys who are victims/survivors of CRSV (**articles 2, 6, 7 and 13**).⁶

This is a joint submission by All Survivors Project (ASP); the International Human Rights Clinic at Harvard Law School (IHRC) and the Syrian Network for Human Rights. The information and analysis in this submission derives from primary research carried out by ASP in Turkey in 2017/18, which included semi-structured interviews with 66 key informants working inside Syria, cross-border from Turkey, and within Turkey itself (referred to in this submission as “ASP’s 2018 research”).⁷ Additional research was conducted remotely by IHRC in 2021.

ASP is a United Kingdom- and Liechtenstein-registered charity whose mission is to support global efforts to eradicate CRSV and strengthen national and international responses to it through research and action on CRSV against men and boys including those with diverse SOGIESC, as well as other people with diverse SOGIESC. The **IHRC** seeks to protect and promote human rights and international humanitarian law through a range of actions, including documentation, legal analysis, and policy and advocacy initiatives. The **Syrian Network for Human Rights** aims to enrich the human rights culture in Syria, spread awareness among citizens regarding their civil and political rights, and train Syrians in various fields of human rights.

Background

CRSV encompasses rape, sexual slavery, forced prostitution, forced sterilisation, and any other form of sexual violence perpetrated against women, men, girls, or boys that is directly or indirectly linked to an armed conflict, including in situations of cross-border displacement.⁸ The UN Security Council has recognised men and boys as victims/survivors of CRSV and noted detention settings as a particular context of vulnerability.⁹ Within Syria, CRSV involving men and boys, most notably “systematic” sexual torture in state detention facilities, has been documented by the UN and other credible sources.¹⁰ CRSV involving men and boys has also been documented in other settings – such as at checkpoints or during house raids – and has been committed by both state security forces and non-state armed groups.¹¹ In some cases, men and boys have been targeted on account of their real or perceived sexual orientation or gender identity.¹² Additionally, men and boys who have fled Syria are at risk of CRSV at the Syria-Turkey border and within Turkey itself.¹³

In the absence of systematic data collection, there are no reliable figures on the number of individuals who experienced CRSV in Syria who are now residing in Turkey. However, in light of the prevalence of this form of violence in the context of the conflict in Syria, it is likely that large numbers of victims/survivors, including men and boys, are present in the refugee population in Turkey.¹⁴ Likewise, there are no available statistics on the number of Syrian men and boys who are victims/survivors of sexual violence perpetrated in Turkey.

Under Turkish law, Syrians are not recognised as refugees, but are instead accorded “temporary protection” pursuant to the 2014 Temporary Protection Regulation (TPR).¹⁵ Syrians registered under the TPR are entitled to access public services, including medical care and education.¹⁶ However, Turkish authorities restrict Syrians’ movement by requiring those registered under the TPR to remain within their assigned province.¹⁷ As of April 2021, there are nearly two million Syrian males registered in Turkey: 43 per cent are aged under 18; 54 per cent are aged between 18 and 59; and three per cent are aged 60 or more.¹⁸ Although estimates vary, it is thought that there are around 300,000 to 400,000 unregistered Syrians in Turkey.¹⁹

Policies and public attitudes towards Syrians in Turkey have hardened over time. Since 2015, it has become increasingly difficult for Syrians already registered under the TPR to obtain temporary travel permits to allow them to leave their assigned provinces.²⁰ In mid-2018, Turkish authorities suspended the registration of new arrivals from Syria and, according to available information, this has not been resumed.²¹ Human Rights organisations raised concerns about a further “...alarming shift in Turkey’s treatment of its Syrian refugee population,” following an order, in mid-2019, by the Istanbul Governor for all unregistered Syrians to leave the city, and a wave of deportations that appeared to be largely targeted at Syrian men working or living outside their assigned provinces or who were unregistered.²² Deportations are also reported to have taken place in 2020.²³

I. Access to healthcare and other support services for Syrian male victims/survivors of CRSV in Turkey

What measures have been taken by Turkey to ensure the availability of and access to medical care, and mental health and psychosocial support services for Syrian men and boys who are victims/survivors of CRSV living in Turkey?

Syrian male victims/survivors of CRSV require support for their recovery and rehabilitation, including safe, timely, quality, survivor-centred medical care, and mental health and psychosocial support services. However, ASP's 2018 research and follow up interviews in 2021 indicate concerns about the limited availability of such services and that victims/survivors, including men and boys, face barriers to accessing those services that do exist, raising concerns under **articles 2, 6, 7, 12, 24 and 26**.

Victims/survivors of CRSV commonly suffer a range of physical injuries, both genital and non-genital. They are at increased risk of sexually transmitted infections, including HIV, and can also experience incontinence, problems urinating or defecating, genital and rectal trauma and pain, fistulas and fissures, impairment, and damage to reproductive capacity or sexual dysfunction.²⁴ The mental health consequences of sexual violence are recognised as being equally serious and long-lasting; they include psychological distress, depression, post-traumatic stress disorder, panic, difficulties with intimate relations, social withdrawal, and inability to engage in particular livelihoods.²⁵

Safe, timely, quality, survivor-centred medical care, and mental health and psychosocial support services are essential for the recovery and rehabilitation of victims/survivors of CRSV to overcome these and other harms.²⁶ However, according to available information, Turkey's healthcare system is not sufficiently responsive to the rights and needs of sexual violence victims/survivors, irrespective of their legal status. Interviewees for ASP's 2018 and 2021 research raised concerns about the lack of medical and mental health practitioners in Turkey with specialist training in and experience of working with victims/survivors of sexual violence.²⁷ They also reported that programs in Turkey for sexual violence victims/survivors focus primarily on women and girls, but highlighted insufficient mental health and psychosocial support services generally within the public healthcare system.

Syrians who are registered under the TPR are entitled to have healthcare costs covered on the same basis as Turkish citizens.²⁸ However, registered Syrian victims/survivors of CRSV can face barriers to accessing appropriate healthcare. The most commonly highlighted barrier is language. In public hospitals, there are reportedly few Arabic-speaking professionals or interpreters to help victims/survivors navigate the system, discuss their experiences and needs, explain what is taking place during medical consultations/procedures, or assist in obtaining referrals.²⁹ Similar concerns, including difficulty in making appointments due to logistical and language issues, have been documented as challenges to accessing the limited mental health services that are available.³⁰

Restrictions on registered Syrians' movement under the TPR can also hinder victims/survivors' access to healthcare. Interviewees for ASP's 2018 and 2021 research observed that the small number of existing specialised healthcare services for victims/survivors of sexual violence tend to be located in major urban centres; and Syrians whose assigned province lacks these services can encounter difficulties obtaining permits to allow them to travel outside their province to access the specialist care that they require.

Syrians who are not registered under the TPR are ineligible for care through the national healthcare system (except for emergency medical care and COVID-19 related treatment), and UNHCR has reported that they, other UN agencies, and NGOs, have faced obstacles in providing assistance to unregistered Syrians.³¹ As a result, unregistered refugees and those who are living outside their assigned provinces are reported to rely on informal, private, Syrian-run healthcare clinics.³² However, with nearly two-thirds of urban Syrian households in Turkey estimated to be living below the poverty line, the cost of private healthcare can be prohibitive.³³

For victims/survivors of CRSV, cultural and social barriers to disclosing experiences of sexual violence and coming forward to seek support create another layer of obstacles to accessing medical care and support. For men and boys, rigid gender roles and assumptions about masculinity within Syrian and Turkish society, such as the idea that men should be able to handle experiences of sexual violence without help, reinforce shame and stigma. For example, according to interviewees for ASP's 2018 research, there is a particularly complex narrative relating to former detainees who were subjected to sexual violence as torture, in which male detainees are treated as heroes upon release (in contrast to female detainees, who are socially stigmatised); at the same time, the reality of the sexual violence experienced by many former detainees is ignored or treated as a source of shame to be silenced and denied. Syrian men and boys with diverse SOGIESC must contend with these obstacles alongside intolerance and discrimination against the LGBTI+ community in Turkey. Notably, LGBTI+ people are not explicitly protected from discrimination under Turkish law.³⁴

Relationship to ICCPR obligations

As a State Party to the ICCPR, Turkey must respect and ensure the Covenant rights of all persons within its territory and under its jurisdiction, on a basis of equality and without distinction of any kind, including based on national origin or legal status (**article 2**).

The lack of adequate services for Syrian victims/survivors, including men and boys, raises concerns under **articles 6** (right to life) and **7** (freedom from torture and other ill-treatment). Under **article 6**, all individuals have the right to "enjoy a life with dignity," and measures to further that purpose include those designed to ensure that individuals have access to essential goods and services, such as healthcare.³⁵ There is also a special duty to protect those who are in vulnerable situations, such as refugees, or those whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence, including LGBTI+ individuals.³⁶ CRSV can constitute torture or other ill-treatment, which is prohibited under **article 7**. Encompassed within the **article 7** obligation is the duty to provide redress, remedies, and rehabilitation to victims, regardless of where the torture or other ill-treatment took place.³⁷ Further, **article 24** (rights of the child), places a heightened duty on States Parties, as a measure to protect the rights of children, to ensure that boys and girls who are victims/survivors of sexual violence are provided services for their rehabilitation.³⁸

Taken together, the lack of specialised services for Syrian male victims/survivors of CRSV, including those with diverse SOGIESC, raises concerns under **articles 2** and **26** (non-discrimination and equal protection). Turkey should ensure that all victims/survivors, regardless of gender, age, sexual orientation, gender identity, ethnicity, nationality, or legal status are provided with support services, and that access to such services is non-discriminatory. Restrictions on movement raise additional concerns under **article 12** (freedom of movement), as Syrians do not have the freedom to travel within Turkey to access crucial services in relation to other rights protected by the ICCPR.

Questions for LoIPR

What measures have been taken by Turkey to ensure the availability of and access to medical care, and mental health and psychosocial support services for Syrian male victims/survivors of CRSV living in Turkey? Including:

- How is Turkey ensuring that safe, timely, quality, survivor-centered medical care, and mental health and psychosocial support services for CRSV victims/survivors are available and accessible within Turkey, including gender-competent and specialised services for men and boys?
- How is Turkey ensuring that information about healthcare services is accessible and tailored towards Syrian victims/survivors of CRSV, regardless of legal status?
- What training is provided for medical, mental health, and psychosocial support professionals in Turkey to ensure that they have the knowledge and skills to identify and support victims/survivors of CRSV, including men, boys, and people with diverse SOGIESC?

II. Accountability for male victims/survivors of sexual violence perpetrated in Turkey

How does Turkey ensure access to justice for Syrian men and boys who are victims/survivors of sexual violence perpetrated in Turkey?

The Turkish legal system fails to hold perpetrators to account for CRSV. While Turkish law criminalises sexual violence offences against men and boys, in practice prosecutions are rare and victims/survivors face obstacles to accessing justice. This situation raises concerns under **articles 2, 6, 7, 24, and 26**, especially the right to an effective remedy under **article 2(3)**.

Based on available information, it appears that few incidents of sexual violence against Syrian men and boys in Turkey are reported to the Turkish authorities or investigated; as such, it is difficult to know the full extent of such violence. However, the precarious legal, economic, and social situation of many refugees, and the lack of effective protection mechanisms contribute to an environment in which Syrians in Turkey, including men and boys, are vulnerable to sexual violence. Interviewees for ASP's 2018 research reported that men and boys have faced sexual exploitation and violence from employers; in refugee camps; in orphanages; in public spaces; and at home. In addition, interviewees described cases in which Turkish border guards and people smugglers had committed acts of sexual violence against Syrian men and boys. Concerns were also raised about sexual harassment and violence against Syrian LGBTI+ individuals within the broader context of discrimination against this community in Turkey.

Although the Turkish Criminal Code criminalises rape and sexual assault regardless of the gender or sex of the victim, in practice it is difficult for Syrian male victims/survivors of CRSV to engage with the criminal justice system.³⁹ Interviewees for ASP's 2018 research raised concerns about the capacity of the justice system to respond appropriately to allegations of sexual violence involving men and boys in general, and in particular, to men and boys with diverse SOGIESC. For Syrian men and boys, a number of factors can inhibit reporting, including the stigma and shame associated with the experience of sexual violence, lack of confidence in Turkish authorities to take action, perceptions of xenophobia, their insecure legal status, and language barriers. Based on available information, it does not appear that Turkey has put in place strategies to encourage reporting and disclosure by men and boys who are victims/survivors.

Relationship to ICCPR obligations

Victims of human rights violations have a general right to an effective remedy under **article 2(3)**, which includes a responsibility on the State Party to bring perpetrators to justice, particularly in cases of torture or other ill-treatment, such as CRSV.⁴⁰ Under **article 7**, State Parties have a positive obligation not only to criminalise or punish acts of torture and other ill-treatment, but also to take legislative, administrative, and judicial measures to prevent violations.⁴¹ It does not appear that Turkey is diligently fulfilling these obligations with respect to Syrian men and boys who are victims/survivors of CRSV.

Further, under **article 6**, there is an obligation on State Parties to take “appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity”.⁴² Recognition of and accountability for men and boys who are victims/survivors, including those with diverse SOGIESC, is arguably part of living a life with dignity. Issues may also arise under **articles 2(1)** and **26** (non-discrimination) if victims’ sex, national origin, or SOGIESC bears on prosecutorial decisions.⁴³ Finally, under **article 24**, and in light of the special measures of protection for children, the State Party has a heightened duty to ensure accountability (**article 2(3)**) for acts of sexual violence committed against children.⁴⁴

Questions for LoIPR

How does Turkey ensure access to justice for Syrian men and boys who are victims/survivors of sexual violence perpetrated in Turkey? Including:

- How many cases of sexual violence against men and boys have been investigated and prosecuted since the State Party’s last review, including cases in which Syrians were victims?
- What training is received by judges, prosecutors, and police on best practices and procedures for investigating and prosecuting sexual violence, including sexual violence against men, boys, and people with diverse SOGIESC?
- What measures has the Turkish government put in place to support reporting by and access to justice for Syrian victims/survivors of CRSV, including men, boys, and people with diverse SOGIESC?

III. Refoulement of Syrian refugees and related concerns

What measures has Turkey taken to ensure compliance with its non-refoulement obligations towards Syrian refugees, including male victims/survivors of CRSV?

Syrian victims/survivors of CRSV may have been denied entry to Turkey as part of a blanket policy of border closure; there are also reports of abuses against Syrian refugees by Turkish authorities at the border and of forced deportations of Syrians from Turkey. Turkey’s practices at the border and these deportations raise concerns under **articles 2, 6, 7** and **13**.

Since 2015, Turkey has largely kept its border with Syria closed.⁴⁵ A physical wall, one of the longest in the world, is reported to cover more than eighty per cent of the 900 kilometre border, and the entire border is under surveillance.⁴⁶ Nonetheless, Syrians fleeing conflict have continued to attempt to enter Turkey; according to the Turkish Armed Forces, during 2020 they intercepted over 74,000 people at the Syria-Turkey border trying to enter the country.⁴⁷ In 2018, Human Rights Watch documented instances of

Turkish border guards shooting at and beating Syrians attempting to enter Turkey, denying them critical medical assistance, and returning refugees who managed to cross the border.⁴⁸ There have been continued reports of border guards shooting at Syrians and returning them to Syria.⁴⁹

With the border closed, Syrians seeking to enter Turkey have increasingly turned to people smugglers, at great personal risk. For example, a humanitarian worker interviewed for ASP's 2018 research described a case in which a Syrian man was raped by four people smugglers, and another interviewee raised concerns about the sexual exploitation of Syrian boys, especially unaccompanied boys, in return for money to pay the cost of being smuggled. More recent reports indicate that Syrians continue to experience violence, including sexual violence, at the hands of people smugglers.⁵⁰

Within Turkey, Syrians face the risk that they will be returned to Syria by Turkish authorities. According to the Turkish authorities, as of 2019 over 315,000 Syrians had been "voluntarily returned" to Syria.⁵¹ However, human rights organisations have contested whether all returns have been truly voluntary, having documented cases in which refugees were forced to sign "voluntary return" forms prior to deportation.⁵² Amnesty International estimates that hundreds of Syrians may have been illegally deported in 2019, and that this crackdown reinforced fears, even among Syrians who were registered, about the security of their status in Turkey.⁵³ Although unregistered men as well as men found living outside their assigned province or working without authorisation appeared to be the primary targets for deportation, Syrian men who had valid documentation and were living in their assigned provinces were also reported to have been among those deported, along with women, girls, and boys.⁵⁴

While there is no clear information regarding whether CRSV victims/survivors have been returned to Syria or prevented from entering Turkey, the prevalence of CRSV in the Syrian conflict suggests that it is possible. Turning back or deporting CRSV victims/survivors to Syria would increase the potential for re-traumatisation and expose victims/survivors to heightened risks of CRSV due to the ongoing conflict.

Relationship to ICCPR obligations

Under **articles 6 and 7**, Turkey has an obligation to allow entry to Syrians who present themselves at the border and face a "real risk of irreparable harm" – a threat to life or the risk of being subject to torture or other ill-treatment – if they are turned away.⁵⁵ States Parties have a positive obligation to ensure that individuals are not exposed to torture or other ill-treatment, such as CRSV, upon return to another country by way of refoulement.⁵⁶ Given its widespread prevalence in Syrian detention centres and in the context of the Syrian conflict more broadly, CRSV is a foreseeable consequence of refoulement.

Turkey's deportation practices not only raise non-refoulement concerns under **articles 6 and 7**, but also foster an atmosphere of fear that makes it difficult for Syrian victims/survivors in Turkey – particularly those lacking documentation – to access services, establish livelihoods, and seek justice for acts of sexual violence committed in Turkey, which raises further concerns under **article 2**.

Allegations of abuse by Turkish border guards implicate **article 7**, as such abuse may amount to torture or other ill-treatment. Reports of ongoing deportations of Syrians in Turkey further raise concerns under **article 13** as there is a duty to ensure that individuals who are removed from the State Party are aware of the reasons for expulsion and are able to have the decision reviewed.

Questions for LoIPR

What measures has Turkey taken to ensure compliance with its non-refoulement obligations towards Syrian refugees, including men and boys who are victims/survivors of CRSV? Including:

- How many Syrians has Turkey returned to Syria since the State Party's last review, disaggregated by age and gender, date of departure, and the basis on which they were returned (voluntary or not)?
- What processes does the Turkish government have in place to ensure that no one from Syria, including victims/survivors of CRSV, is returned to a situation where they face a further threat of torture or a threat to life?

Overall conclusion and recommendations

ASP, IHRC and the Syrian Network for Human Rights urge the Human Rights Committee to include the questions outlined in this submission in its List of Issues Prior to Reporting for Turkey and recommend that Turkey:

- Ensure availability of and accessibility to safe, timely, quality, survivor-centred medical care, and mental health and psychosocial support services for all victims/survivors, including gender- and culturally-competent services for male and LGBTI+ victims/survivors.
- Strengthen the capacity of the justice system to investigate and prosecute CRSV against all victims/survivors, including men and boys, including by ensuring that police, prosecutors, and judges are adequately trained to respond to the needs of all survivors in a safe, gender-competent, and appropriate manner.
- Guarantee and put in place measures to ensure that no one from Syria is returned to a situation where they face a real risk of irreparable harm.

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- ¹ UN High Commissioner for Refugees (UNHCR), ‘Syrian Regional Refugee Response, Turkey,’ April 2021 [perma.cc/2VJA-QGJ5].
- ² This submission uses the term “refugee” to refer to individuals who qualify for international protection in accordance with the 1951 Refugee Convention, regardless of whether they have formally been recognised as refugees by a state. See Article 1 of the Convention Relating to the Status of Refugees (1951) [perma.cc/ZQS8-YZN8].
- ³ Report of the United Nations Secretary-General, *Conflict-Related Sexual Violence*, UN Doc. S/2020/487 (03 June 2020), p. 32 [perma.cc/7C5A-5JKX] [hereinafter Report of the UN Secretary-General, UN Doc. S/2020/487]. See also sections II and III of this submission.
- ⁴ “People with diverse SOGIESC” is used by ASP to refer to individuals whose sexual orientation, gender identity, gender expression and sex characteristics do not conform with heteronormative, socially constructed norms and expectations on gender and sexuality. The term includes individuals who are lesbian, gay, bisexual, transgender and intersex (LGBTI+).
- ⁵ ASP uses the term “victim(s)/survivor(s)” to refer to anyone who has been subjected to sexual violence.
- ⁶ It is recognised that some of the same concerns may be relevant to other refugee populations in Turkey.
- ⁷ ASP’s 2018 research is documented in *‘Destroyed from Within,’ Sexual Violence Against Men and Boys in Syria and Turkey*, September 2018 [perma.cc/ZT88-7F62]. Pages 31–44 of the report cover relevant information from interviews related to Turkey. Interviewees included representatives of UN agencies working on protection, including child protection, and gender-based violence; experts in medical care, mental health and psychosocial support, and LGBTI+ issues, either working with national or international NGOs or independently; human rights experts; and academic researchers.
- ⁸ Report of the United Nations Secretary-General, UN Doc. S/2020/487, p. 3. See also Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc. A/HRC/46/54 (21 January 2021), pp. 11–12 [perma.cc/NL93-V4U9].
- ⁹ See UN Security Council Resolution 2467, UN Doc. S/RES/2467 (23 April 2019), para. 32 [perma.cc/7TS7-Y84A] (noting that “sexual violence in armed conflict and post-conflict situations disproportionately affects woman and girls” and recognising that “men and boys are also targets of sexual violence in conflict and post-conflict settings, including in the context of detention settings and those associated with armed groups”).
- ¹⁰ See UN Office of the High Commissioner for Human Rights (OHCHR), *Open Wounds: Torture and Ill-Treatment in the Syrian Arab Republic*, April 2014 [perma.cc/YYP6-FUB9]. See also Conference Room Paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, *“I lost my dignity”: Sexual and Gender-Based Violence in the Syrian Arab Republic*, 8 March 2018, para. 43 [perma.cc/FBG7-QK9E] [hereinafter Col, *“I lost my dignity”: Sexual and Gender-Based Violence in the Syrian Arab Republic*]; Human Rights Watch, *They Treated Us in Monstrous Ways: Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*, July 2020, p. 10 [perma.cc/R7AC-5RZL] [hereinafter HRW, *They Treated Us in Monstrous Ways: Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*]; International Center for Transitional Justice, *When No One Calls it Rape: Addressing Sexual Violence Against Men and Boys in Transitional Contexts*, December 2016, pp. 6–9 [perma.cc/5JMB-VSA8].
- ¹¹ See Col, *“I lost my dignity”: Sexual and Gender-Based Violence in the Syrian Arab Republic*, pp. 5–11. See, e.g., Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc. A/HRC/25/65 (12 February 2014), pp.10–13 [perma.cc/6MWV-4BGZ].
- ¹² See HRW, *They Treated Us in Monstrous Ways: Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*, pp. 25–26.
- ¹³ See discussion in Section II of this submission.
- ¹⁴ Report of the United Nations Secretary-General, UN Doc. S/2020/487, p. 3. See also Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc. A/HRC/46/54 (21 January 2021), pp. 11–12.
- ¹⁵ Syrians cannot access international protection in line with the 1951 Refugee Convention in Turkey. See Asylum Information Database, *Country Report: Turkey*, December 2019, pp. 109–14 [perma.cc/R3ZX-VFMT] [hereinafter AID, *Country Report: Turkey* 2019]. The TPR derives from Article 91 of Law 6458 on Foreigners and International Protection, which accords Turkey’s President (formerly, the Cabinet of Ministers) the power to grant “temporary protection” to those “forced to leave their country, [who] cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection.” Under the TPR, the President has discretion to decide whether the temporary protection rules will be implemented “nationwide or in a particular region” and the duration of implementation; the President can also decide to suspend, restrict, or cease the implementation of TPR based on public order, security, “and all other necessary” considerations (articles 10 and 15). An unofficial English translation of the TPR is available at [refworld.org/docid/56572fd74.html]; this version does not reflect changes made to the TPR in 2019, however. See UNHCR, ‘Law on Foreigners and International Protection, Law No. 6458,’ 4 April 2013 [perma.cc/BJ3P-YDL8]; UNHCR, ‘Temporary Protection in Turkey,’ [perma.cc/J34W-5NNL].
- ¹⁶ Article 26, Temporary Protection Regulation. See UNHCR, ‘Turkey: Temporary protection in Turkey’.
- ¹⁷ See Articles 24 and 33, Temporary Protection Regulation; Human Rights Watch, ‘EU: Don’t Send Syrians Back to Turkey,’ 20 June 2016 [perma.cc/X5NN-J24A]; AID, *Country Report: Turkey*, 2019, pp. 138–140.
- ¹⁸ See UNHCR, ‘Syria Regional Refugee Response,’ April 2021.

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- ¹⁹ Asylum Information Database, *Country Report: Turkey*, December 2018, p. 131 [perma.cc/Z7CC-GMGB].
- ²⁰ AID, *Country Report: Turkey*, 2019, p. 139.
- ²¹ Human Rights Watch, 'Turkey Stops Registering Syrian Asylum Seekers', 16 July 2018 [perma.cc/L8M9-NUTJ] (reporting on the suspension of registration of new arrivals from Syria but noting that children born to registered Syrian refugees in Turkey continue to be registered).
- ²² Amnesty International, *Sent to a War Zone: Turkey's Illegal Deportations of Syrian Refugees*, 2019, pp. 9, 14 [perma.cc/35P3-3REB] [hereinafter Amnesty International, *Sent to a War Zone: Turkey's Illegal Deportations of Syrian Refugees*]. See also Suat Kinklioğlu, *Syrian Refugees in Turkey: Changing Attitudes and Fortunes*, February 2020, p. 2 [perma.cc/G6S5-QGZJ]. The relocation orders are: T.C. İstanbul Valiliği, 'Düzensiz Göçle Mücadele İle İlgili Basın Açıklaması', 22 July 2019, [perma.cc/J8XF-2FSZ]; and Republic of Turkey İstanbul Governor's Office, 'Irregular Migration, Unregistered Syrians, Unregistered Employment,' 27 August 2019 [perma.cc/LKZ6-6S7E] (English translation at bottom of page). By early 2020, nearly 100,000 Syrians had been relocated from İstanbul. See DW, 'Turkey: Nearly 100,000 Unregistered Syrians Removed from İstanbul', 1 April 2020 [perma.cc/4CJN-P7TT]. For further information on the 2019 deportations, see Human Rights Watch, 'Turkey: Syrians Being Deported to Danger', 21 October 2019 [perma.cc/U4JQ-KVM8]; Washington Post, 'Turkey has deported hundreds of Syrian migrants, advocates and refugees say', 22 July 2019 [perma.cc/Y6BR-ZZFW].
- ²³ See Amnesty International, 'Turkey: Halt Illegal Deportation of People to Syria to Ensure their Safety', 29 May 2020 [perma.cc/VHV2-H8JU]; Syria Justice and Accountability Center, 'Turkey continues to deport Syrians to Idlib, violating international law', 8 October 2020 [perma.cc/9BGZ-RB9P].
- ²⁴ HRW, 'They Treated Us in Monstrous Ways', *Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*, pp. 47–48; UNHCR, 'UNHCR study uncovers shocking sexual violence against Syrian refugee boys, men', 6 December 2017 [perma.cc/W9C8-YAWX].
- ²⁵ UNHCR, Working with Men and Boy Survivors of Sexual and Gender-Based Violence in Forced Displacement, 2012, p. 10 [perma.cc/VF7R-S544]; Col, "I lost my dignity": Sexual and Gender-Based Violence in the Syrian Arab Republic, p. 5; HRW, 'They Treated Us in Monstrous Ways', *Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*, p. 48.
- ²⁶ See World Health Organization (WHO), *Responding to Children and Adolescents Who Have Been Sexually Abused, WHO Clinical Guidelines*, 2017 [perma.cc/YM2Q-HPMV]; HRW, 'They Treated Us in Monstrous Ways', *Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*. See also Lawyers & Doctors for Human Rights, 'The Soul Has Died,' *Typology, Patterns Prevalence, and the Devastating Impact of Sexual Violence Against Men and Boys in Syrian Detention*, March 2019, p. 47 [perma.cc/X8CC-PPQK]; WHO, *Clinical Management of Rape and Intimate Partner Violence Survivors*, 2020, p. 33 [perma.cc/4LK9-D6GQ]; International Rescue Committee, *Caring for Child Survivors of Sexual Abuse: Guidelines for health and psychosocial service providers in humanitarian settings*, 2012 [perma.cc/GSY2-FH8G].
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- ²⁸ UNHCR, 'Key Information for Syrians: Medical and Psychological Assistance, Turkey,' [perma.cc/EH8J-WJ44]. UNHCR notes that services are covered pursuant to the Health Care Implementation/Budget Law (Sağlık Uygulama Tebliği).
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- ³⁴ See Refugee Legal Aid Information for Lawyers Representing Refugees Globally, 'Turkey LGBTI Resources' [perma.cc/CD2K-9NAS].
- ³⁵ UN Human Rights Committee, General Comment No. 36, UN Doc. CCPR/C/GC/36 (3 September 2019), paras. 3, 23.
- ³⁶ UN Human Rights Committee, General Comment No. 36, UN Doc. CCPR/C/GC/36 (3 September 2019), para. 23.
- ³⁷ UN Human Rights Committee, General Comment No. 20 (10 March 1992), paras. 14-15. See also Christopher Keith Hall, 'The Duty of States Parties to the Convention against Torture to Provide Procedures Permitting Victims to Recover Reparations for Torture Committed Abroad', *European Journal of International Law*, Vol 18, 5, 2007 [perma.cc/N6N5-5EVV] (arguing that the rehabilitation obligation under article 14 of the Convention Against Torture (CAT) applies to any individual within the State Party's territory). Given the similarity in language between CAT article 14 and the language in HRC General Comment No. 20 (para 15),

the duty to provide rehabilitation to all survivors of torture within the State Party, regardless of where the torture took place, should be encompassed within the meaning of article 7 of the ICCPR.

³⁸ UN Human Rights Committee, General Comment No. 17 (7 April 1989), paras. 1, 4, 6, 7, 8.

³⁹ Article 102 of the Turkish Criminal Code (2004) criminalises sexual assault and rape (with rape as an aggravated form of sexual assault) without specifying the sex of the victim (“Any person who violates the physical integrity of another person, by means of sexual conduct, shall be sentenced”); Article 103 covers sexual abuse of children. European Commission for Democracy Through Law, ‘Penal Code of Turkey’, Opinion No. 831/2015, 15 February 2016 [perma.cc/6AA5-8EDH]. Certain views of the Criminal Code argue that the crime of sexual assault must be committed by acts with the purpose of sexual satisfaction. See *Penal Department No. 14 of the Supreme Court, Turkey* (11.12.2019) (holding that sexual assault requires the perpetrator to violate the bodily integrity of another through acts with the purpose of sexual satisfaction under Article 102(1) of the Turkish Criminal Code). While the Criminal Code does not include this specific wording, this interpretation would not comply with international standards. See OHCHR, *Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice*, 2018, p. 32 [perma.cc/FHM6-GHX6].

⁴⁰ See UN Human Rights Committee, General Comment No. 31, UN Doc. CCPR/C/21/Rev.1/Add. 13 (26 May 2004), para.18.

⁴¹ UN Human Rights Committee, General Comment No. 20, UN Doc. CCPR/GEC/6621 (1992), para. 8.

⁴² UN Human Rights Committee, General Comment No. 36, UN Doc. CCPR/C/GC/36 (3 September 2019), para. 26.

⁴³ See Concluding Observations of the UN Human Rights Committee, 4th Periodic Report of the Democratic Republic of the Congo, UN Doc. CCPR/C/COD/CO/4 (30 November 2017), paras. 19–20.

⁴⁴ See UN Human Rights Committee, General Comment No. 17, UN Doc. CCPR/C/GEC/6623 (7 April 1989), paras. 1, 4, 6, 7, 8; UN Human Rights Committee, General Comment No. 17, UN Doc. CCPR/C/GEC/6623 (7 April 1989), para. 3.

⁴⁵ Human Rights Watch, ‘Turkey: Syrians Pushed Back at the Border’, 23 November 2015 [perma.cc/XG69-V9PU]; Center for American Progress, ‘Turkey’s Refugee Dilemma’, 13 March 2019 [perma.cc/EPP9-FPWP]; New York Times, ‘It’s Like the End of the World’, 18 February 2020 [perma.cc/RJS3-E7RE]; Human Rights Watch, ‘Turkey Stops Registering Syrian Asylum Seekers’, 16 July 2018.

⁴⁶ Daily Sabah, ‘Turkey finishes construction of 764-km security wall on Syria border’, 9 June 2018 [perma.cc/64DF-F52N]; Reuters, ‘For Syrians fleeing Idlib, Turkish border wall becomes symbol of their plight’, 26 February 2020 [perma.cc/VG3G-6P42].

⁴⁷ International Organization for Migration (IOM) and Republic of Turkey, *Migrants’ Presence Monitoring Annual Report 2020*, 2020, p. 6 [perma.cc/UXM5-K2QR]. See also IOM and Republic of Turkey, *Migrants’ Presence Monitoring Quarterly Report Q1 2021*, March 2021 [perma.cc/NQ5X-W54Q] (stating that the figure for January to March 2021 is 19,675 people intercepted trying to cross from Syria).

⁴⁸ Human Rights Watch, ‘Turkey/Syria: Border Guards Shoot, Block Fleeing Syrians’, 3 February 2018 [perma.cc/7DYY-XVEL].

⁴⁹ Al-Monitor, ‘Turkish border guards reportedly abusing Syrians at border crossings’, 18 September 2020 [perma.cc/6HPY-HDLM]; Atlantic Council, ‘Syrians at the Turkish border: humiliation, torture, and death’, 1 August 2019 [perma.cc/L63J-FEZE]. See also The New Humanitarian, ‘Smugglers report booming market as people try to escape Syria to Turkey’, 25 June 2019 [perma.cc/CSFW-JQKP].

⁵⁰ Syrian Observatory for Human Rights, ‘Syrian-Turkey border | Sexual harassment...fraud...assault and murders...civilians between smugglers’ hammer and Jandarma’s anvil’, 21 January 2021 [perma.cc/BFN9-44MT].

⁵¹ Amnesty International notes the Turkish Ministry of Justice reported 315,000 “voluntary returns” in 2019, but observes that the figures do not accord with UNHCR’s data. Amnesty International, *Sent to a War Zone: Turkey’s Illegal Deportations of Syrian Refugees*, p. 11. The number of people who have voluntarily returned to Syria remains very unclear. See AID, *Country Report: Turkey*, 2019, p. 123 (“The Minister of Justice stated that in 2019, 373,592 Syrian nationals had left Turkey to return to their country of origin, and the Ministry of Foreign Affairs declared that around 371,000 people had returned to safe zones in Syria. The Ministry of Defence has said that around 580,000 Syrians repatriated in 2019 including 380,000 to the Euphrates Shield Zone, 135,000 to the Peace Spring Shield Zone and over 65,000 to the Olive Branch Zone. These statements should be read with caution, however, vis-à-vis the voluntariness of returns to Syria, and re-entry to Turkey of persons who have travelled to Syria.”).

⁵² Amnesty International, *Sent to a War Zone: Turkey’s Illegal Deportations of Syrian Refugees*, p. 5. See also Human Rights Watch, ‘Turkey: Syrians Being Deported to Danger’.

⁵³ Amnesty International, *Sent to a War Zone: Turkey’s Illegal Deportations of Syrian Refugees*, pp. 5, 12, 14. See also Human Rights Watch, ‘Turkey: Syrians Being Deported to Danger’.

⁵⁴ Amnesty International, *Sent to a War Zone: Turkey’s Illegal Deportations of Syrian Refugees*, p. 12.

⁵⁵ UN Human Rights Committee, General Comment No. 31, UN Doc. CCPR/C/21/Rev.1/Add. 13 (26 May 2004), para. 12; UN Human Rights Committee, General Comment No. 20 (10 March 1992), para. 9.

⁵⁶ UN Human Rights Committee, General Comment No. 20 (10 March 1992), para. 9.