

**Unsafe Haven:  
The Security Challenges Facing Lesbian, Gay, Bisexual and Transgender  
Asylum Seekers and Refugees in Turkey**

A joint publication of:

Helsinki Citizens' Assembly – Turkey  
Refugee Advocacy and Support Program

&

ORAM - Organization for Refuge, Asylum & Migration

Updated & Revised June 2011  
(Original Publication June 2009)

This updated publication was made possible by a generous grant from the Parsa Community Foundation to support LGBT Iranians fleeing homophobic persecution for safety. The Foundation's unflinching support of these refugees provides a shining example of an enlightened, compassionate community acting in unity to safeguard its most vulnerable.

The report would have been impossible without the participation of the asylum seekers and refugees who occupy its page. Many have already made new homes in the US, Canada, Australia and elsewhere. Thank you for sharing your experiences, your observations and feelings, and for allowing us into your lives. Your fortitude is an inspiration.

This update was drafted and edited by Irem Arf, Neil Grungras, Cara Hughes, Rachel Levitan, Michael Sisitzky and Ariel Travis.

The original report was researched, written and published in 2009 by the staff of Helsinki Citizens' Assembly - Turkey (HCA) and ORAM - Organization for Refuge, Asylum and Migration. Interpretation for interviews in Farsi and translation into Turkish were provided by HCA staff. Ayşe Draz provided additional translation assistance. The Iranian Queer Organization (IRQO) facilitated translation of original edition into Farsi. Kaveh Gilman edited the Farsi edition in its entirety.

HCA and ORAM gratefully acknowledge the assistance provided by the committed work of Turkish non-governmental organizations the Association for Solidarity with Asylum Seekers and Migrants (ASAM) and KAOS-GL. We also wish to thank Hulya Basdogan, of Nevşehir, for her assistance and support. Thanks also to the Toronto-based Iranian Queer Organization (IRQO) for supporting so many of the LGBT asylum seekers and refugees in Turkey.

We also wish to thank the UN High Commissioner for Refugees (UNHCR) in Turkey for providing extremely useful feedback to the original report and its update and for the agency's tireless work on behalf of refugees and asylum seekers everywhere.

## **Helsinki Citizens' Assembly - Turkey / Refugee Advocacy and Support Program**

---

Based in Istanbul, Turkey, Helsinki Citizens' Assembly - Turkey (HCA) is an independent, non-profit, non-governmental organization working to advance fundamental rights and freedoms, peace, democracy and pluralism in Turkey and beyond. HCA's Refugee Advocacy and Support Program (RASP) was founded in 2004 to empower and support refugee populations in Turkey and ensure their rights are upheld under national and international law. RASP is currently the only civic initiative in Turkey which provides both direct legal and psychosocial services to asylum applicants during UNHCR and Turkish asylum procedures and engages in training and advocacy efforts aimed to build civil society capacity and improve the legal framework and practical conditions for the protection of refugees and asylum seekers.

The overall goals of the program are to: (1) provide legal and psychosocial services to refugees in ways that will empower them to advocate for their own rights; (2) raise public awareness and sensitivity about the conditions and rights of refugees in Turkey; (3) improve refugee protection by building the capacity of non-governmental organizations and professionals in Turkey; and (4) advocate for the development and implementation of laws, policies and practices that reflect the highest standards under international refugee law and human rights law.

In pursuing these goals, RASP cooperates with a plethora of national and international partners. HCA is a founding member of the Joint Platform for Human Rights (*İnsan Hakları Ortak Platformu*) bringing together Turkey's four leading human rights organizations. In 2006, HCA was among the founders of Southern Refugee Legal Aid Network (SRLAN), an initiative of legal assistance providers serving refugees in the global south. In 2008, HCA became the first Turkish organization to join the European Council on Refugees and Exiles (ECRE), an umbrella organization of over 60 refugee-assisting NGOs around Europe. HCA is also among the seven leading human rights organizations from Turkey that launched the Coordination for Refugee Rights (the CRR) in March 2010. CRR is a new framework for cooperation and joint advocacy to promote and uphold the legal protection of individuals seeking asylum in Turkey.

More information about HCA is available at <http://www.hyd.org.tr/?sid=23>.

## **Organization for Refuge, Asylum & Migration**

---

ORAM—the Organization for Refuge, Asylum and Migration—is the leading agency advocating for lesbian, gay, bisexual, transgender and intersex (LGBTI) refugees worldwide. The San Francisco-headquartered nonprofit is the only international nongovernmental organization (NGO) focusing exclusively on refugees and asylum seekers fleeing sexual and gender-based violence.

Informed by its intensive fieldwork with refugees, ORAM conducts domestic and international education and advocacy to advance the protection of all LGBTI refugees and asylum seekers. Since its inception, ORAM has conducted an ongoing campaign to inform educators, community leaders and decision makers about these highly vulnerable individuals, and to include LGBTI refugee issues in the international human rights agenda.

ORAM's caseload includes clients seeking refugee status as well as resettlement in the US, Canada, Australia and other countries. Many of ORAM's clients have undergone or have been marked for imminent imprisonment or torture. Some faced execution. Virtually all have been cut off by their families and receive little if any support. Some are escaping from their families. They often arrive in transit countries to face severe marginalization, harassment and physical violence.

ORAM supports and empowers its clients directly while ensuring their protection and safe resettlement by governments, service providers and community organizations. In 2010, ORAM launched the first-ever supported resettlement project for LGBT refugees. Centered in the San Francisco Bay Area, this program is being expanded to provide a comprehensive framework of LGBTI-sensitive services and resources to assist LGBTI refugees in the resettlement and integration process.

More information about ORAM and its life-saving work, as well as other ORAM publications, are available at [www.oraminternational.org](http://www.oraminternational.org).

# Table of Contents

---

<b>1. SUMMARY AND CONTEXT</b> .....	<b>1</b>
<b>1.1 EXECUTIVE SUMMARY</b> .....	1
<b>1.2 INTRODUCTION</b> .....	2
Asylum Procedures in Turkey.....	2
The Environment for LGBT Individuals in Turkey .....	3
The Basis for this Report .....	5
<b>1.3 PERSECUTION OF LGBT PEOPLE IN THE GLOBAL CONTEXT</b> .....	5
<b>1.4 PROTECTION OF LGBT PEOPLE UNDER INTERNATIONAL REFUGEE LAW</b> .....	6
<b>1.5 SUMMARY OF FINDINGS AND RECOMMENDATIONS</b> .....	7
Findings .....	7
Recommendations .....	8
<b>2. METHODOLOGY AND TERMINOLOGY</b> .....	<b>9</b>
<b>2.1 METHODOLOGY</b> .....	9
<b>2.2 TERMINOLOGY</b> .....	10
<b>3. FINDINGS</b> .....	<b>11</b>
<b>3.1 THE ASYLUM SYSTEM: GAPS IN MOI, UNHCR AND RESETTLEMENT PROCEDURES</b> .....	11
Ministry of Interior Asylum Procedures .....	11
UNHCR Procedures .....	14
<b>3.2 VIOLENT TARGETING AND HARASSMENT BY LOCAL POPULATIONS AND OTHER ASYLUM SEEKERS AND REFUGEES</b> .....	15
Abuse by Local Townspeople .....	15
Mistreatment by the Local Asylum Seeker and Refugee Population .....	17
<b>3.3 INSUFFICIENT POLICE PROTECTION</b> .....	17
<b>3.4 PRECARIOUS HOUSING</b> .....	19
<b>3.5 DISCRIMINATION AND VIOLENCE IN THE WORKPLACE</b> .....	20
Discriminatory Hiring .....	21
Workplace Abuse .....	21
<b>3.6 INACCESSIBLE HEALTH CARE</b> .....	22
Medical Care .....	23
Mental Health Care .....	23
<b>3.7 BARRIERS TO SOCIAL ASSISTANCE</b> .....	24
<b>3.8 HOSTILE EDUCATIONAL ENVIRONMENT</b> .....	24
<b>4. RECOMMENDATIONS</b> .....	<b>25</b>
The Government of Turkey, the Turkish Ministry of Interior and Police in Satellite Cities.....	25
The United Nations High Commissioner for Refugees in Geneva and Turkey .....	27
Governments of Resettlement Countries including the United States, Canada, Australia, and Sweden ...	27
Governments of UNHCR Donor Countries .....	28
Service Providers in Satellite Cities, including Nongovernmental Organizations and Independent Professionals .....	28
Health Providers in Satellite Cities .....	28
State Adult Education Providers in Satellite Cities .....	28
Refugee and Migrant Community Leaders .....	29
LGBT Asylum Seekers and Refugees .....	29
<b>5. CONCLUSION</b> .....	<b>29</b>



## 1. Summary and Context

---

### 1.1 Executive Summary

In 2009, when this report was first released, lesbian, gay, bisexual and transgender (LGBT) individuals were among the most vulnerable asylum seekers and refugees in Turkey. Sadly, this reality remains true today. LGBT refugees, like others, are relegated to conservative small towns, or “satellite cities,” in Turkey’s interior by the Ministry of Interior while they wait for their claims to be processed by the United Nations High Commissioner for Refugees (UNHCR). During the long wait, they often fear leaving their homes due to targeted violence from local communities. Since the 2009 edition of *Unsafe Haven*, HCA and ORAM have documented five violent physical attacks on LGBT asylum seekers and refugees, two sexual assaults, and multiple accounts of verbal harassment and threats. LGBT refugees have limited access to social support, employment and medical care, which is sometimes due to identity-based discrimination. Most significantly, many are afraid to approach the police for protection and they rarely receive adequate police response to their complaints of violence and harassment. Due to this caustic mix of marginalization in key areas of life, most LGBT refugees live out their time in Turkey in destitution and desperation.

These protection gaps are reinforced by the general intolerance for sexual minorities in Turkey. Although Turkish law does not criminalize homosexual conduct, it provides no protection from hate-motivated violence. In the two years since the 2009 edition of *Unsafe Haven*: at least forty-five LGBT individuals were murdered in hate-motivated crimes, many of the victims transgender. Likewise, a Turkish criminal court shut down an LGBT organization for allegedly engaging in prostitution, a common accusation against LGBT advocates. The Minister for Women and Family Affairs referred to homosexuality as a “disease and biological disorder in need of treatment” and the Telecommunications Directorate banned the use of the word “gay” (*gey*) from Internet domain names.

Against this backdrop, the UNHCR’s office in Ankara has made significant steps towards ameliorating the condition of LGBT refugees in Turkey during the past two years. Most notably, the office has improved its interviewing techniques with LGBT asylum seekers, and has regularly expedited the processing of particularly vulnerable LGBT refugees. These improvements are due to internal policy change, by ORAM and others, and external funding that has dramatically increased the capacity of UNHCR Turkey to deal with its continually increasing caseload. As a result, more LGBT refugees are being expeditiously resettled to safe third countries, minimizing their exposure to the harassment, violence, and poverty they face in the satellite cities of Turkey.

In addition to being based on the original 46 in-depth interviews conducted for the 2009 edition of this report, the findings and conclusions in this updated version are based on information provided by 62 LGBT refugees represented jointly by HCA and ORAM since that time. Most LGBT refugees in Turkey come from Iran, which, like six other countries maintains the death penalty for same-sex acts between consenting adults, and like more than 70 other countries, criminalizes homosexuality. In addition to Iranians, LGBT refugees from Iraq, Afghanistan, Palestine, and Sudan have also sought protection in Turkey.

Despite improvements at UNHCR, significant steps are required to ameliorate the plight of Turkey’s LGBT refugees. First and foremost, immediate steps are required to safeguard their physical security, including ongoing, intensive training for local police, and assigning LGBT asylum seekers to live in less hostile locations. Second, the UNHCR must continue to collaborate with the government of Turkey and resettlement countries to find new ways of accelerating resettlement to minimize LGBT refugees’ exposure to violence. These stakeholders should also ensure that appropriate interviewing techniques are utilized in the evaluation of LGBT-based claims and that they create unthreatening environments for these vulnerable refugees. Third, service providers in the Turkish health, public assistance and education sectors should similarly undergo training to ensure that services are provided on an equal basis with other refugees, ideally with support from LGBT organizations. Such training should extend to intake staff, service providers and interpreters, increasing receptivity toward LGBT refugees and creating environments where discrimination and intolerance are minimized. Finally, all stakeholders should revise their codes of conduct to prohibit discrimination on the basis of sexual orientation and gender identity.

## 1.2 Introduction

### *Asylum Procedures in Turkey*

As European countries bordering the Mediterranean have introduced increasingly strong measures to stem the flow of irregular migration, Turkey has become one of the main channels for migration flows from Africa, Asia and the Middle East into Europe.

Each year, Turkey receives thousands of refugees from more than 40 countries worldwide. However, Turkey extends protection under the 1951 Refugee Convention and the 1967 Protocol<sup>1</sup> only to persons originating in Europe.<sup>2</sup> Since the vast majority of asylum seekers are not European, they are ineligible for refugee status. Instead, their protection and prospects for a “durable solution” fall largely on UNHCR, the UN agency charged with protecting and supporting refugees and assisting in their repatriation or resettlement.

Notwithstanding Turkey’s limited commitment under the 1951 Refugee Convention, the Turkish government does permit non-European asylum seekers to remain in the country temporarily while their refugee status applications are pending with UNHCR. Those whom UNHCR recognizes as refugees become eligible for resettlement in third countries. The primary receiving nations are currently the US, Canada and Australia.<sup>3</sup>

Refugee status determination in Turkey is an arduous process, which usually lasts many months, and often takes years. The Turkish asylum system consists of two parallel “tracks.” The first, applying to domestic authorities for Turkish asylum status, is mandatory for all asylum seekers regardless of their country of origin. The second, applying to the UNHCR for refugee status, is applicable to all non-Europeans who seek third-country resettlement. Non-Europeans must pursue both “tracks” simultaneously.

To receive “temporary asylum status,” one must apply to Turkey’s Ministry of Interior (MOI). This status allows asylum seekers to live legally in Turkey while the UNHCR evaluates their refugee claims. Turkey’s reception system for asylum seekers is characterized by a policy of dispersal. During their processing, asylum seekers are assigned to live in one of approximately 50 pre-designated “satellite cities,” located primarily in the country’s interior. Asylum seekers are required to live in their satellite cities until they depart Turkey, whether for resettlement or upon being deported. Police permission is required to leave one’s satellite city for any reason whatsoever.

Turkey currently hosts more than 16,000 asylum seekers and refugees, the majority of whom originate in Iraq, Iran, Afghanistan and Somalia.<sup>4</sup> Many are survivors of torture. They usually arrive in Turkey after perilous journeys with few, if any, resources. After registering with the UNHCR and MOI, asylum seekers and refugees are primarily left to survive on their own, required to pay for all of their basic needs, including shelter and health care. All family members are required to hold a fee-based “residence permit.” With varying success,

---

<sup>1</sup> United Nations Convention relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 [hereinafter 1951 Convention]; United Nations Protocol relating to the Status of Refugees, January 31, 1967, 606 U.N.T.S. 267 [hereinafter 1967 Protocol] [together hereinafter U.N. Refugee Convention or Convention].

<sup>2</sup> Turkey ratified the 1951 Convention in 1962, but in its accession to the 1967 Protocol the Government of Turkey lodged a reservation that it would maintain the geographical limitation in Article 1, Section B(1) under the 1951 Convention to recognize only the status of “persons who have become refugees as a result of events occurring in Europe.” *Declarations and Reservations to the Protocol relating to the Status of Refugees*, in U.N. Secretary-General, *Multilateral Treaties Deposited with the Secretary-General*, ch. V, subdiv. 5, U.N. Doc. ST/LEG/SER.E/1 (1982); see also 1951 Convention art. 1 § B(1), 189 U.N.T.S. at 152. To date, Turkey remains among only a handful of State Parties to the Convention that retain this limitation and considers its Convention obligations binding only with respect to nationals of so-called “European countries of origin,” which it interprets largely based on the criteria for membership in the Council of Europe.

<sup>3</sup> In 2010, UNHCR resettled 5,335 people, mostly to the US, with smaller numbers going primarily to Canada, Australia, Finland and Sweden. Sixty-seven percent of those resettled were Iraqis, 23% were Iranians, 5% were Somali, and the remainder originated from 20 other African and Asian nations.

<sup>4</sup> In 2010, UNHCR Turkey had an overall caseload of 16,747 people, 9,226 of whom applied for asylum during the year. Of the asylum applications received in 2010, 40% were from Iraq; 31% from Iran; 14% from Afghanistan; 5% from Somalia and the rest from more than 50 other countries.

destitute asylum seekers have applied to waive these fees.<sup>5</sup> Both the UNHCR and the Turkish State provide very limited financial support, reserved only for the most vulnerable asylum seekers. With scant work opportunities and virtually no social support, most asylum seekers and refugees live in destitution. Most wait many months and even years for a decision from the UNHCR, and then languish an additional year or more in Turkey before being “resettled.” Additional security checks introduced by the US government in February 2011 have further delayed departure for those slotted for US resettlement. Many brave dangerous living situations and exploitative work settings in the interim, pushing some to risk their lives in an effort to enter Europe illegally.

Against this backdrop, LGBT asylum seekers and refugees in Turkey are particularly vulnerable. Often cut off from support networks in their home countries, few have access to regular financial support. They face consistent, often violent harassment from local townspeople in their satellite cities, and are similarly marginalized by other asylum seekers and refugees. Few seek police protection since they expect their complaints to be met with indifference. The handful who find work report that they are forced into exploitative employment relationships or are fired when their sexual orientation becomes known. They also face discrimination finding and retaining housing. Compounding these perils, LGBT asylum seekers and refugees face barriers accessing social assistance and education, often based on discriminatory attitudes. It is therefore not surprising that LGBT asylum seekers and refugees in Turkey uniformly express deep feelings of isolation – from family and friends in their countries of origin, from other asylum seekers and refugees in Turkey, and from Turkish society and authorities.

Iranians continue to constitute the largest number of self-identified LGBT refugees and asylum seekers in Turkey, as the Iranian State maintains its criminalization of homosexual conduct and its laws prescribe severe penalties, including lashes and execution for those convicted.<sup>6</sup> Moreover, the porous border with Turkey allows for asylum seekers to cross freely into Turkey, provided the Iranian immigration authorities do not prevent their exit. In addition to Iranians, LGBT refugees from Iraq, Afghanistan, Palestine, and Sudan have also sought protection in Turkey. The exact number of LGBT refugees and asylum seekers currently residing in Turkey is not available, as the UNHCR does not publish official statistics on this population.

### ***The Environment for LGBT Individuals in Turkey***

The predicament of LGBT asylum seekers and refugees in Turkey is best understood in the context of the prevailing climate of intolerance and enmity toward sexual minorities in the country. While Turkish law does not prohibit homosexuality, lesbians and gays are not specifically protected by legislation.<sup>7</sup> Moreover, courts often reduce the sentences of perpetrators of hate crimes against LGBT individuals on grounds that their crimes were committed under “unjust provocation.”<sup>8</sup> In January 2011, the Government of Turkey prepared a draft law to combat discrimination that included “sexual identity” as a protected ground, but the final draft law excluded protection on this ground.<sup>9</sup>

---

<sup>5</sup> The cost of a residence permit is set by the Ministry of Finance each year and established in the Law on the Collection of Fees (No. 492). In early 2011, the MOI released a new payment schedule for residence permits, which charges Iranians, Sudanese, and Afghans \$25 for the first month, and \$5 for each following month, and Iraqis, Tunisians and Egyptians \$5 for the first month, and \$0.5 for every additional month for residence (this schedule is available in Turkish at <http://yabancilar.iem.gov.tr/harc.gif>). Even if these fees are waived based on indigence, asylum seekers are still required to pay TL 149 (about US \$94 as of June 2011) for the residence permit booklet, which only needs to be purchased once.

<sup>6</sup> HOME OFFICE UK BORDER AGENCY, COUNTRY OF ORIGIN INFORMATION REPORT IRAN: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PERSONS 147-163 (2010), available at <http://www.unhcr.org/refworld/pdfid/4b615f862.pdf>.

<sup>7</sup> See generally IMMIGRATION AND REFUGEE BOARD OF CANADA, TURKEY: TREATMENT OF GAY, LESBIAN AND TRANSGENDER PEOPLE BY TURKISH SOCIETY; TREATMENT BY AUTHORITIES; LEGISLATION, PROTECTION AND SERVICES AVAILABLE, TUR102515.E (June 11, 2007), available at <http://www.unhcr.org/refworld/docid/46fa537428.html>; HUMAN RIGHTS WATCH, “WE NEED A LAW FOR LIBERATION”: GENDER, SEXUALITY, AND HUMAN RIGHTS IN A CHANGING TURKEY (2008) [hereinafter WE NEED A LAW FOR LIBERATION], available at [http://www.hrw.org/sites/default/files/reports/turkey0508\\_1.pdf](http://www.hrw.org/sites/default/files/reports/turkey0508_1.pdf).

<sup>8</sup> INTERNATIONAL GAY, LESBIAN, BISEXUAL, TRANS AND INTERSEX ASSOCIATION – EUROPEAN REGION [IGLA-EUROPE], ILGA-EUROPE’S SUBMISSION TO THE EUROPEAN COMMISSION’S 2011 PROGRESS REPORT ON TURKEY 1 (Apr. 29, 2011) [hereinafter ILGA-Europe Submission].

<sup>9</sup> *Id.* at 5.

In 2008, Turkey declined to support a United Nations declaration calling for the decriminalization of homosexuality.<sup>10</sup> Similarly, in March 2011, Turkey failed to support a statement issued at the Human Rights Council, signed by 85 countries, calling for the elimination of acts of violence and related human rights violations based on sexual orientation and gender identity.<sup>11</sup>

Rights violations against LGBT people in Turkey and their advocates are well documented. As reported in the 2009 edition of *Unsafe Haven*, gay men, lesbians, and transgender people consistently undergo identity-based harassment and violence, coupled with police inaction in the face of their complaints.<sup>12</sup> According to activists from Istanbul-LGBT, a key Turkish LGBT advocacy group, forty-five LGBT individuals were killed in Turkey from 2008 to 2010 in hate-motivated violence,<sup>13</sup> often in brutal circumstances.<sup>14</sup> ILGA-Europe similarly reported in its 2011 submission on progress in Turkey presented to the European Commission that in 2010, 15 transgender individuals and gay men were killed in hate-motivated attacks.<sup>15</sup> Transgender individuals in Turkey, who are regularly subject to physical and sexual violence, rejected by their families and denied access to employment, are particularly vulnerable to hate-motivated murder.<sup>16</sup> Data collected by Transgender Europe show disquieting increases in reported murders of transgender individuals in Turkey, rising from two in 2008, to five in 2009, and six in 2010.<sup>17</sup> Unsurprisingly, transgender Turks are increasingly seeking asylum outside of Turkey.<sup>18</sup>

State interests continue to curtail the ability of LGBT groups to freely assemble and engage in advocacy. Government authorities regularly bring cases to court to shut down LGBT rights groups, primarily on grounds of immorality. In January 2011, a criminal court in Bursa ordered the closure of *Gökkuşuğu* (the Rainbow Association), based on an accusation from the Bursa Governorate that the organization had engaged in prostitution.<sup>19</sup> This follows a string of attempts by Turkey's Ministry of Interior to close LGBT organizations on morality-related grounds, including cases brought against Black Pink Triangle in 2010 by the Izmir Governorate,<sup>20</sup> Lambda Istanbul in 2009 by the Istanbul Governorate,<sup>21</sup> and *Pembe Hayat* (Pink Life) in 2006 and

---

<sup>10</sup> Human Rights Watch, UN: General Assembly Statement Affirms Rights for All (Dec. 18, 2008), <http://www.hrw.org/en/news/2008/12/18/un-general-assembly-statement-affirms-rights-all>.

<sup>11</sup> See Eileen Chamberlain Donohoe, *Statement from the U.S. Representative to the Human Rights Council on LGBT Rights*, U.S. MISSION TO THE U.N. AND OTHER INTERNATIONAL ORGANIZATIONS (Mar. 22, 2011), <http://geneva.usmission.gov/2011/03/22/lgbtrights/>.

<sup>12</sup> See WE NEED A LAW FOR LIBERATION, *supra* note 7; *Commission Staff Working Document, Turkey 2008 Progress Report accompanying the Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2008-2009*, at 73, COM (2008) 674 final (Nov. 5, 2008), available at [http://ec.europa.eu/enlargement/pdf/press\\_corner/key-documents/reports\\_nov\\_2008/turkey\\_progress\\_report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/turkey_progress_report_en.pdf); KAOS-GL, *Platform of LGBT Rights, Situation in Turkey in 2008* (Jan. 29, 2009), <http://news.kaosgl.com/item/2009/1/29/platform-of-lgbt-rights-situation-in-turkey-in-2008>; KAOS-GL, *LGBT HAKLARI PLATFORMU: LGBT BIREYLERİN İNSAN HAKLARI RAPORU [PLATFORM OF LGBT RIGHTS: REPORT ON LGBT HUMAN RIGHTS]* (Jan. 24, 2009), available in *Turkish at* [http://kaosgl.com/resim/KaosGL/Yayinlar/lgbt\\_bireylerin\\_insan\\_haklari\\_raporu\\_2008.pdf](http://kaosgl.com/resim/KaosGL/Yayinlar/lgbt_bireylerin_insan_haklari_raporu_2008.pdf).

<sup>13</sup> Nicolas Cheviron, *Turkey's Gays, Transsexuals Decry Increasing Homophobia*, AGENCE FRANCE-PRESSE, Apr. 3, 2010, [http://www.google.com/hostednews/afp/article/ALeqM5i\\_ml\\_smXF4WPvvhQwkZqoC8ApXg](http://www.google.com/hostednews/afp/article/ALeqM5i_ml_smXF4WPvvhQwkZqoC8ApXg).

<sup>14</sup> Bawer Çakir, *Transsexual Melek's Killer Arrested*, BIANET (Apr. 23, 2009), <http://bianet.org/english/gender/transsexual-melek-s-killer-arrested>.

<sup>15</sup> ILGA-Europe Submission, *supra* note 8, at 2.

<sup>16</sup> *Trans Murder Monitoring Project*, TRANSPECT VERSUS TRANSPHOBIA WORLDWIDE (Mar. 31, 2011), <http://www.transrespect-transphobia.org/en/tvt-project/tmm-results.htm> (accessed June 10, 2011).

<sup>17</sup> *Id.*

<sup>18</sup> See LGBT Asylum News, Posting of Paul Canning, to <http://madikazemi.blogspot.com/2011/06/austria-preparing-to-remove-turkish.html> (highlighting plight of x, who in April 2011 sought asylum in Austria. At the time of publication, she was facing deportation).

<sup>19</sup> The organization's representatives have appealed the decision and will stay open until the 'Yargıtay' (Turkey's highest court) issues a final decision on the matter. At the date of publication of this report a final outcome had yet to be determined. Emir Çelik, *"Rainbow" LGBT Association Closed Down by Court Decision*, BIANET (Jan. 5, 2011), <http://www.bianet.org/english/minorities/127000-rainbow-lgbt-association-closed-down-by-court-decision>.

<sup>20</sup> ILGA-Europe Submission, *supra* note 8, at 2.

<sup>21</sup> Amnesty International, *Gay Rights Face Old Threats in New Europe* (June 5, 2008), <http://www.amnesty.org/en/news-and-updates/news/gay-rights-face-old-threats-new-europe-20080605> [hereinafter *Gay Rights Face Old Threats*]; Federation of Young European Greens, *Closing of Lambda Istanbul – Another Human Rights Violation in Turkey* (June 5, 2008), [http://www.fyeg.org/cms/index2.php?option=com\\_content&do\\_pdf=1&id=487](http://www.fyeg.org/cms/index2.php?option=com_content&do_pdf=1&id=487).



KAOS-GL in 2005 by the Ankara Governorate.<sup>22</sup> The Supreme Court of Appeals decision overturning the closure of Lambda Istanbul notably remarked that the association could be closed down again if it engaged in activities that “aim to inspire, promote and encourage bisexuality, transsexuality and being a lesbian, gay or transvestite.”<sup>23</sup>

Turkey’s enmity toward its LGBT citizens is reflected by other state agencies and representatives. In March 2010, for instance, the Minister responsible for Women and Family Affairs, Selma Aliye Kavaf, characterized homosexuality as a disease and biological disorder in need of treatment.<sup>24</sup> In April 2011, Turkey’s Telecommunications Directorate banned 138 words, including the word “gay” from Turkish internet domain names.<sup>25</sup>

### **The Basis for this Report**

Since 2004, Helsinki Citizens’ Assembly – Turkey (HCA) has provided legal aid to asylum seekers and refugees in Turkey, a significant number of whom have been LGBT individuals. In 2009, HCA formed a partnership with ORAM – Organization for Refuge, Asylum & Migration, through which ORAM assists in the representation of LGBT refugees. In 2009, HCA and ORAM jointly issued the first edition of *Unsafe Haven*,<sup>26</sup> and while important improvements have been seen since then, LGBT refugees continue to face multiple rights deprivations.

Like the 2009 edition, this edition of *Unsafe Haven* aims to provide constructive, field-based recommendations to government agencies, UNHCR and other relevant stakeholders regarding the protection gaps facing LGBT refugees in Turkey. It is hoped that this will lead both to an improvement in the basic conditions these refugees experience and to a recognition that significant steps must continue to be taken before Turkey is considered safe for LGBT refugees.

### **1.3 Persecution of LGBT People in the Global Context**

Globally, LGBT individuals face discriminatory treatment and persecution on the basis of their sexual orientation and gender identity.<sup>27</sup> They are subject to violence – including rape, torture and murder – both by private citizens and agents of the government.<sup>28</sup> Their marginalization is often characterized by barriers to health care, housing, education and employment.<sup>29</sup> To avoid social ostracism, violence and sometimes

---

<sup>22</sup> Gay Rights Face Old Threats, *supra* note 21.

<sup>23</sup> Gerekeçeli Karar, Beyoğlu 3. Asliye Hukuk Mahkemesi [Reasoned Verdict, Beyoğlu Civil Court of First Instance No. 3.], Esas [Case] No. 2007/190, Karar [Judgment] No. 2008/236; see also Lambda Istanbul, *The Decision to Close Down Lambda Istanbul is Overturned!* (Nov. 27, 2008), <http://www.lambdaistanbul.org/php/main.php?menuID=26&altMenuID=46&icerikID=6407>. On April 30, 2009, at the first hearing of the re-trial in the Istanbul court (Beyoğlu Civil Court of First Instance No. 3), the court followed the Supreme Court of Appeal’s decision and ruled against the closure of Lambda Istanbul. At the time of publication of this report, the reasoned verdict had yet to be published but was expected. See Gerekeçeli Karar, Yargıtay 7. Hukuk Dairesi [Reasoned Verdict, Court of Cassation Seventh Civil Chamber], Esas [Case] No. 2008/4109, Karar [Judgment] No. 2008/5196.

<sup>24</sup> “Homosexuality is a disease,” Says Turkish minister, HÜRRİYET DAILY NEWS, Mar. 7, 2010, <http://www.hurriyetdailynews.com/n.php?n=8216homosexuality-is-a-disease8217-says-minister-2010-03-07>.

<sup>25</sup> Eriş Dautaj Şenerdem, *TİB’s “Forbidden Words List” Inconsistent with Law, Say Turkish Web Providers*, HÜRRİYET DAILY NEWS (Apr. 29, 2011) <http://www.hurriyetdailynews.com/n.php?n=tibs-forbidden-words-list-inconsistent-with-law-2011-04-29>.

<sup>26</sup> HELSINKI CITIZENS’ ASSEMBLY & ORGANIZATION FOR MIGRATION, ASYLUM AND REFUGE, UNSAFE HAVEN: THE SECURITY CHALLENGES FACING LESBIAN, GAY, BISEXUAL & TRANSGENDER ASYLUM SEEKERS & REFUGEES IN TURKEY (2009) [hereinafter *Unsafe Haven* 2009], available at <http://www.oraminternational.org/images/stories/unsafe%E2%80%93haven-final.pdf>.

<sup>27</sup> See DANIEL OTTOSSON & INTERNATIONAL GAY, LESBIAN, BISEXUAL, TRANS AND INTERSEX ASSOCIATION [IGLA], STATE-SPONSORED HOMOPHOBIA: A WORLD SURVEY OF LAWS PROHIBITING SAME-SEX ACTIVITY BETWEEN CONSENTING ADULTS (2007), available at [http://ilga.org/historic/Statehomophobia/State\\_sponsored\\_homophobia\\_ILGA\\_07.pdf](http://ilga.org/historic/Statehomophobia/State_sponsored_homophobia_ILGA_07.pdf).

<sup>28</sup> *Id.*

<sup>29</sup> Michael O’Flaherty & John Fisher, *Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles*, 8(2) HUMAN RIGHTS L. REV. 208, 211-214 (2008) [hereinafter O’Flaherty & Fisher].

execution, LGBT individuals are often forced into socially-acceptable gender identities and heterosexual relationships by their families and communities. This, in turn, causes severe emotional damage. LGBT individuals are also more likely to be targets of sexual violence, used as a punishment for transgressing gender norms.<sup>30</sup>

Discrimination against LGBT people is often codified in law, perpetuating intolerance.<sup>31</sup> Hundreds of jurisdictions world-wide maintain laws that prevent or do not protect the full expression of LGBT identity, including limitations on legal partnership rights or cohabitation. According to a report released by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) in 2011, no fewer than 76 United Nations member states were found to criminalize same-sex acts among consenting adults.<sup>32</sup> Moreover, seven of these nations — Iran, Mauritania, Saudi Arabia, Sudan, Yemen as well as parts of Nigeria and Somalia — maintain the death penalty for consensual homosexual acts.<sup>33</sup> Some of these nations are governed by Sharia law and apply death by public stoning as one of the forms of execution for those convicted of same-sex acts.<sup>34</sup>

Government persecution of LGBT peoples also manifests itself in non-codified forms, including unofficial policies that tolerate police violence against LGBT individuals.<sup>35</sup> These policies often discourage sexual minorities from reporting hate crimes, exposing them to an even greater risk of abuse.<sup>36</sup> States also discriminate against their LGBT citizens by classifying non-traditional sexual orientation or gender identity as mental illnesses, and by legally limiting the expression of LGBT rights organizations.<sup>37</sup>

#### **1.4 Protection of LGBT People Under International Refugee Law**

As a result of often severe persecution, many LGBT individuals are compelled to escape their countries of origin and seek refugee protection elsewhere. While claims involving sexual orientation or gender identity may be grounded in whole or in part on political opinion, most are based on the applicant's "membership in a particular social group" (MPSG), one of the five grounds for protection enumerated in Article 1(A)(2) of the 1951 Geneva Convention.<sup>38</sup>

While the Convention leaves the term MPSG undefined, there have been two generally accepted approaches to its interpretation. The "protected characteristic" approach looks to whether the group at issue is united by a characteristic that is immutable or "so fundamental to human dignity that [one] should not be compelled to forsake it."<sup>39</sup> The "social perception" approach examines whether the claimed group shares a common characteristic which renders it cognizable or which sets it apart from society at large.<sup>40</sup> UNHCR has essentially embraced the "social perception" test, as informed by the "protected characteristic" approach:

---

<sup>30</sup> U.N. General Assembly, *Report of the Special Rapporteur of the Commission on Human Rights on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶ 17 U.N. Doc. A/56/156 (July 3, 2001), available at <http://www.un.org/documents/ga/docs/56/a56156.pdf>.

<sup>31</sup> See Jenni Millbank, *The Role of Rights in Asylum Claims Based on Sexual Orientation*, 4(2) HUMAN RIGHTS L. REV. 193 (2004).

<sup>32</sup> EDDIE BRUCE-JONES, LUCAS PAOLI ITABORAHY & IGLA, *STATE-SPONSORED HOMOPHOBIA: A WORLD SURVEY OF LAWS CRIMINALIZING SAME-SEX SEXUAL ACTS BETWEEN CONSENTING ADULTS* 9 (2011), available at [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2011.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2011.pdf).

<sup>33</sup> *Id.* at 10.

<sup>34</sup> See *Id.* at 26-45.

<sup>35</sup> O'Flaherty & Fisher, *supra* note 29, at 208.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 211-213.

<sup>38</sup> 1951 Convention art. 1 § A(2), 189 U.N.T.S. at 152.

<sup>39</sup> U.N. HIGH COMMISSIONER FOR REFUGEES, *Guidelines on International Protection: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, ¶ 6 U.N. Doc. HCR/GIP/02/02 (May 7, 2002), available at <http://www.unhcr.org/refworld/pdfid/3d36f23f4.pdf>.

<sup>40</sup> *Id.* ¶ 7.

[A] particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience, or the exercise of one's human rights.<sup>41</sup>

LGBT asylum seekers may thus qualify under both approaches to social group membership. Lesbians share the immutable characteristic of being sexually or emotionally attracted to other women; gay men share the immutable characteristic of being sexually or emotionally attracted to other men. These characteristics are regarded as so fundamental to identity and human dignity that one should not be forced to forsake them.<sup>42</sup> Lesbians and gay men may also be perceived as distinct social groups in their country of origin. Bisexual claimants, who often belong both to heterosexual and homosexual social circles, may have more difficulty proving that they are perceived as a separate ("particular") group.<sup>43</sup> Where this is the case, bisexuals can often legitimately claim imputed membership in a particular social group of lesbians or gay men.

Transgender claims, unlike those of gays and lesbians, are based on gender identity rather than sexual orientation. Transgender applicants generally base their claims on membership in a social group of "individuals born with one anatomical sex who believe this anatomical sex does not match their gender."<sup>44</sup> This gender identity, rather than the claimant's male or female anatomical characteristics, is viewed as immutable and fundamental to the person's identity.<sup>45</sup> Transgender individuals may also affiliate closely with one another, are recognized as a segment of the population, and are often singled out for different treatment.<sup>46</sup> Transgender claims may, in addition, be based on imputed membership in a particular social group of lesbians or gay men.<sup>47</sup>

## 1.5 Summary of Findings and Recommendations

### Findings

Like the Turkish LGBT population, LGBT refugees in Turkey are targeted for verbal and physical harassment and violence, and may be more vulnerable to targeting because they are not citizens and often do not speak Turkish. Since the 2009 edition of *Unsafe Haven*, HCA and ORAM have documented five violent physical attacks on LGBT asylum seekers and refugees, two sexual assaults, and multiple accounts of verbal harassment and threats. It is common for these refugees, especially transgender individuals, to report staying at home to avoid violence or harassment in the streets. One refugee reported being taunted and harassed by the local population, including children, and had rocks thrown through his windows.<sup>48</sup>

Threats to physical safety continued to be the most pressing concern of the LGBT refugees interviewed for this edition of *Unsafe Haven*. Many reported having been physically attacked at least once. Virtually all described regular harassment by local community members and other asylum seekers and refugees. They reported being beaten, sexually assaulted, threatened with knives and other weapons, propositioned for sex, and followed home. They reported that locals of all ages and both genders regularly called them *top* – a pejorative Turkish slang word for gay men.<sup>49</sup> The lesbians interviewed also described feeling very vulnerable as single women living in socially conservative towns.

---

<sup>41</sup> *Id.* ¶ 11.

<sup>42</sup> U.N. HIGH COMMISSIONER FOR REFUGEES, *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, ¶¶ 8-9, (Nov. 21, 2008), available at <http://www.unhcr.org/refworld/pdfid/48abd5660.pdf> [hereinafter *Guidance Note*].

<sup>43</sup> See Sean Rehaag, *Patrolling the Borders of Sexual Orientation: Bisexual Refugee Claims in Canada*, 53 *MCGILL L.J.* 59 (2008).

<sup>44</sup> Victoria Neilson, *Uncharted Territory: Choosing an Effective Approach in Transgender-Based Asylum Claims*, 32 *FORDHAM URB. L.J.* 265, 277 (2005).

<sup>45</sup> *Id.* at 277.

<sup>46</sup> *Id.*

<sup>47</sup> See Joseph Landau, "Soft Immutability" and "Imputed Gay Identity": Recent Developments in Transgender and Sexual-Orientation-Based Asylum Law, 32 *FORDHAM URB. L.J.* 237 (2005).

<sup>48</sup> Telephone interview by Ariel Test & ORAM-Organization for Refuge, Asylum and Migration with anonymous asylum seeker, (May 10, 2011).

<sup>49</sup> "Top" literally means "ball." The term is used derogatorily to describe the passive partner in a sexual act between men.

Similarly, LGBT refugees continue to express reluctance to approach the police to complain of harassment or identity-based violence, for fear of being mocked or turned away. One woman who tried to press charges against a Turkish man who had attempted to sexually assault her reported that the police discouraged her from filing her claim, implying that she did not have the same rights to legal protection as a citizen. Many transgender women and “non-masculine” gay men reported that the police had warned them to cut their hair, dress “like a man” and not to wear make-up or jewelry. Most interviewees also reported having been advised by police to stay home in order to avoid being targeted. Many felt compelled to follow this advice, essentially becoming prisoners in their homes. Even this strategy did not always ensure their safety – some interviewees reported that neighbors regularly threw stones at their windows.

Severe discrimination accessing housing, employment, social assistance and education continued to be a central concern expressed by the LGBT refugees interviewed for this edition of the report. Refugees reported being denied or evicted from apartments when their gender identity or sexual orientation was discovered. Most were unsuccessful securing work often because of their LGBT status. The few who did find employment reported being terminated – often violently – when their sexual orientation or gender identity was discovered. Since virtually all those interviewed were unable to support themselves independently, many turned to local charities or government agencies for social assistance. A significant number described being humiliated by service providers and some reported being denied services altogether on the basis of their LGBT status. The few who attended adult education promptly dropped out after being ostracized by other refugees attending the classes. Unsurprisingly, many interviewees reported deep feelings of isolation and depression while waiting for their refugee claims to be evaluated.

Since the 2009 edition of *Unsafe Haven*, the UNHCR has been instrumental in expediting the cases of those with serious safety concerns in Turkey, thereby minimizing their exposure to poverty, isolation, and violence. Moreover, no refugees interviewed for this edition of *Unsafe Haven* reported UNHCR interviewers asking invasive questions about sexual history or preferred sexual positions. These improvements may be attributed to a combination of training on appropriate interviewing methods and LGBT experiences, shift in policy regarding sexual orientation and gender identity cases from Iran, and significant external funding, which increased UNHCR Turkey’s capacity to process its ever increasing caseload. Despite these improvements, LGBT refugees interviewed for this edition expressed serious concern regarding lengthy resettlement procedures, which extended their time in Turkey.

Another key improvement since the 2009 edition of *Unsafe Haven* is that most LGBT asylum seekers now have residence permits. This is due to a March 2010 Ministry of Interior circular encouraging local police officers to waive residence permit fees for indigent asylum seekers, a practice that was previously extremely rare. As a result, greater numbers of LGBT refugees have been able to access health care and other basic services. However, most LGBT refugees continue to face serious challenges accessing adequate medical and mental health care and the dearth of interpreters exacerbates barriers to services. In addition, in isolated cases, LGBT refugees facing serious medical or security concerns have been permitted to move to safer assigned cities.

### **Recommendations**

This report, updating information gathered for the 2009 edition of *Unsafe Haven*, points to many necessary changes, including the revision of procedures, reconfiguration of priorities and re-allocation of resources. Some of these changes are predicated on uneasy challenges to entrenched preconceptions. Yet in the absence of such shifts, real protection for LGBT asylum seekers and refugees in Turkey will continue to be an elusive goal.

Most immediately, LGBT refugees’ physical safety and security must be protected. The government of Turkey must take affirmative measures to prevent, stop and prosecute acts of violence against these individuals. Key in this endeavor will be the training of local police on sexual orientation and gender identity, preferably with the assistance of domestic LGBT rights organizations. In the same vein, LGBT asylum seekers and refugees should be assigned to live in the cities that are least hostile to them, and should be re-assigned from locations where they cannot be effectively protected. In particular, they should be permitted to reside in cities in Turkey with significant local LGBT communities and advocacy organizations.

The government of Turkey should also be encouraged to take broader legislative steps to protect all LGBT individuals, including asylum seekers and refugees. These steps should include enacting hate crime legislation that would include sexual orientation and gender identity as protected grounds, and amending legislation, including in Turkey's Constitution and Penal Code, to explicitly prohibit discrimination in housing, employment and government service provision on the basis of sexual orientation and gender identity. Sexual orientation and gender identity should likewise be added as protected categories under the country's existing legislation.

Acting within existing means, the Turkish government can take steps to ease the economic hardships faced by all asylum seekers and refugees in the country. Such steps are especially important to ease the devastating impact of marginalization on LGBT people. As a starting point, residence permit fees should be consistently and uniformly waived for all indigent asylum seekers.<sup>50</sup> Similarly, the administrative and financial requirements for securing work permits should be eased for asylum seekers, extending to them a modicum of protection in the workplace. In addition, the Government should take the necessary steps to ensure that LGBT and other asylum seekers and refugees have access to health care and social support consistent with that provided to similarly-situated Turkish citizens.

Furthermore, whether carried out by UNHCR, the government of Turkey or resettlement countries, asylum and resettlement procedures should continue to be accelerated for LGBT refugees. In addition, all stakeholders should institute trainings focused on developing an understanding of issues surrounding sexual orientation and gender identity. Interviewing techniques should be implemented which are not only inoffensive to asylum seekers and refugees, but which elicit the presentation of *bona fide* LGBT-based claims. In addition, interviews must be conducted in environments protecting confidentiality.

Trainings should also be conducted in the health, public assistance and education sectors to increase receptivity toward LGBT asylum seekers and refugees and to create environments in which discrimination is not tolerated. To these ends, domestic LGBT groups should be encouraged to continue including LGBT asylum seekers and refugees in their platforms.

Finally, in order to ensure sufficient service provision to LGBT individuals and other asylum seekers and refugees, government agencies, service providers, NGOs and the UNHCR should be encouraged to recruit and maintain sufficient numbers of trained interpreters. Interpreters should be trained on confidentiality issues and should employ appropriate and inoffensive terminology for use with LGBT asylum seekers and refugees. Unless absolutely necessary, interpreters should not be recruited from the local refugee population. This will help ensure a safe interviewing environment and will encourage LGBT individuals to be forthcoming about their claims.

## **2. Methodology and Terminology**

---

### **2.1 Methodology**

This edition of *Unsafe Haven* updates the findings and recommendations presented in the 2009 edition. It is based on information provided by 62 LGBT refugees represented jointly by HCA and ORAM since the issuance of the last edition of this report. It also reflects still-relevant information provided by the original 46 interviewees, who were living in ten different cities in Turkey.<sup>51</sup> A copy of the questionnaire used as a basis for gathering information for this report is provided at Appendix A.

The interviewing process adhered strictly to the ethical exigencies of working with vulnerable individuals: Each person interviewed gave advance informed consent in advance to HCA and ORAM to use the information in

---

<sup>50</sup> The draft law on Foreigners and International Protection, expected to be reviewed by Parliament at the end of 2011, provides all asylum seekers with a six-month "International Protection Applicant Identity Document" (*Uluslararası Koruma Basvuru Sahibi Kimlik Belgesi*) upon completion of their asylum interviews. Art. 74 of the Draft Law, available at [http://gib.icisleri.gov.tr/default\\_B0.aspx?content=1035](http://gib.icisleri.gov.tr/default_B0.aspx?content=1035)). If enacted, the identity card will serve as a residence permit and will be provided for free.

<sup>51</sup> These included Ankara, Eskişehir, Isparta, Istanbul, Kayseri, Kırkkale, Konya, Nevşehir, Niğde and Van.

this report. All interviewees were informed of and understood the purpose of the report. They were invited to review and comment on the report's recommendations prior to its publication. Twenty-three interviewees did so.

To ensure the safety and anonymity of the report's subjects, any information that would render them individually identifiable has been omitted. All interviewees quoted gave their explicit permission, confirmed the contents of their remarks, and agreed to the manner of attribution. All interviews conducted are on file with the authors.

## **2.2 Terminology**

This report makes reference throughout to "LGBT" (lesbian, gay, bisexual and transgender) and to "asylum seekers" and "refugees." The "LGBT" acronym subsumes a wide range of different sexual orientations and identities.

"Sexual orientation" refers to a "person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender."<sup>52</sup> "Gender identity" has been defined as a "person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body... and other expressions of gender, including dress, speech and mannerisms."<sup>53</sup> A given sexual orientation does not necessarily imply a particular gender identity.<sup>54</sup> Conversely, one's gender identity does not necessarily connote a given sexual orientation. Moreover, sexual orientation and gender identity are fluid concepts, varying between different individuals and during a given person's life.

For purposes of this report, we have defined other relevant terms as follows:

- "Lesbian" refers to a self-identifying woman who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations primarily with other women;
- "Gay" refers to a self-identifying man who has the capacity for profound emotional, affectional and/or sexual attraction to and/or intimate sexual relations with primarily other men;
- "Bisexual" refers to a individual who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with people regardless of their gender or sex.

"Transgender" refers to an individual whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth. When referring to transgender people, this report sometimes utilizes the following terms:

- "Transgender woman" refers to a person who was assigned male at birth but identifies as a woman;
- "Transgender man" refers to a person who was assigned female at birth but identifies as a man.

When referring to "asylum seekers" and to "refugees" this report utilizes the legal, technical meanings of those terms:

- "Asylum seeker" refers to a person who has requested the protection of UNHCR and the government pursuant to the 1951 Convention Relating to the Status of Refugees, the accompanying 1967 Protocol, and the domestic laws implementing them and whose application is still pending a final decision.
- "Refugee" refers to a person who has been formally granted recognition under the 1951 Refugee Convention and 1967 Protocol and is thus entitled to protection by UNHCR, the government, or both.

---

<sup>52</sup> INTERNATIONAL COMMISSION OF JURISTS, THE YOGYAKARTA PRINCIPLES: PRINCIPLES ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION AND GENDER IDENTITY 6 (2007), *available at* [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf).

<sup>53</sup> *Id.*

<sup>54</sup> AMERICAN PSYCHOLOGICAL ASSOCIATION, ANSWERS TO YOUR QUESTIONS ABOUT TRANSGENDER INDIVIDUALS AND GENDER IDENTITY (2006), *available at* <http://www.apa.org/topics/sexuality/transgender.pdf>.

The vast majority of migrants fall outside the ambit of the 1951 Convention, and are therefore neither “asylum seekers” nor “refugees.” All refugees were previously “asylum seekers” whose request for protection was approved. However, the applications of many “asylum seekers” are ultimately denied, foreclosing their entitlement to “refugee protection.”

### 3. Findings

---

#### 3.1 The Asylum System: Gaps in MOI, UNHCR and Resettlement Procedures

##### *Ministry of Interior Asylum Procedures*

###### Registration

In Turkey, non-Europeans seeking UNHCR protection must also secure the right to remain in the country by applying for “temporary asylum” with Turkey’s Ministry of Interior (MOI).<sup>55</sup> Typically, asylum seekers first register with the UNHCR and are then referred by the UNHCR, in coordination with MOI, to the local “foreigners’ police” in one of approximately fifty satellite cities, mostly in Turkey’s interior.<sup>56</sup> Asylum seekers have little choice as to which they are assigned, and generally have difficulty changing the assignment.<sup>57</sup> They are required to register with the local foreigners’ police “without delay.”<sup>58</sup> During registration, police verify the asylum seeker’s identity and conduct a detailed interview.<sup>59</sup> Whenever necessary, MOI must provide a qualified interpreter of the gender the asylum seeker prefers.<sup>60</sup> Shortly after registration, the police issue, at no charge, an “Asylum Seeker Identification Card.”<sup>61</sup> Once registered, asylum seekers must sign in with the foreigners’ police as often as once each day to prove their continued residence in the satellite city.<sup>62</sup> They may apply for permission to temporarily leave their satellite cities for a maximum of fifteen days.<sup>63</sup>

Asylum seekers must then apply for a residence permit, as must all non-citizens who wish to remain in Turkey. Those without permits have difficulties accessing health care, education, social assistance and employment.<sup>64</sup> In March 2010, Turkey’s Ministry of Interior (MOI) issued a circular that reiterated the discretion of local authorities to waive the residence permit fees of indigent asylum seekers.<sup>65</sup> Since the issuance of this circular, LGBT asylum seekers have, with varying success, been able to access residence permits at no or reduced cost.

---

<sup>55</sup> See Regulation No. 1994/6169 on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum From Another Country [Turkey], No. 1994/6169, Jan. 19, 1994, *as amended*, Council of Ministers Decision No. 2006/9938, Jan. 16, 2006, *unofficial UNHCR translation available at* <http://www.unhcr.org/refworld/docid/49746cc62.html> [hereinafter 1994 Asylum Regulation].

<sup>56</sup> The list of “satellite cities” is periodically reviewed and altered by the MOI. At the time of the first publication of the Report, satellite cities included: Afyonkarahisar, Ağrı, Aksaray, Amasya, Balıkesir, Bilecik, Burdur, Çankırı, Çorum, Eskişehir, Gaziantep, Hakkari, Hatay, Isparta, Karaman, Kastamonu, Kayseri, Kırıkkale, Kırşehir, Konya, Kütahya, Mersin, Nevşehir, Niğde, Şırnak, Sivas, Tokat, Van and Yozgat. In December 2010, the number of satellite cities increased to 50 and now also include Adana, Erzurum, Kahramanmaraş, Çanakkale, Bolu, Uşak, Denizli, Yalova, Siirt, Batman, Şanlıurfa, Kilis Ardahan, Kars, Iğdır, Düzce, Sakarya, Erzincan, Gümüşhane, Bayburt and Mardin.

<sup>57</sup> Only those with close family members in a specific satellite city or those with documented medical conditions treatable only in a particular province may be assigned to that location. See Ministry of Interior General Directorate of Security Circular No.57, “Implementation Directive,” at art. 15, June 22, 2006 (on file with author) [hereinafter 2006 Circular].

<sup>58</sup> 1994 Asylum Regulation, *supra* note 55, art. 4.

<sup>59</sup> 2006 Circular, *supra* note 57, arts. 3-5. Other information gathered from the applicants during registration include travel documents used to enter Turkey, travel route and countries of transit, any applications for international protection in any of the countries of transit, any nationalities other than that of the country of origin, any acquaintances or family members in Turkey, and in the case of an “illegal entrant,” information regarding persons who facilitated the journey. Registration must be completed within 30 days of the applicant’s approach to the authorities.

<sup>60</sup> 2006 Circular, *supra* note 57, at “Basic Principles, Conditions of the Applicant’s Right to Benefit from an Interpreter.”

<sup>61</sup> 2006 Circular, *supra* note 57, art. 3 (requiring that applicants be issued these cards within 15 days of their application).

<sup>62</sup> Depending on the city, asylum seekers are required to “sign in” with police anywhere from every day to once every few weeks.

<sup>63</sup> 2006 Circular, *supra* note 57, art. 17.

<sup>64</sup> Moreover, if an asylum seeker is granted refugee status by the UNHCR, but has not previously paid for and received a residence permit, he or she is required to pay the accrued residence permit fees and hefty fines, before authorities allow him or her to leave Turkey for a resettlement country.

<sup>65</sup> The discretion to waive such fees is set forth in the Law on the Collection of Fees (No. 492), art. 88, which cites “inadequate financial situation, as determined by local administrative authorities” as a ground for fee exemption.

However, only the residence permit fees can be waived; the residence permit booklet fee, about \$95 USD in June 2011, cannot be waived. Those who have attained residence permits have, in many cases, also been able to get access to the state health system, allowing them to have examinations done, medication prescribed, and treatments as needed. Nevertheless, the fee exemption is a discretionary determination and many are not granted. The health system remains inaccessible to many LGBT refugees, and there continues to be a dearth of interpreters available in medical and other social service settings.

In early 2011, MOI released a new payment schedule, which charges significantly lower residence permit fees.<sup>66</sup> Iranians, Sudanese, and Afghans, for instance pay \$25 USD for the first month, and \$5 per month thereafter; Iraqis pay only \$5 USD for the first month, and 50 cents for every following month.<sup>67</sup> Thus, when the 2009 edition of *Unsafe Haven* was issued, an Iranian LGBT refugee would have paid approximately \$225 USD for the right to reside in Turkey for six months.<sup>68</sup> Now, he or she is only required to pay \$175 USD (which includes the cost of residence permit fees and the cost of the residence permit booklet) or only about \$95 US if the residence permit fee is waived. Although the immediate impact of this change was not yet apparent at the time of the publication of this edition of the report, it is hoped that the reduced fees will mean that more asylum seekers and refugees will be able to access medical care and other benefits during their wait in Turkey. In any event, police officers, it is hoped, will continue to waive the fees of indigent asylum seekers.

All the LGBT asylum seekers and refugees interviewed for this report had registered in their respective satellite cities and were signing in regularly with the foreigners' police, as required. While many reported satisfactory treatment by the local foreigners' police, they also described being warned to change their appearance to avoid becoming targets of violence. As a transgender woman asylum seeker in Nevşehir recounted:

Generally, the treatment by the foreigners' police is good. I was the first trans[gender] person in Nevşehir. When I arrived, the police told me about the conditions here, how to live, and how to fit in. They told me to be careful. They told me how to talk. They told me to wear men's clothes. They told me to walk like a man.

Similarly, an Iranian transgender woman asylum seeker in Kayseri described the advice she received from the foreigners' police:

The day I went to get an asylum seeker ID, I had my hair long and wore make-up. They made me promise not to wear anything like that in the future. They said they were telling me this for my own safety.

This admonition is the first indication to many that the police will not be able to ensure their physical safety if their outward appearance subjects them to targeting by the general population. LGBT refugees interviewed for this edition of *Unsafe Haven* continue to report similar warnings by police officers.

While virtually all those interviewed were immediately registered and issued "asylum seeker" identification cards, those interviewed for the 2009 edition reported they could not afford the cost of the residence permit. A number of interviewees were aware of their right to request a residence fee exemption, but the handful who had applied were all rejected. None were informed of the reason. Since that time, almost all the LGBT refugees assisted by HCA and ORAM had been granted residence permits, primarily as a result of the fees being waived.

Interviewees also reported that police regularly granted their requests for permission to temporarily leave their satellite cities. However, they also reported that police officers exercised discretion in this process. Some officers required written confirmation of the asylum seeker's appointment with UNHCR or a service provider in another city, while others required no such documentation. Since the 2009 edition of the report, a small handful of LGBT refugees have reported being permitted to move from one satellite city to another on the

---

<sup>66</sup> A version of this payment schedule is available in Turkish at <http://yabancilar.iem.gov.tr/harc.gif>.

<sup>67</sup> *Id.*

<sup>68</sup> *Unsafe Haven* 2009, *supra* note 26, at 13 n.46.



grounds of security concerns. As this ground for moving one's assigned city is not designated by regulation,<sup>69</sup> this appears to reflect that at least some police officers recognize the severe security concerns facing many LGBT refugees.

Since the 2009 edition of *Unsafe Haven*, interpreter access continued to vary tremendously from one satellite city to another. As noted in the previous edition, in the Central Anatolian city of Kayseri, LGBT refugees reported they were very satisfied with the professionalism and competency of an interpreter employed by the foreigners' police. By contrast, the interviewees in Nevşehir expressed concerns about the professionalism of the foreigners' police interpreter. They feared that this individual, also a refugee, would reveal their sexual orientation or gender identity to other asylum seekers in Nevşehir. In the city of Isparta, Iranian LGBT asylum seekers described difficulties communicating with the Farsi interpreter, who reportedly lacked the necessary general vocabulary to make them fully understood. Finally, in Eskisehir, an Arabic-speaking asylum seeker reported that since there was no Arabic interpreter available, he had no choice but to communicate with the police in "broken English."

#### "Temporary Asylum" Interviews

Once registered in their assigned satellite cities, asylum seekers undergo detailed status determination interviews with a local foreigners' police official.<sup>70</sup> The purpose of the interview is to determine whether the applicant qualifies for "temporary asylum" in Turkey. Those who meet the criteria for this status are allowed to remain in the country temporarily while their claims for refugee status are determined by the UNHCR.<sup>71</sup> In most cases, MOI informs applicants of negative determinations, which can be appealed within 15 days. Notifications of positive "temporary asylum" status decisions are rarely issued. Rather, MOI formalizes the applicant's "temporary asylum" status only after all steps in the asylum procedure have been successfully completed and the applicant is about to leave the country.

The LGBT refugees interviewed for both the 2009 edition and this edition reported widely varying experiences in their temporary asylum determination interviews. A significant number were satisfied with their treatment by the interviewing police officers. Typically, they reported that the interviewing police officers conducted the interviews "gently." An Iranian transgender man relayed the following:

I was interviewed by a male police officer and a male interpreter. The officer was very gentle. When he asked me about my relationships with women in Iran, I was very uncomfortable. The interpreter was also an Iranian refugee and I did not want to share such private information with him. However, the officer comforted me and told me he had to ask these questions.

Notwithstanding such positive reports, virtually all the interviewees described having been subjected to excessively invasive questioning regarding their sexual history and sexual experiences. A gay Iranian asylum seeker recalled:

[The police officer] asked me questions about how I have sex with my partner, and about different sexual positions, among many other details about my sex life. This made me very uncomfortable. I feel that my sex life should be a private matter.

---

<sup>69</sup> 2006 Circular, *supra* note 57.

<sup>70</sup> 2006 Circular, *supra* note 57, art. 9. According to the 1994 Asylum Regulation, Article 3, if the applicant falls into the definition of "refugee" set out in Article 1 of the 1951 Convention, MOI will grant the applicant "temporary asylum seeker" status.

<sup>71</sup> MOI shares its decisions on "temporary asylum" with UNHCR, and UNHCR does the same with regard to the status determination decisions it issues. UNHCR periodically submits lists of refugee status decisions to the Turkish Foreign Ministry, which passes on the information to MOI. While MOI is not bound by UNHCR's decisions, its "temporary asylum" status decisions typically take into consideration the outcome of the UNHCR "refugee" status determination procedure.

Another common complaint was that privacy was not protected during temporary asylum interviews. For example, the above-quoted asylum seeker was interviewed in a room with other police officers. Those officers' presence and mocking behavior compounded the applicant's discomfort when questioned about his sexual history:

When I began to talk about my sexual orientation, they laughed. When I talked about my sex life, they laughed even harder.

### **UNHCR Procedures**

UNHCR's refugee status determination (RSD) process initially involves a registration interview. Once registration is complete, asylum seekers are provided a date for a "first instance" interview. This critical event is the basis for the grant or denial of "refugee status."<sup>72</sup> UNHCR is obligated to create an environment of "trust and respect" during RSD interviews.<sup>73</sup> Asylum seekers are entitled to request a male or female interpreter,<sup>74</sup> and UNHCR endeavors to honor this request, particularly for gender-related claims. UNHCR also has a formal complaint mechanism that allows asylum seekers to raise any problems arising during the process.<sup>75</sup>

In the 2009 edition of *Unsafe Haven*, LGBT interviewees reported two-year or more waiting times for decisions. They also reported confused and invasive questioning techniques by UNHCR interviewers that often focused on their preferred sexual positions, numbers of previous partners and other private sexual preferences and experiences. Interviewees also expressed great concern regarding the long resettlement procedures, and couples expressed concern that they would not be resettled simultaneously.<sup>76</sup>

Like the refugees interviewed for the 2009 edition, LGBT refugees continue to express concern regarding their security while waiting for the UNHCR's decision. However, many of their impressions of UNHCR process are radically different than they were two, three and four years ago. It is clear that in the intervening period, UNHCR Turkey has significantly improved its processing and treatment of LGBT refugees. This has been exemplified by higher acceptance rates, faster first instance processing times, improvement in questioning techniques, fewer legal errors in claims assessment, efforts to join domestic partners and resettle them together when possible, and improved responsiveness to the most vulnerable cases. UNHCR has taken several proactive steps to improve its handling of LGBT cases, and has succeeded on many fronts, most notably by regularly expediting the cases of the most vulnerable LGBT refugees and eliminating questions about intimate sexual experiences.

These positive developments at UNHCR Turkey are due to a concerted effort on the part of UNHCR administration to improve practices regarding this caseload. As a starting point, the office has shifted its RSD focus to an evaluation of whether gay and lesbian Iranian claimants can credibly establish that they have fled Iran due to their sexual orientation, given that laws criminalizing homosexuality and discriminatory practices are persecutory in themselves.<sup>77</sup> This policy change is based on country conditions and international case law.<sup>78</sup> It has meant that gay and lesbian claimants from Iran are granted refugee status even if peripheral aspects of their claim are not deemed credible.

Interviewing techniques and lines of questioning improved as a result of a series of trainings, including one provided by ORAM Executive Director Neil Grungras, which helped caseworkers understand the experience of being homosexual or non-gender conforming and growing up in a country like Iran. These trainings also explored how to focus questions on identity rather than on intimate sexual experiences. UNHCR has

---

<sup>72</sup> U.N. HIGH COMMISSIONER FOR REFUGEES, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, §§ 3.2, 4.3 (Sept. 2005), available at <http://www.unhcr.org/refworld/pdfid/42d66dd84.pdf> [hereinafter *Procedural Standards*].

<sup>73</sup> *Id.* § 4.3.5.

<sup>74</sup> *Id.* § 2.5.1.

<sup>75</sup> *Id.* § 2.6.

<sup>76</sup> *Unsafe Haven* 2009, *supra* note 26, at 12-17.

<sup>77</sup> The office has never received a claim based on bisexuality. Information provided by UNHCR to ORAM.

<sup>78</sup> See *HJ (Iran) and HT (Cameroon) v. Secretary of State for the Home Department*, [2010] UKSC 31 [United Kingdom Supreme Court], July 7, 2010, available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4c3456752> (holding that a gay man need not hide his sexual orientation or live "discreetly" and should not be returned to his country of origin on that basis).

provided guidance to its staff to establish gender identity, and has since given clear instructions to staff not to ask LGBT applicants invasive and unnecessary questions regarding their personal lives or sexual history.

Closer coaching by UNHCR supervisors has also played a significant role in improving its LGBT caseload management. This relates directly resources freed as a result of funding provided by the US Department of State, Bureau of Population, Migration and Refugees. That funding enabled UNHCR Turkey supervisors to focus more time on vulnerable and complex cases – including victims of sexual and gender-based violence and survivors of torture – by giving timely feedback, shadowing staff in interviews and discussing cases with them. UNHCR supervisors held many meetings with the team as a whole to ensure there was a harmonized approach with regard to gender, sexual orientation, gender identity and other vulnerable claims.

Resource availability also meant that additional time and funds could be allocated to training, including a staff sensitization training with KAOS-GL, a domestic LGBT advocacy organization, which focused on the lived experiences of LGBT individuals and helped widen staff perspectives.

This training, coaching, and shadowing appears to have had a particularly positive impact on the interviewing techniques used with and support of transgender refugees. Staff have been provided a broader understanding of the discrimination transgender people face from family and society alike. They also have been sensitized to the protection concerns transgender asylum seekers face in Turkey. As a result, UNHCR Turkey has granted refugee status to greater numbers of transgender asylum seekers and has made significant strides to reopen and review the appeals of transgender individuals.

Notably, since these improvements, all of the LGBT refugees represented by HCA and ORAM in 2010 or 2011 reported appropriate questioning by UNHCR staff and the recognition rate has increased. Couples also report UNHCR's efforts to refer them for resettlement simultaneously and to the same location, whenever possible. Perhaps most significantly, processing times decreased dramatically and many of the more vulnerable LGBT cases were processed on an expedited basis. This has played a valuable role in decreasing the exposure of LGBT refugees to security and survival concerns they continue to face in Turkey.

Moreover, it should be noted that at the time of publication of this edition of *Unsafe Haven*, it was widely expected that by the end of 2011, UNHCR would issue *Guidelines on International Protection: Refugee Claims based on Sexual Orientation and Gender Identity under Article 1 of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees Guidelines*, pursuant to its mandate.<sup>79</sup> When issued, it is recommended that all UNHCR staff undergo training on the use of the Guidelines, as many have been for the November 2008 *Guidance Note on Refugee Claims relating to Sexual Orientation and Gender Identity*.

### **3.2 Violent Targeting and Harassment by Local Populations and Other Asylum Seekers and Refugees**

#### ***Abuse by Local Townspeople***

The most significant problem identified by LGBT refugees in Turkey is violent targeting and harassment by local townspeople. This has not changed since the 2009 edition of *Unsafe Haven* was published. Almost all the LGBT refugees represented by HCA and ORAM identified threats to their personal physical safety as their most pressing and enduring concern.

Most reported being subject to at least one incident of violence, and some reported being threatened with death. Some described being physically attacked two or more times. Others reported being threatened with violence or death. One gay couple from Iran reported:

---

<sup>79</sup> UNHCR's mandate to issue such guidelines is contained in the Statute of the Office of the United Nations High Commissioner for Refugees, in conjunction with Article 35 of the 1951 Convention and Article 2 of the 1967 Protocol. These *Guidelines* will complement the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention* (reedited in Geneva, January 1992) and will supplement UNHCR's *Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees* (dated May 2002). They will replace UNHCR's *Guidance Note on Refugee Claims relating to Sexual Orientation and Gender Identity* (dated November 2008).

It was during the day and we were followed into an internet café by two men. They told us that we weren't welcome there. They said they would beat us to death if we came back to the café. I pulled out my phone and pretended that I was calling the police, so they left. We were very careful to hide on our way home so that they wouldn't follow us and find out where we live.

As a result of the threat of harassment and violence, many LGBT refugees fear leaving their homes and minimized the time they spent outside. As a young transgender woman asylum seeker in Nevşehir explained:

I can't leave my house because I'm afraid that if I go out, they'll kill me. Just last week, two men followed me home with a knife. One of them followed me into the building. Thankfully, I got into my apartment and locked the door.

The asylum seeker reported feeling like a prisoner in her home, which she rarely left.

For some, even home was unsafe. A group of gay and transgender Iranians in Kayseri reported that stones were regularly hurled at them through their apartment windows. They expressed feeling afraid to sit in their living room.

This targeting, although reported for the 2009 edition of *Unsafe Haven*, is also regularly reported by HCA and ORAM's clients and is an ongoing security concern. Besides hiding at home, many of the transgender women asylum seekers report dressing in men's clothing to avoid attack. For example, shortly after arriving in Kayseri, a transgender woman asylum seeker and a number of her friends were attacked by a group of local men. Her nose was broken. She reported continued harassment and violence despite efforts to change her appearance:

I am a woman but I have a male haircut. I can't dress the way I want to and I am not comfortable in the clothes I have to wear. At first, I wore whatever I wanted [i.e., women's clothes]. But after the violence I experienced, I started to wear trousers and cut my hair. Even now, dressing as a man, I still face similar experiences with the locals.

The vast majority of LGBT refugees continue to report being ostracized and mocked by neighbors and other local people. Many described being regularly propositioned for sex or accused of engaging in prostitution. They also reported regularly being called top by local residents of all ages and sexes. An Iranian in Kayseri reported:

Our neighbors call us "top" and "bastard." They ask me how much it costs to have sex with me. The building opposite our house is a school and even small children from the school call us "top." We don't even want to leave our house when the children are on break.

Lesbians reported taking great care to hide their sexual orientation from the general population to avoid harassment and abuse by local residents. Unaccompanied by males, they described feeling vulnerable to attack and reported sexual harassment and violence at the hands of male neighbors in particular.<sup>80</sup> A number reported that male neighbors had attempted to gain entry into their homes late at night. One interviewee reported that she had been sexually assaulted by a neighbor in the hallway of her apartment building.

---

<sup>80</sup> In the largely conservative satellite cities, unmarried women rarely reside alone or with other women.

### ***Mistreatment by the Local Asylum Seeker and Refugee Population***

In addition to experiencing verbal harassment and physical attack by the local population, LGBT refugees continue to face harassment and marginalization by other asylum seekers and refugees. Some described being treated even more harshly by other asylum seekers and refugees than by the local Turkish population. A gay Iranian described his mistreatment by other asylum seekers in the dormitory where he stayed as follows:

I am having problems with my Iranian roommate. He always calls me “top.” I tried to change my room but the police refused my request. The Sudanese and Somali guys want to have sex with me. I am really scared of them. Other Iranian refugees don’t talk to me at all. I’ve thought about committing suicide.

An Iranian transgender woman asylum seeker similarly described being ostracized by other Iranians when her gender identity was discovered:

When other Iranians realize that I was once a man, they don’t want to talk to me and stop socializing with me. For example, there was an Iranian woman who was really nice to me when I got here and helped me find a job. When she realized that I was transsexual, she stopped talking to me.

Interviewees conveyed that they were harassed and ridiculed by other asylum seekers and refugees particularly when they reported to the foreigners’ police. An Iranian lesbian in Kayseri reported being physically attacked while she waited to sign in:

While I stood in line with my friends, another refugee from Iran, a man, ran at me and hit me in the face. I told him to leave me alone. There was a group of them, and they were yelling at us, calling us “lesbians,” “whores” and “prostitutes.” They don’t understand the difference.

The woman reported that to avoid further attacks, she now makes an effort to arrive at the police station as early as possible. Fearing similar attacks, a transgender woman asylum seeker in Kayseri requested permission to sign in at different hours. The police accommodated LGBT asylum seekers by allowing them to sign in two times a week instead of three. But on those two days, they must appear at the same times as others.

As discussed below, many LGBT asylum seekers also reported avoiding language and vocational courses because of mistreatment by other asylum seekers and refugees there.

### **3.3 Insufficient Police Protection**

In theory, asylum seekers are entitled to protection from personal crime in Turkey. Under the Turkish constitution, citizens and non-citizens alike enjoy the same rights,<sup>81</sup> including the right to initiate legal proceedings.<sup>82</sup> LGBT asylum seekers may, like all others, lodge complaints with the police or the local Prosecutor’s Office.<sup>83</sup> However, few LGBT refugees feel empowered to take legal action in response to harassment or physical violence. Some fear retaliation from local communities and other asylum seekers and refugees. More significantly, however, most feel that the local police are simply unable or unwilling to protect them from the prevalent violence, harassment and exploitation.

All the LGBT refugees represented by HCA and ORAM make a distinction between the local police and the “foreigners’ police,” with whom they had more regular contact. A number reported being satisfied with their

---

<sup>81</sup> Türkiye Cumhuriyeti Anayasası [T.C. Ana.][Constitution of the Republic of Turkey] arts. 10, 12 (Turk.).

<sup>82</sup> T.C. Ana. art. 36.

<sup>83</sup> Criminal Procedure Code (No. 5271), art. 158.

relationship with the foreigners' police and said that some officers had provided them with much-needed information about services and local charities.

However, they consistently report that the local police offered them very little support or protection. Despite the continual violence, harassment and threats LGBT individuals endure, only a handful have successfully lodged formal complaints with the police to the knowledge of HCA and ORAM. In the vast majority of cases, LGBT asylum seekers and refugees reported that the police had not followed up or investigated crimes against them. As a gay asylum seeker in Kayseri reported:

People harass me all the time. They want to have sex with me. I was attacked four times by local youth. Each time, I complained to the police, but nothing ever happened.

Many of the LGBT asylum seekers who had been physically attacked were dismissed with police admonitions to "be more careful" or not to go out after dark. In a typical case, a gay Iranian asylum seeker and his partner described requesting police help after being attacked. The police took the partner, who had been severely beaten, to the hospital. The next day, the police told the couple that they would not pursue a criminal complaint. They instead warned the couple that they could be deported if they tried to defend themselves:

The police told us not to defend ourselves and not to fight back if we were attacked again. They said if we fought back, we would be deported. The officer told us that even women walking alone in the city are in danger and that we should just go out less.

It was clear to these asylum seekers that the police would not initiate an investigation of the attack. Rather than provide protection, the police perpetuated the victims' sense of exposure, isolation and defenselessness. In the same vein, many interviewees reported being warned by police to stay inside after dark if they wanted to avoid being attacked. Transgender women interviewees reported they were commonly advised to dress and behave "like men." Lesbians reported being cautioned by police to simply stay away from men. One lesbian recounted that when she explained her fear of being attacked to the local police, she was advised to avoid all men, including gay men:

We need our community and we need to turn to each other. But we can't turn to gay men for help because the police told us not to talk to them. The police believe that if we are lesbians, we should not have contact with any men at all, even our local grocer. The police say that if we talk to men, then they'll think we're not lesbians.'

A positive sign came from interviewees living in a building where many of Kayseri's LGBT asylum seekers and refugees reside. They reported in April 2009 that the local police had become significantly more responsive to their calls for help. This development followed a serious attack in March 2008 on five Iranian LGBT individuals in that city. Kayseri, which hosts a high proportion of Turkey's LGBT asylum seekers and refugees, is said to harbor particular hostility toward this demographic group.

Few LGBT refugees report incidents of abuse or exploitation to the police. Some who had been abused by their employers said they feared the police would penalize them for having worked illegally. Others said they feared the police would not believe them, or would otherwise not follow up on their complaints. LGBT refugees commonly reasoned that, because the police had not protected their friends in the past, they would not help them either. Lastly, interviewees from two satellite cities reported that local police had breached confidentiality and divulged their sexual orientation or gender identity to their landlords, thus exposing them to further targeting. These experiences likely drive LGBT asylum seekers and refugees further underground, isolating them and rendering them even more vulnerable to violence and harassment.

### 3.4 Precarious Housing

Asylum seekers and refugees in Turkey are generally required to pay their own housing costs. While provincial “Social Assistance and Solidarity Foundations” are authorized to provide destitute asylum seekers with financial assistance,<sup>84</sup> their budgets are often small, and must be divided among all local residents. UNHCR provides very limited financial assistance, but only to the most vulnerable. Because few LGBT refugees are able to find work in Turkey, and many run from home with little money and less family support, finding and maintaining secure housing can be very difficult. Widespread discrimination further limits their options.

Most LGBT refugees find housing with other LGBT refugees in their satellite cities. The majority represented by HCA and ORAM live in cramped and overcrowded apartments. Despite the difficulties, they are generally happy to live with other LGBT individuals. In this way, even if they could not avoid harassment outside, they could enjoy financial and emotional support at home. As one interviewee reported:

I am happy to live with two other gay refugees. We are from the same generation. We arrived together in Kayseri at the same time. We are all from Tehran. We understand each other’s situation and experiences.

All those interviewed expressed serious concerns about paying their rent and utilities. Even the few who were employed had difficulties meeting their housing expenditures. Most were living so close to the poverty line that any assistance whatsoever was crucial. A number had received furniture and other items from recognized LGBT refugees who had been resettled to third countries. A handful were also provided extremely modest financial assistance by UNHCR, while a few others were assisted by LGBT organizations abroad. Those who had brought money with them from home had typically spent it soon after arriving in Turkey.

As one LGBT refugee described, sources of funds and support, which are more commonly available to other asylum seekers and refugees, are often unavailable to LGBT individuals:

All refugees have problems in Turkey. However, I believe that some problems are very unique to our situation. Many LGBT refugees have no one to turn to. Refugees who fled their countries because of their political activism often can turn to their political parties for support. Refugees who fled for religious reasons can turn to their religious communities. Some refugees can turn to their families in their home country for support. Many of us left everything behind. We have been cut off from our communities, our families in our countries and have no one to turn to.

Experts have termed this phenomenon “double marginality.” As one author pointed out, the effect of being both LGBT and an asylum seeker is not simply the cumulative sum of belonging to both groups. Rather, these experiences of marginalization are compounded, yielding profound distancing from traditional support systems and resources.<sup>85</sup>

As indicated above, LGBT people also reported widespread housing discrimination. Many reported being rejected by prospective landlords, either because they were foreign, because their gender identity or sexual orientation were identifiable, or both. Others were evicted when their sexual orientation or sexual identity was discovered. An Iranian transgender woman refugee in Isparta reported:

We spent three nights in a hotel and then an Iranian refugee agreed to share his flat with us. After two weeks, when he realized that we were partners, he told us to leave his place. In particular, he did not want us to stay with him because I look feminine and wear make-up.

---

<sup>84</sup> Law on the Encouragement of Social Assistance and Solidarity (No. 3294), art. 1.

<sup>85</sup> Timothy Randazzo, *Social and Legal Barriers: Sexual Orientation and Asylum in the United States*, in *QUEER MIGRATIONS: SEXUALITY, U.S. CITIZENSHIP, AND BORDER CROSSINGS* 30, 38 (Eithne Luibhéid & Lionel Cantú, Jr. eds., 2005).

Many interviewees described that their neighbors regularly lodged frivolous police complaints against them. Others said their neighbors had complained about them to their landlords without cause. A transgender man asylum seeker reported being evicted following such a complaint:

The neighbors complained to the landlord and he has given us five days to leave. He also raised the rent... but I could not pay it. So he told us to get out since our neighbors had been complaining about us.

Turkish law provides little protection from these violations. Housing discrimination in Turkey is not prohibited on the basis of sexual orientation or gender identity. While housing law does provide a modicum of protection by delineating the limited grounds for eviction<sup>86</sup> or the circumstances under which repairs must be provided,<sup>87</sup> these protections are accorded only to legal tenants with enforceable leases. Since most LGBT asylum seekers and refugees have not signed housing contracts, they cannot benefit from this law. Moreover, while on a theoretical level, LGBT asylum seekers and refugees may initiate a lawsuit against a landlord,<sup>88</sup> none of those interviewed had done so, as many reported they feared retaliation. Moreover, they could not afford the associated legal fees and court costs.

### **3.5 Discrimination and Violence in the Workplace**

Turkey's asylum regulation acknowledges the right of asylum seekers to seek employment. The regulation further specifies that they should be "assisted and encouraged" to apply for work permits.<sup>89</sup> Thus, asylum seekers and refugees have the right to apply for work permits, like all non-citizens.<sup>90</sup> However, in practice, very few have been able to exercise this right,<sup>91</sup> as the process is administratively complicated and expensive. As a threshold requirement, the applicant must hold a six-month residence permit at minimum. The process also requires that the applicant's employer sponsor him or her, an often insurmountable hurdle. Moreover, the applicant must submit detailed identification documentation and educational certification, which few asylum seekers bring from their countries of origin. Unprotected against widespread workplace exclusion and discrimination, LGBT asylum applicants are hard-hit by these requirements.

Since virtually no asylum seeker can obtain lawful employment authorization, many turn to illegal employment. Deprived of standard workplace protections and viewed by unscrupulous employers as vulnerable, many are subjected to exploitative working conditions.<sup>92</sup> LGBT asylum seekers and refugees, especially those who are identifiable, are particularly vulnerable to employment discrimination and mistreatment. They are also frequently victims of sexual harassment and violence in the workplace. Even those without residence or work permits may lodge complaints with the police or a prosecutor, and may launch a legal action against abusive employers.<sup>93</sup> However, few have the knowledge, tools or funds to do so. Moreover, with their economic survival in the balance and employment opportunities scant, most endure such abuses for as long as they can bear. The few who complain do so at the risk of retaliation by their employers.

---

<sup>86</sup> Code of Obligations and Real Property Rentals Act (No. 6570).

<sup>87</sup> *Id.*

<sup>88</sup> T.C. Ana. art. 36.

<sup>89</sup> 2006 Circular, *supra* note 57, art. 19.

<sup>90</sup> The Law on Work Permits for Foreigners (No. 4817).

<sup>91</sup> The Law on Work Permits for Foreigners stipulates that only those foreigners who are able to perform work for which a qualified Turkish national cannot be identified will be granted work permits. In practice, most asylum seekers have neither the language ability nor the specialized skills that would enable them to fulfill this requirement. Even the rare asylum seeker who holds the necessary qualifications has to first find an employer willing to initiate and pursue a burdensome procedure with the Ministry of Labor.

<sup>92</sup> U.S. Committee for Refugees and Immigrants, *World Refugee Survey 2009: Turkey* (June 19, 2008), <http://www.refugees.org/resources/refugee-warehousing/archived-world-refugee-surveys/2009-wrs-country-updates/turkey.html> (accessed June 10, 2011) [hereinafter *Turkey Refugee Survey*].

<sup>93</sup> T.C. Ana. art. 36; Criminal Procedure Code (No. 5271), art. 158.



### **Discriminatory Hiring**

The majority of LGBT asylum seekers and refugees represented by HCA and ORAM reported that they had not found any work in Turkey, despite concerted efforts to do so. All attributed this to their LGBT identity, their status as asylum seekers or to both. A transgender man asylum seeker described the typical reaction he received from prospective employers:

I applied for jobs several times but the first thing they asked was whether I was a boy or a girl. So I stopped looking. The way the people looked at me made me give up.

Some reported entering shops or other establishments with job openings, only to be told that they could not apply because of their appearance. A gay asylum seeker in Kayseri described:

I applied for work at many places and they all said no. Even shops that had a "help wanted" sign said no to me. When you enter a shop, they look at you like you're a creature. When you ask for job, they say yes we need someone, but not you.

Many visible LGBT asylum seekers and refugees also described being taunted or humiliated when they attempted to find work. A transgender woman transgender Iranian reported:

Whenever we try to find a job, people laugh at us. When we enter a place looking for work, they start to call us "*bayan*" [madam] and "*abla*" [sister]. They also try to give us hints that they want sex with us, like flirting. I do calligraphy and I can write Koranic verses. I tried to do some and brought them to shops, but when they found out we were gay, they refused to buy from us. There is a library where we left calligraphy things for sale, but they refused to keep them there.

### **Workplace Abuse**

The few LGBT refugees represented by HCA and ORAM or interviewed for the 2009 edition of *Unsafe Haven* who had secured employment reported harassment, violence and termination because of their sexual orientation or gender identity. An Iranian transgender woman described the physically threatening circumstances of her termination:

One day I found a job at a local factory. I had dressed like a man because I thought I would be more easily accepted. The job was really hard work and it involved a lot of lifting. The second day I went into work, I forgot to take off my earring and I was fired. The supervisor called an employee to escort me out. This man actually took out a knife, held it to the side of my head and threatened to cut off my ear. I was escorted out of the factory by this man with a knife to my back.

Another transgender woman asylum seeker reported being sexually harassed and physically threatened by her employer:

I was working in a restaurant. Three days after I started working there, the owner of the restaurant held a pair of scissors to my face and threatened me. He then told me that he wanted to "take me out" [on a date]. I understood that he wanted to have sex with me. I took the money that I was owed for three days' work and did not return because I was too frightened.

Others confirmed that LGBT individuals simply cannot retain work after their sexual orientation or gender identity becomes known. A gay Iranian noted:

My partner found some work. Some days later, [his employers] saw us walking downtown together. Immediately afterwards, he was fired.

Similarly, a transgender woman asylum seeker described the circumstances of her termination as follows:

I began working in a restaurant when I came here. When they realized that I was transgender, they told me that they didn't want me to work for them anymore. They explained to me that they only wanted women working there. I tried to explain that I am also a woman but they didn't understand and they fired me.

LGBT refugees uniformly believe they have no legal recourse against their employers since they lack work authorization. Moreover, most feel estranged from the law enforcement system, which they perceive as apathetic to their plight at best, hostile at worst.

A small number of LGBT refugees turn to survival sex work because they can find no other employment. These individuals described being forced to engage in unprotected sex and being subjected to harassment and attack by local Turkish sex workers, who accused them of taking clients away from them. A gay Iranian in Isparta recounted:

I worked in a restaurant for four months when I first came to Isparta. But when the boss realized I was gay he fired me. Now I work as a sex worker in Egirdir and Isparta. I have to because I have no money and I have to survive somehow.

These sex workers suffer from multiple marginalities: they are LGBT, they are engaging in a socially-ostracized occupation, they are asylum seekers, and they have little or no access to health care. Exposed to sexually transmitted diseases and client violence, their only mode of survival threatens their immediate physical safety as well as their long-term health.

### **3.6 Inaccessible Health Care**

Asylum seekers and refugees in Turkey are required to pay their own medical expenses in full.<sup>94</sup> While the UNHCR provides limited financial assistance to the most vulnerable, the amount provided is often insufficient to cover the full cost of medical treatment.<sup>95</sup> The State provides medical assistance only in extraordinary cases of destitution and if the UNHCR is unable to assist. Moreover, the State's assistance is circumscribed by limitations on its resources.<sup>96</sup> In many satellite cities, in order to receive State assistance, an asylum seeker must report to the local foreigners' police. After an initial assessment, the police may refer the case to the "Social Assistance and Solidarity Foundation," which assesses the applicant's financial and medical needs, and in turn decides whether or not to cover the cost of medical services needed.<sup>97</sup> Due to electronic registration systems in state hospitals, those without a residence permit that includes a Foreigners' ID Number have difficulty accessing medical care, regardless of their ability to pay. Local medical referral mechanisms for asylum seekers vary widely. While some comply with or exceed the standards set in Turkey's asylum

---

<sup>94</sup> 2006 Circular, *supra* note 57, art.19.

<sup>95</sup> Turkey Refugee Survey, *supra* note 92.

<sup>96</sup> 2006 Circular, *supra* note 57, art.19.

<sup>97</sup> *Id.* Provincial "Social Assistance and Solidarity Foundations" are regulated by a board consisting of representatives from the province, municipality, education, health and social services departments, NGOs as well as benevolent citizens, *mukhtars* (local leaders) and *mufti* (religious scholars).

regulation, most fall short. These conditions have not significantly changed since the 2009 edition of *Unsafe Haven*. UNHCR's implementing NGO partners<sup>98</sup> provide free mental health counseling in a number of satellite cities.<sup>99</sup>

### **Medical Care**

As reported in the 2009 edition of *Unsafe Haven*, the difficulty in affording medical care remains an enduring concern for LGBT refugees. Their financial and vocational marginalization renders that care even less accessible to them than other asylum seekers and refugees. While the majority of LGBT refugees are able to access the state health care system for diagnosis, most are unable to pay for the follow-up treatment, including medication and surgery. With conditions left untreated, many reported that their symptoms had worsened. In one severe case, a diabetic interviewee had not received necessary treatment for three months and reported suffering from liver failure.

Notably, LGBT refugees do not generally report mistreatment by medical professionals on the basis of their sexual orientation or gender identity. In fact, most were satisfied with the limited medical care they received. Nevertheless, many report that the dearth of interpretation services at health care facilities formed a serious barrier to quality health service.

### **Mental Health Care**

LGBT asylum seekers and refugees consistently describe mental health problems resulting from the violence and marginalization they experience. They report depression, anxiety, suicidal thoughts, nightmares, difficulties sleeping, memory problems, and feelings of isolation and loneliness. As one HCA and ORAM client reported:

I suffer from migraines and heart problems but I also have mental problems. I have no one with me here; I am alone. This city is so conservative. The local people don't associate with me and even the other refugees walk the other way when they see me coming. They don't talk to me at all. I thought about committing suicide but I couldn't do it. I don't feel mentally stable, and I'm anxious all the time. I have no one to talk to about this.

Another described:

My partner and I are getting to the point where he is being woken up by my screaming at night from nightmares. I can't sleep. I have so many mental problems.

A number of NGOs including UNHCR's implementing partner, the Human Resources Development Foundation, provide free psychosocial assistance to refugees and asylum seekers in Istanbul. In May 2011, HCA also expanded its psychosocial services available to vulnerable migrants in Istanbul in cooperation with the international NGO, Doctors without Borders. However, these services do not exist in many of the satellite cities. As a result, LGBT refugees are rarely able to access mental health support services or treatment in the cities where they reside. Among those interviewed for this report, the few who received mental health care had been referred by UNHCR or its implementing partner, the Association for Solidarity with Asylum Seekers and Migrants (ASAM).

---

<sup>98</sup> "Implementing" partners receive partial funding from UNHCR to carry out their designated activities.

<sup>99</sup> The Human Resource Development Foundation has offices in Istanbul, Ankara, Ağrı, Eskişehir, Bilecik, Kütahya, Van and Istanbul. The Association for Solidarity with Asylum Seekers and Migrants has offices in Ankara, İstanbul, Kayseri, Nevşehir, Niğde, Gaziantep, Afyon, Çorum, Konya, Tokat, Isparta, Amasya and Kırşehir. However, psychological assistance is not always available in all these cities. See generally, Association for Solidarity with Asylum Seekers and Migrants, available at <http://www.sgdd.org.tr/en/>; see also, Human Resource Development Foundation, available at [http://www.ikgv.org/eng\\_ikgv\\_gecici/refugee.htm](http://www.ikgv.org/eng_ikgv_gecici/refugee.htm).

### 3.7 Barriers to Social Assistance

Asylum seekers who seek public assistance of any kind in Turkey must hold residence permits. Since the publication of the 2009 edition of *Unsafe Haven*, police officers in some of the satellite cities have begun to waive the residence permit fees of many indigent asylum seekers. Limited public relief is available from “Social Assistance and Solidarity Foundations,” whose board members are responsible for evaluating applications and allocating monetary and non-monetary benefits to those in need. However, the criteria for determining financial need are not specified by these foundations and no explicit means test is applied. This leads to arbitrary and inconsistent decisions. Moreover, the meager funding available is usually inconsistently spent and must be distributed among all provincial residents, including Turkish citizens.

Other social assistance varies widely from one satellite city to another. In some cities, indigent asylum seekers have no access to charitable social services. In others, they receive support from local charities, municipalities or non-governmental organizations, which provide food, second-hand clothing, and blankets. Some also receive minimal financial support from UNHCR.

While social assistance for most asylum seekers in Turkey is quite limited, LGBT asylum seekers face notable barriers to services because of their sexual orientation or gender identity. Since the 2009 edition of *Unsafe Haven*, a number have been able to access limited financial support from international donors, including ORAM. KAOS-GL has also become an implementing partner of UNHCR, and has started providing social assistance to LGBT asylum seekers. Despite this limited support, some LGBT refugees still report being subject to degrading treatment by service providers and other consumers. A gay asylum seeker in Kayseri described his treatment at a charity as follows:

We were referred to a local charity that runs a soup kitchen. But when they found out that we were gay, they refused to give us any food. Since we were wearing make-up and our hair was long, all the local people receiving food there laughed at us. I cut off my hair because of this and went back to the charity. But they still refused to serve us. We were told that we were not clean and that they could not give us food because they could not touch us.

We are just asking for our rights, nothing more... We just want to be treated like human beings, not like animals.

LGBT asylum seekers occasionally experience similar treatment at state offices. A transgender woman asylum seeker with severe medical problems described seeking assistance from the governor’s office:

The staff member who works there asked me if I was Bulent Ersoy [celebrity Turkish transgender entertainer]. He told me that I was abnormal and sick and that I should go find a boyfriend to take care of me, because they would not help me. I have been forced to go to the mosque and sleep with people to pay our bills. There are times when we don’t eat anything for two or three days but because I am here with my partner and we find strength together.

### 3.8 Hostile Educational Environment

The right to elementary education is guaranteed under the Turkish Constitution for citizens and noncitizens alike.<sup>100</sup> Adult asylum seekers and refugees are entitled to attend language and vocational classes offered at

---

<sup>100</sup> T.C. Ana. art. 42; Primary Education and Training Law (No. 222), art. 2.

public education centers throughout Turkey.<sup>101</sup> In order to be eligible, however, asylum seekers and migrants must present a valid residence permit.<sup>102</sup> Most of the LGBT asylum seekers and refugees interviewed lack these permits.

A small number of non-governmental organizations in Turkey provide language instruction and vocational training to asylum seekers. Since the 2009 edition of *Unsafe Haven*, ORAM has provided English language classes to LGBT refugees bound for its pilot resettlement site in the San Francisco Bay Area. Most LGBT refugees are either unaware of other language programs or are unsure how to register for them. Given the relative isolation of LGBT asylum seekers from traditional Turkish social services and from other migrants, this is not surprising.

One LGBT refugee reported that he had been flatly denied language education based on his sexual orientation. He stated that police had refused to refer him to a class despite his repeated efforts to enroll. However, many others are effectively denied access to education for the same reason. Harassment by other asylum seekers and refugees tended to be the main reason that most LGBT asylum seekers were not attending available language or vocational classes. Many reported having attended classes but dropping out after being ridiculed by other asylum seekers. A gay asylum seeker in Kayseri noted:

I took a Turkish course at a local school. There were many refugees from my country in the class. They really shunned my friends and me, making fun of us. I felt so rejected that I never went back.

Another stated:

We would rather not attend educational courses of any kind because we are scared of other refugees from our country. They laugh at us all the time and some of them have threatened us. Why would we want to put ourselves through this?

#### **4. Recommendations**

---

The findings from the 2009 edition of *Unsafe Haven* combined with HCA and ORAM's subsequent two years representing LGBT asylum seekers and refugees in Turkey point to many concrete changes needed to create a protective environment for this community. They involve the revision of procedures, reconfiguration of priorities and re-allocation of resources. Some of the changes are predicated on uneasy challenges to entrenched preconceptions. Yet in the absence of such shifts, real protection for LGBT asylum seekers and refugees in Turkey will continue to be an elusive goal.

In order to maximize the usefulness of the findings, our recommendations below are directed separately to each of the stakeholders indicated.

##### ***The Government of Turkey, the Turkish Ministry of Interior and Police in Satellite Cities***

- Enact hate crimes legislation that includes sexual orientation and gender identity as protected categories.
- Amend legislation, including in Turkey's Constitution and Penal Code, to explicitly prohibit discrimination in housing, employment and government service provision on the basis of sexual orientation and gender identity.
- Ensure that those convicted of crimes against LGBT individuals on the basis of their identity are sentenced no less leniently than those convicted of similar crimes against non-LGBT individuals.

---

<sup>101</sup> Ministry of National Education, Directive on Public Education Institutions, 14 February 2006 / 26080, art. 54; Occupational and Technical Education Directive, 3 July 2002 / 24804, art. 45(b).

<sup>102</sup> *Id.*

- Take affirmative measures to prevent, stop and prosecute acts of violence against LGBT asylum seekers and refugees.
- Respond appropriately and timely to complaints lodged by LGBT asylum seekers and refugees.
- When requested by LGBT asylum seekers or refugees, introduce regular police patrols in areas where they live.
- In consultation with LGBT asylum seekers and refugees, take other policing measures to prevent violence based on sexual orientation or gender identity. This may include designated specific officers to work with LGBT refugee communities.
- Allow LGBT asylum seekers and refugees to reside in cities where they are less likely to be targeted based on their sexual orientation or gender identity. Focus on cities with established LGBT communities and advocacy groups, which are able to offer support. Consult with LGBT asylum seekers and refugees to determine appropriate cities, including those with local LGBT communities and advocacy organizations. Permit LGBT asylum seekers and refugees to be reassigned to these cities.
- Train police in satellite cities to interact with, provide services to, and respond effectively to complaints by LGBT asylum seekers and refugees.
- Train police in satellite cities on sexual orientation and gender identity issues and on best practices for interacting with and providing services to LGBT asylum seekers and refugees. Focus training on alternatives to advising LGBT asylum seekers to hide their sexual orientation or gender identity, to stay home or to avoid social interaction.
- Train foreigners' police officers who conduct "temporary asylum" interviews in the identification of potential sexual orientation and gender identity claims and in methods to elicit relevant testimony in a non-threatening manner. Train officers to pose questions that elicit information about the asylum seeker's identity as an LGBT person, rather than focusing on his or her sexual history.
- Train officers, except where essential to a specific persecution claim (e.g., forced sexual relations) to avoid unnecessarily invasive or intimidating sex-related questions (including questions regarding sexual positions, sexual acts or numbers of partners).
- Train officers not to focus on appearance or other behavior stereotypes (e.g., that gay men are effeminate or lesbians are masculine) as a means of assessing credibility regarding sexual orientation or gender identity.
- Recruit and maintain sufficient numbers of interpreters able to communicate in relevant languages to serve the asylum seeker caseload.
- Ascertain whether an LGBT asylum seeker has preference for a male or female interviewing officer and interpreter. Attempt to make assignments accordingly.
- Train interpreters on best practices for working with LGBT asylum seekers, including issues of confidentiality, impartiality and respect. Ensure that interpreters are aware of and employ appropriate terminology for use with LGBT asylum seekers.
- Whenever possible, provide LGBT asylum seekers with interpreters who are not themselves asylum seekers or refugees.
- Assure asylum seekers, in the presence of the interpreter, that all statements, regardless of their nature, will be guarded in strict and absolute confidence by examiner and interpreter alike.
- Conduct "temporary asylum" interviews in private areas or rooms.
- Reduce the number of days that LGBT asylum seekers must "sign in" with the foreigners' police and allow them to do so on days/times and in areas different from other asylum seekers.
- Notify applicants immediately upon the grant of "temporary asylum."
- Expedite "temporary asylum" applications for all asylum applicants including LGBT applicants.
- Uniformly grant waivers of residence permit fees for indigent LGBT refugees in accordance with Article 88 of the Law on the Collection of Fees (No. 492).
- Continue to grant permission to asylum seekers who wish to travel outside their "satellite cities."
- Coordinate with Ministry of Labor and other relevant government bodies to provide work permits to asylum seekers (including applicants for "temporary asylum" who have registered with the police). On a case by case basis, grant fee and documentation waivers to work permit applicants who are asylum seekers. A work permit should not bind its holder to a single employer.
- Coordinate with Ministry of Health and other relevant government bodies to provide asylum seekers (including applicants for "temporary asylum" who have registered with the police), with universal,

free access to health services and medication. For the duration of their lawful stay in Turkey, asylum seekers should have access to the same health services as Turkish citizens.

- Coordinate with the Ministry of Labor and Social Security and other relevant government bodies to allow asylum seekers universal access to social services. For the duration of their lawful stay in Turkey, asylum seekers should have access to the same social services as Turkish citizens.
- Introduce guidelines to conduct a “means test” to determine destitution among asylum seekers. Apply the means test to grant qualifying applicants exemptions from residence fees. Promptly provide written reasons where an application for an exemption is denied.
- Conduct outreach to LGBT organizations and other relevant organizations and professionals to provide input on training.

#### ***The United Nations High Commissioner for Refugees in Geneva and Turkey***

- Use positive developments in UNHCR Turkey as the basis for training, supervision and mentoring in field offices internationally regarding best practices for interacting with and providing services to LGBT asylum seekers and refugees.
- Undertake reforms and initiatives set out in the *UNHCR-NGO Partnership Concepts: Summaries of Projects & Goals Pertaining to Lesbian, Gay, Bisexual, Transgender and Intersex (LGBT) Refugees & Asylum-Seekers 2010-2012* (the “LGBT Action Matrix”) in a timely fashion.
- Regularly continue to sensitize all staff on LGBT concepts and experiences, whenever possible with the support of domestic LGBT organizations and experts.
- Regularly continue to train RSD staff on the use of the interviewing techniques that are not invasive or unnecessarily focused on sexual history, preferences or experiences. Include training on the use of the November 2008 *Guidance Note on Refugee Claims relating to Sexual Orientation and Gender Identity*,
- On their issuance, regularly conduct training with RSD staff on *Guidelines relating to Refugee Claims based on Sexual Orientation and Gender Identity*.
- Continue to expedite refugee status determination and resettlement referral procedures for vulnerable LGBT asylum seekers.
- Ascertain whether an LGBT asylum seeker has preference for a male or female legal officer and interpreter. Attempt to assign accordingly.
- Recruit and maintain sufficient numbers of interpreters able to communicate in relevant languages to serve the asylum seeker and refugee caseload.
- Train interpreters on best practices for working with LGBT asylum seekers, including issues of confidentiality, impartiality and respect. Ensure that interpreters are aware of and employ appropriate terminology for use with LGBT asylum seekers.
- In the presence of interpreters, assure asylum seekers, that all statements, regardless of their nature, will be guarded in strict and absolute confidence by examiner and interpreter alike.
- In coordination with resettlement countries, refer recognized LGBT refugees for resettlement together with their partners.
- Ensure that the situation of vulnerable LGBT refugees is clearly and timely conveyed to resettlement countries so that they may expedite resettlement processing to the extent possible.

#### ***Governments of Resettlement Countries including the United States, Canada, Australia, and Sweden***

- Increase the numbers of LGBT refugees accepted for resettlement.
- Expedite resettlement processing for vulnerable LGBT refugees.
- Ascertain whether an LGBT refugee has preference for a male or female interviewing officer and interpreter. Attempt to assign accordingly.
- Recruit and train staff and interpreters to work appropriately and sensitively with LGBT refugees.
- Train staff and interpreters interviewing LGBT refugees in accordance with recommendations to the Government of Turkey and UNHCR above.
- Where possible, resettle LGBT refugees in cities with established LGBT communities.
- Resettle LGBT couples together. Make all efforts to resettle couples in locations recognizing same-sex marriage or domestic partnership.

- For countries that do not recognize same-sex union, treat partners as a single economic unit entitled to joint resettlement.
- Work with established domestic LGBT and other groups to develop support systems and improve the integration of newcomers.

#### ***Governments of UNHCR Donor Countries***

- Support UNHCR in its efforts to better serve LGBT refugees, including by undertaking reforms and initiatives set out in the *UNHCR-NGO Partnership Concepts: Summaries of Projects & Goals Pertaining to Lesbian, Gay, Bisexual, Transgender and Intersex (LGBT) Refugees & Asylum-Seekers 2010-2012* (the “LGBT Action Matrix”) in a timely fashion.
- Fund UNHCR BO Ankara and other offices, as needed, to ensure a manageable caseload and one that allows senior staff to oversee the effective management of the LGBT caseload.

#### ***Service Providers in Satellite Cities, including Nongovernmental Organizations and Independent Professionals***

- Provide services and assistance to all asylum seekers and refugees without regard to sexual orientation or gender identity.
- Train staff on the special needs and vulnerabilities of LGBT asylum seekers and refugees.
- Sensitize staff to interact appropriately and respectfully with LGBT asylum seekers and refugees.
- Train staff and interpreters interviewing and providing services to LGBT asylum seekers and refugees in accordance with recommendations to the Government of Turkey and UNHCR above.
- Provide additional training on eligibility for refugee status based on persecution due to sexual orientation and gender identity.
- Recruit and maintain sufficient numbers of interpreters able to communicate in relevant languages to serve the needs of asylum seeker and refugee communities.
- Ascertain whether an LGBT asylum seeker or refugee has preference for a male or female service provider and interpreter. Attempt to assign professionals accordingly.
- Take steps to raise awareness among local, refugee and migrant communities to prevent discrimination and violence against LGBT asylum seekers and refugees.
- Develop workshops for local asylum seekers and refugees regarding their rights and the steps they should take if they fall victim to violence, harassment or unlawful discrimination.
- Assist and support LGBT asylum seekers and refugees in lodging police complaints against attackers and harassers.
- Facilitate communication and understanding among leaders of the various local, refugee, migrant and LGBT refugee communities.

#### ***Health Providers in Satellite Cities***

- Train and sensitize staff on the cultural and communication barriers that prevent effective services from reaching LGBT asylum seekers and refugees.
- Train health and medical professionals regarding HIV/AIDS transmission to reduce fear and misinformation.
- Provide sufficient and adequately trained staff and interpreters.
- Provide medical services to LGBT asylum seekers in a non-discriminatory manner.
- Ascertain whether an LGBT asylum seeker or refugee prefers a male or female health provider or interpreter. Attempt to assign service providers accordingly.

#### ***State Adult Education Providers in Satellite Cities***

- Train educators serving LGBT asylum seekers and refugees in accordance with the recommendations of this report to the Government of Turkey, UNHCR and service providers.
- Train educators on the importance of providing services to LGBT asylum seekers and refugees in a non-discriminatory manner.



- Emphasize the importance of preventing violence against all asylum seekers and refugees, including LGBT individuals.
- Develop explicit guidelines and codes of respect and responsibility to eliminate discrimination against and among all students, explicitly including LGBT individuals. Explain these guidelines to all students in their first class and ensure their enforcement.
- If requested by LGBT asylum seekers and refugees, establish a system of educational “house calls” or “home schooling” for LGBT persons unable to leave home or to attend public courses for fear of harassment or threats in the classroom.

#### ***Refugee and Migrant Community Leaders***

- Seek training from LGBT organizations to raise awareness of LGBT issues.
- Work to prevent violence against and harassment of LGBT asylum seekers and refugees.
- Facilitate communication and understanding between LGBT asylum seekers and refugees and the broader refugee and migrant community.
- Advocate for inclusion and support of LGBT asylum seekers and refugees within the broader refugee and migrant community.

#### ***LGBT Asylum Seekers and Refugees***

- Convey fully and clearly the mistreatment that you suffered in your country of origin based on your sexual orientation or gender identity when applying for international protection to the UNHCR and the Government authorities.
- Immediately report to the police all instances of harassment and violence.
- Initiate and maintain contact with organizations that assist asylum seekers and refugees.
- Maintain contact with LGBT and refugee advocacy organizations to develop joint efforts to raise awareness among LGBT asylum seekers and refugees regarding their legal rights in Turkey (e.g., employment rights, access to health and social services, and asylum procedures).

## **5. Conclusion**

---

LGBT people are among the most marginalized and vulnerable asylum seekers and refugees in Turkey today. The protections extended by the government of Turkey and UNHCR allow these individuals to escape the severe mistreatment, torture and death they faced in their countries of origin. However, their physical survival is often mired in new dangers and deprivations in often-hostile environments in Turkey. Some of the perils and threats stem from a dearth of resources at the local, national and international levels. Others result from lack of knowledge, fears and deeply-ingrained societal prejudices. Together, these factors conspire to form a woefully deficient protection environment for Turkey’s LGBT asylum seekers and refugees. The determined introduction of education and training could set both UNHCR and the Turkish government on the path to according these persons a modicum of dignity and security as they seek more permanent safety. Only then will the treaties and laws that comprise the international refugee regime be imbued with real meaning for these highly vulnerable individuals.