

ARE REFUGEES WELCOME?

Access of persons in need of international protection to economic and social rights in the northern part of Cyprus

October 2018



Refugee Rights Association (RRA) was established in 2009 to work against the shortcomings and violations regarding the right to asylum in the northern part of Cyprus and to provide legal and social support for refugees. Over time, the organisation extended its activities to include efforts to combat trafficking and racism.

kisa

Ισότητα, Στήριξη, Αντιρατσισμός
Equality, Support, Antiracism



Action for Equality, Support, Antiracism (KISA) was established in 1998, and its action is focused on the fields of Migration, Asylum, Racism, Discrimination and Trafficking in Human Beings. KISA's vision is the promotion of an all-inclusive, multi-cultural society, free of racism, xenophobia and discrimination and where, through the interaction and mutual respect of diverse cultures, there will be equality and respect for the rights of all, irrespective of race, nationality or ethnicity, colour,

creed or beliefs, gender identity, sexual orientation, age, inability or any other diversity.



human rights for all!
insan hakları herkes için!
ανθρώπινα δικαιώματα για όλους!

The present report is part of the project **“Human Rights for All!”**, which is funded by the European Union under the Cypriot Civil Society in Action programme and implemented by RRA in partnership with KISA. The overall aim of the three-year project is to combat racism and to ensure that human rights of refugees are respected. Main project activities include trainings on asylum, standards of detention, protection from ill-treatment & torture; thematic reports on human rights of refugees; workshops for refugees on their rights; awareness-raising campaigns on the International Day for the Elimination of Racial Discrimination; panel discussion on migration and asylum policy

in a unified Cyprus; summer volunteer programs and advocate for legal change in the northern part of Cyprus.

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List of Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECRE	European Council on Refugees and Exiles
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
RRA	Refugee Rights Association
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	the United Nations High Commissioner for Refugees

Glossary

Human Rights: Agreed international standards that recognize and protect the dignity and integrity of every individual without any distinction. Human rights form part of customary international law and are stipulated in a variety of national, regional, and international legal documents, generally referred to as human rights instruments. The most prominent of these are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

Human Rights Law: The body of customary international law, human rights instruments, and national laws that recognizes and protects human rights. Refugee law and human rights law complement each other.

International Refugee Law: The body of customary international law and international instruments that establishes standards for refugee protection. The cornerstone of refugee law is the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.

Refugee: A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under the mandate of the Office of the United Nations High Commissioner for Refugees (UNHCR), and/or in national legislation.

Persecution: It is understood to comprise of human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element.

Well-Founded Fear of Persecution: A key element of the 1951 Convention's definition of a refugee. Well-foundedness of fear contains both a subjective element (fear of persecution) and an objective element (the fear must have an objectively justifiable basis).

Particular Social Group (membership of a): One of five possible grounds on the basis of which persecution may be established under the 1951 Convention. A particular social group is a group of persons who either share a common characteristic (other than the risk of persecution) 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 fundamental rights.

Nationality: The status of being a citizen of a particular nation or country.

Customary International Law: International laws that derive their authority from the constant and consistent practice of States rather than the formal expression in a treaty or legal text. In order for State practice to contribute to the formation of customary international law, the practice should be conducted with a sense of legal obligation.

Refoulement: Returning a person to territories or other places in which they will face persecution or where there exists a risk of persecution. *Refoulement* means a breach of the principle of *non-refoulement*, contrary to refugee law and customary international law.

Non-Refoulement: A core principle of international refugee law that prohibits States from returning refugees

in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. The principle of *non-refoulement* is a part of customary international law and is therefore binding of all States, whether or not they are parties to the 1951 Convention.

Convention Relating to the Status of Refugees: A Convention that establishes the most widely applicable framework for the protection of refugees. The Convention was adopted in July 1951 and entered into force in April 1954. Article 1 of the 1951 Convention limits its scope to “events occurring before 1 January 1951”. This restriction is removed by the 1967 Protocol relating to the Status of Refugees. As of 1 July 2005, there are 145 States who are parties to the 1951 Convention and/or the 1967 Protocol.

Asylum: The granting of protection by a State within its territory to persons from another State who are fleeing persecution or serious danger. Asylum encompasses a variety of elements, including *non-refoulement*, permission to remain within the territory of the asylum country, and humane standards of treatment.

Asylum-Seeker: An asylum-seeker is an individual who is seeking international protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Ultimately, not every asylum-seeker may be recognized as a refugee, but every refugee is initially an asylum-seeker.

International Protection for Refugees: The actions by the States or UNHCR aimed at protecting the fundamental rights, security, and well-being of asylum seekers and refugees in accordance with international standards. Such actions include: ensuring respect for the *non-refoulement* principle, access to security, fair refugee status-determination procedures, humane treatment standards, and durable solutions.

Durable Solutions: Any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives. Traditionally, the UNHCR pursues durable solutions for voluntary repatriation, local integration, and resettlement.

Voluntary Repatriation: Return to the country of origin based on the refugees’ free and informed decision. Voluntary repatriation may be *organized*, (i.e., when it takes place under the auspices of the concerned governments and UNHCR), or *spontaneous* (i.e., the refugees return by their own means with the UNHCR and governments having little or no direct involvement in the process of return).

Reintegration: A process which enables returnees to regain the physical, social, legal, and material security needed to maintain life, livelihood, and dignity, which eventually leads to the disappearance of any observable distinctions vis-à-vis their compatriots. Ideally, reintegration follows voluntary repatriation that is one of the durable solutions.

Local Integration: A durable solution to the problem of refugees that involves their permanent settlement in the first country of asylum, and eventually, being granted citizenship of that country.

Resettlement: The transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them. The refugees will usually be granted asylum or some other form of long-term resident rights and, in many cases, will have the opportunity to become naturalized citizens. For this reason,

resettlement is a durable solution as well as a tool for the protection of refugees. It is also a practical example of international burden –and responsibility –sharing.

Standards of Treatment: Standards derived from the 1951 Refugee Convention and other international instruments that set the parameters for the treatment of refugees. The 1951 Convention provides for various standards of treatment, depending on the particular rights in question. These are treatment not less favourable than that generally accorded to aliens in similar circumstances; the most favourable treatment accorded to nationals of a foreign country in the same circumstances; the same treatment as is granted to nationals; and treatment as favourable as possible.

Persons of Concern to UNHCR: A generic term used to describe all persons whose protection and assistance needs are of interest to the UNHCR. These include refugees under the 1951 Convention, persons who have been forced to leave their countries as a result of conflict or events seriously disturbing public order, asylum seekers, returnees, stateless persons, and, in some situations, internally displaced persons. The UNHCR's authority to act on behalf of the person(s) of concern other than refugees is based on the General Assembly resolutions.

Mandate Refugees: Persons who are recognized as refugees by the UNHCR acting under the authority of its Statute and relevant UN General Assembly resolutions. Mandate status is especially significant in States that are not parties to the 1951 Convention or its 1967 Protocol.

Child: Under the Convention on the Rights of the Child (CRC), a “child” is a person who is below the age of eighteen, unless the applicable law sets a lower age. Adopted in 1989, CRC sets comprehensive standards for the protection of the rights of children. It is underpinned by four guiding principles, one of which is non-discrimination in the application of its standards to all children. Therefore, refugee children fully fall under its scope. The other guiding principles are the “best interest” of the child, the right to life, survival, and development, and the right to participation.

Sex: Biological differences between men and women.

Gender: Defines the relationship between men and women based on identities, statuses, roles, and responsibilities bestowed upon each sex that are socially or culturally constructed and defined. Gender is a socio-economic variable that is used for analyzing roles, responsibilities, limitations, opportunities, and needs in all contexts.

Gender-Related Persecution: Persecution that targets or disproportionately affects a particular gender. Under certain factual circumstances, gender-related persecution may come within the refugee definition.

Executive Summary

While the “refugee rights” regime in international refugee law focuses on the provisions for recognised refugees in this area, the international human rights law is more comprehensive. Also, the lack of legal texts that refer specifically to refugees and asylum seekers, as opposed to various international human rights instruments being part of the domestic legal texts, further increases the importance of these instruments for refugees and asylum seekers in the northern part of Cyprus. Therefore, despite the lack of the aforementioned legal texts, this means that local bodies should never deny economic and social rights that may prevent refugees and asylum seekers them from living in dignified conditions.

Thus, the report discusses the extent that refugees and asylum seekers shall benefit from the rights to housing, health, education, employment and social assistance and elaborates on the situation on the ground. With respect to housing rights, the report presents the affordability of housing as a cause for concern. Although the monthly average cost of housing should be no more than approximately one-third of the total monthly income, the highest proportion of monthly income spent on housing was 60% for a family of six, while nearly half of interviewees stated that they spent more than one-third of their monthly income on rent. Albeit refugees and asylum seekers have access to healthcare in the northern part of Cyprus based on the documentation they receive from the UNHCR, around two-thirds of interviewees stated difficulties in accessing health services due to hospital overcrowding, language problems, and discriminatory treatment they are subject to. Similarly, despite no legal barriers for children accessing education; overcrowding, language barriers for parents when registering their children, costs associated with schooling and discrimination, verbal and physical harassment based on their nationality were listed amongst the problems faced. Regarding employment rights, the report revealed that social insurance and provident fund payments were not always coming through, more than half of those employed worked more than the maximum working hour provided in domestic legal texts, and the income received in return is inadequate to meet basic needs. The main problem in accessing social assistance was due to the “social welfare services department” and Evkaf Foundation not extending the majority of their services to those who are not members of the Turkish Cypriot community and the lack of resources available to CSOs that strive to fill this gap.

Finally, the report proposes recommendations in light of the findings, to ensure respect for the rights elaborated.

Introduction

The purpose of this report is to outline the living conditions of persons in need of international protection residing in the northern part of Cyprus, with particular emphasis on their rights to health, housing, social assistance, education, and employment. To this end, this report elaborates to what extent rights are protected under international refugee law and international human rights law. Furthermore, based on in-depth semi-structured interviews conducted with a total of thirty four respondents (four mandate refugees and thirty persons of concern to the UNHCR), the research provides an overview of the position of persons in need of international protection in the northern part of Cyprus with respect to the enjoyment of the identified rights. Eventually, it draws some preliminary conclusions on the compliance of these domestic legal texts and practices within international standards.

The research was conducted between November 2017 and June 2018 in the northern part of Cyprus and was limited to those registered by the UNHCR Representation in Cyprus as mandate refugees or persons of concern. It is useful to note that as the local bodies in the northern part of Cyprus have not yet taken responsibility of processing asylum claims, it is not possible to gauge the total number of persons in need of international protection in the northern part of Cyprus.

Interviews were conducted at home or in a mutually-agreed space and lasted around 2 hours. Notes were taken during the process, written up immediately afterwards, coded, and compared to other interview data. The interviewees were accessed through their registration at the Refugee Rights Association (RRA).

The interviews were conducted by the RRA staff under the 'Human Rights for All Project'. The interviews were conducted in Arabic and were simultaneously translated into Turkish by an interpreter. A female interpreter was chosen in case gender-sensitive topics emerged during the interviews. The interpreter was made visible so as to increase thoroughness and credibility. The interviews were fully transcribed, closely examined, and coded for topics and subsequent analysis was based on the theory generated from the data. Prevailing themes, topics spoken, and emergent patterns were studied in the coded data.

Furthermore, desk research was conducted on international, regional, and local legal instruments and policies applicable to refugees in the northern part of Cyprus and reports, and statistics from relevant organizations as secondary sources, all of which were validated for credibility.

As the target group in question is one of the most vulnerable and marginalised communities in the northern part of Cyprus, the participants were informed of the purpose of the research and its limited ability to change their lives in order to ensure that their hopes were not falsely raised and their wish to change the plight of their situation did not affect their answers and anonymity by guaranteeing confidentiality. As a consequence, informed consent was secured from respondents; all participants were asked to sign a consent form, which was presented to them in English as well as Arabic, at the beginning and end of each interview; these were read to them. They were also offered the option to amend their answers if they wished to do so. All information which could identify responders has been anonymised.

Furthermore, prior to conducting the interviews, information about appropriate and available counselling providers was collected, in case psychological and emotional trauma was evoked, in order to refer interviewees. As psychological and emotional trauma was not evoked during the interviews, the information to the aforementioned services was not required.

It should also be noted that, as it is the case for most qualitative studies, the generalisability of the findings are limited. This research did not gather an entirely representative sample of persons in need of international protection in the northern part of Cyprus and cannot be expected to do so. Thus, the goal of the research is to study the experiences of a particular group registered with an international agency and/or local NGO. The small sample may entail a limitation of the study, however, similarities in patterns arising during interviews indicate that it is able to paint a bigger picture of experiences of people from within the small sample group.

1. International Refugee Law

“I left my home country because of war, to make sure my children would be safe.” (41 years old, female, Syrian)

The Geneva Convention Relating to the Status of Refugees¹ affords refugees a broad range of rights in the country of asylum. These include economic and social rights, such as the rights to wage-earning employment, housing, public education, public relief, and social security.² Additionally, a ‘most-favoured-nation’ treatment should be provided to refugees regarding employment and refugees should be provided with the same treatment accorded to aliens in general regarding housing and education other than elementary education.³ It is noted that these rights are restricted to refugees that are ‘lawfully staying’ in the country, except for the right to public education; that is to say, those that are “enjoying asylum in the sense of residence and lasting protection”, rather than those that are simply present or lawfully present.⁴

Although this paper does not encompass the situation of those that face criminalisation and deportation in the northern part of Cyprus, but rather those that enter the territory regularly and thus can access the local NGOs and the UNHCR Representation, it is important to note that Article 31 of the Refugee Convention may also be relevant. The article prohibits imposing penalties against refugees:

“on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence”.

It has been argued that measures denying economic and social rights to those that had to enter a country irregularly and who are denied economic and social rights on this basis, may amount to a form of penalty, and thus, might constitute a violation of Article 31.⁵

1 Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, [hereinafter “Refugee Convention”].

2 Articles 17, 21, 22, 23 and 24 respectively.

3 Guy S. Goodwin-Gill and Jane McAdam. *The Refugee in International Law* (3rd edn., Oxford University Press 2006), p.298-9.

4 *ibid*, p. 308.

5 Ryszard Cholewinski ‘Enforced Destitution of Asylum Seekers in the United Kingdom: The Denial of Fundamental Human Rights’ *International Journal of Refugee Law*, 10(3) (1998) pp. 462-98.

2. International Human Rights Law

*"I felt very precious in my country, before the war. Here, I feel less than human. Everything about starting a new life in Cyprus was difficult."
(27 years old, female, Syrian)*

International human rights instruments that go beyond the refugee-specific rights regime in the Refugee Convention can be useful in advancing more powerful claims on behalf of persons in need of international protection.⁶

The international human rights instruments, such as The International Covenant on Civil and Political Rights (ICCPR)⁷ and the European Convention on Human Rights,⁸ apply to both citizens and non-citizens, with a few exceptions. Therefore, they are also applicable to persons in need of international protection.

These instruments contain non-discrimination clauses that oblige State parties to ensure that rights specified in their texts can be enjoyed by everyone within their jurisdiction without discrimination. The Human Rights Committee⁹ has elaborated this as follows:

"In general, the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness.

Thus, the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant, as provided for in article 2 thereof. This guarantee applies to aliens and citizens alike."¹⁰

Additionally, under Article 26 of the ICCPR, there is a substantive equality clause. This is not limited to the rights specified in the ICCPR. This may also apply in discrimination cases in areas that are not explicitly covered by the ICCPR, including economic and social rights. The Committee has stated on various occasions that existing social measures need to be applied in a non-discriminatory manner.¹¹ This article also provides protection for

6 Ryszard Cholewinski 'Economic and Social Rights of Refugees and Asylum-seekers in Europe' (2000) 14 Georgetown Immigration Law Journal, pp.709, p. 712

7 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, [hereinafter: "ICCPR"].

8 Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14 (adopted on 4 November 1950, entered into force 3 September 1953) ETS 5 [hereinafter "ECHR"].

9 The body responsible for monitoring the implementation of the ICCPR that has the power to issue General Comments under Art. 40(4) of the ICCPR. Although these comments are not legally binding, they nevertheless are authoritative regarding the interpretations of the provisions of the ICCPR.

10 UN Human Rights Committee, 'General Comment No. 15: The Position of Aliens under the Covenant' (11 April 1986) UN Doc. A/41/40, Annex VI, paras. 1 and 2.

11 See *Broeks v. the Netherlands*, UN Doc. CCPR/C/29/D/172/1984 (9 April 1987); *Canning v. the Netherlands*, UN Doc. CCPR/C/29/D/180/1994 (1987); *Zwaan-de Vries v. the Netherlands*, UN Doc. CCPR/C/29/D/182/1984 (1987); UN Human Rights Committee, 'General Comment No. 18: Non-discrimination' (10 November 1989) UN Doc. A/45/40, Annex VI, Section A, para. 12.

non-nationals in the socio-economic field.¹²

The International Covenant on Economic, Social and Cultural Rights (ICESCR)¹³ is also worded in an all-embracing language. It has been underlined by the Committee on Economic, Social and Cultural Rights¹⁴ that discriminatory treatment of non-nationals, including persons in need of international protection, is of concern to the ICESCR.¹⁵

It has been highlighted by the Committee that:

"[t]he Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation".¹⁶

Moreover, the Committee has also underlined that the rights contained in the ICESCR must be satisfied to a basic level of enjoyment at the least:

"the Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its raison d'être. By the same token, it must be noted that any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. Article 2(1) obligates each State party to take the necessary steps 'to the maximum of its available resources'. In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations."¹⁷

Even though local bodies in the northern part of Cyprus might well be able to argue, to some extent, that they

12 Ibrahim Gueye et al. v France, UN. Doc. CCPR/C/35/D/196/1985 (1989: The case concerned differences in treatment on the basis of nationality in respect of pension and the Committee decided that 'nationality' is within the scope of the open-ended ground 'other status' in Art. 26.

13 International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966 entered into force 3 January 1976) 993 UNTS 3 [hereinafter: "ICESCR"].

14 The body responsible for monitoring the implementation of the ICESCR.

15 See UN Committee on Economic, Social and Cultural Rights, 'Concluding observations: Belgium' (31 May 1994) UN Doc. E/C.12/1994/7, para. 14.

16 UN Committee on Economic, Social and Cultural Rights, 'General comment No. 20: Non-discrimination in economic, social and cultural rights' (2 July 2009) UN Doc. E/C.12/GC/20.

17 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 3: The Nature of States Parties' Obligations' (14 December 1990) UN Doc. E/1991/23, para. 10.

do not possess sufficient resources to secure social rights for non-nationals, including refugees and asylum seekers, as they have ratified the ICESCR, they are obliged, nonetheless, to seek such provision from the international community. Under Article 2(1) of the ICESCR, the phrase “to the maximum of its available resources” was “intended by the drafters of the Covenant to refer to both the resources existing within a State and those available from the international community through international cooperation and assistance”.¹⁸

On the other hand, the principle of non-discrimination as enumerated in the international human rights instruments should not be understood as prohibiting all distinctions between citizens and non-citizens. Under the ECHR, distinctions between different groups of people are permissible, provided that they are prescribed by law, pursue a legitimate aim, and are proportionate to that aim.¹⁹ Under the ICCPR, such differences in treatment need to be based on legitimate causes as well as reasonable and objective criteria.²⁰

18 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 3: The Nature of States Parties’ Obligations’ (14 December 1990) UN Doc. E/1991/23, para. 12.

19 Case “relating to certain aspects of the laws on the use of languages in education in Belgium” v. Belgium (Merits) (App. No 1474/62; 1677/62; 1691/62; 1769/63; 1994/63; 2126/64) (1968) 1 EHRR 241.

20 See *Zwaan-de Vries v the Netherlands*, UN Doc. CCPR/C/29/D/182/1984 (1987), para. 13; UN Human Rights Committee, ‘General Comment No. 18: Non-discrimination’ (10 November 1989) UN Doc. A/45/40, para. 13.

3. Housing

“When I first arrived in the northern part of Cyprus, I had no home. I stayed here and there with friends for a month until I could start working and afford a place of my own.” (28 years old, male, Syrian)

Housing rights have long been considered to be necessary to guarantee human dignity and well-being in the human rights field.²¹ As housing rights are vital to the realization of the whole of human rights in general, most authoritative international human rights instruments include them.

Article 25 of the Universal Declaration of Human Rights²² states that:

“Everyone has the right to a standard of living adequate for the health and wellbeing of himself [herself] and of his [her] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his [her] control.”

The ICESCR lays down one of the most prominent statements of international law regarding housing rights in Article 11(1):

“The State parties . . . recognize the right of everyone to an adequate standard of living for himself [herself] and for his [her] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

Other international human rights instruments to which the local bodies in the northern part of Cyprus have unilaterally bound themselves also include provisions on housing rights. These are:

- The International Convention on the Elimination of All Forms of Racial Discrimination²³
- The Convention on the Elimination of All Forms of Discrimination against Women²⁴
- The Convention on the Rights of the Child²⁵

Out of the 34 people interviewed, 7 of them stated that they faced homelessness during their stay in Cyprus.

21 United Nations Human Settlements Programme, Office of the High Commissioner for Human Rights ‘Monitoring housing rights’ (UN-HABITAT & OHCHR, 2014), page 2.

22 Universal Declaration of Human Rights (adopted 10 December 1948) 217 A (III).

23 Elimination of All Forms of Racial Discrimination (adopted 26 October 1966, entered into force 4 January 1969) UNTS 660 [hereinafter “ICERD”].

24 Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) UNTS 13 [hereinafter “CEDAW”].

25 Convention on the Rights of the Child, (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 [hereinafter “CRC”].

The duration varied from one week to two and a half months. During this period, all stated that they spent the night at the homes of friends or relatives in Cyprus. Four of those were female, and out of the four females, two were single mothers and one was a child.

The ESC Committee has defined the right to adequate housing in its General Comment No. 4.²⁶ The Committee stated that the right to adequate housing should not be interpreted narrowly and restrictively so as to equate it, for instance, to a shelter that is simply a roof over one's head, emphasizing that the right should be perceived holistically, embodying the right to live in security, peace, and dignity.²⁷

As stated by the Committee:

*"This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the... [ICESCR] is premised. Thus 'the inherent dignity of the human person' from which the rights in the Covenant are said to derive requires that the term 'housing' be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in Article 11(1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: 'Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost.'"*²⁸

In the General Comment, the Committee further goes on to elaborate on the concept of 'adequacy' which is specifically important regarding the right to housing as;

*"it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant."*²⁹

To this end, seven key criteria have been identified by the Committee "in determining whether particular forms of shelter can be considered to constitute 'adequate housing'"³⁰:

- legal security of tenure;
- availability of services, materials, facilities, and infrastructure;
- affordability;
- habitability;

26 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4: The Right to Adequate Housing' (13 December 1991) UN Doc. E/1992/23.

27 *ibid.*

28 *ibid.*, para. 7.

29 *ibid.*, para. 8.

30 *ibid.*, para. 8.

- accessibility;
- location;
- cultural adequacy.

a. Legal security of tenure

In order to uphold human dignity and not violate housing rights, it is essential that one has long-term security of his/her home; thus, it is fundamental that such agreements are governed by a legal framework or legislative regime that provides protection against arbitrary forced eviction or expropriation of property.³¹ Secure tenure is said to exist when an individual or a group, such as a family, is protected from their involuntary removal from a land or residence, except under exceptional circumstances and/or through an agreed legal procedure. Leasehold, freehold, conditional freehold, collective tenure, and communal tenure, as well as legislative protections applicable to all dwellers, can be listed as forms of secure tenure.³² In the northern part of Cyprus, a legal framework exists which provides protection and in practice none of the interviewees have stated that they have been subject to arbitrary forced eviction or expropriation of property.

b. Availability of services, materials, facilities, and infrastructure

In order for housing to be considered adequate, it needs to encompass facilities essential for health, security, comfort, and nutrition; thus, it needs to provide for safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage, and emergency services.³³

Four of the people interviewed stated that toilet and shower facilities were outside the main building, in the garden of where they were staying. Out of the four persons, two were male and two were female, while one of the females was an elderly person. Two people stated that they had toilet facilities, but no showers; one of these persons was a woman who lives with her husband and four children, while the other is the child of this person.

Everyone interviewed for this report stated that they had electricity connection and water supply in their homes. The tap water in the northern part of Cyprus, especially in cities, is not suitable for drinking. Nevertheless, two people (11%) stated that they drink tap water; one of them is a woman that lives with her husband and four children while the other is the child of this person. Out of the eighteen people (53%) who stated that they purchase bottled water, two people noted that they have recently shifted from tap water to bottled water. Twelve people indicated that they use water-purifying equipment to access drinking water (35%) and two people (11%) stated that they sometimes purchase bottled water and sometimes use the water-purifying equipment.

31 United Nations Human Settlements Programme, Office of the High Commissioner for Human Rights 'Monitoring housing rights' (UN-HABITAT & OHCHR, 2014), page 13.

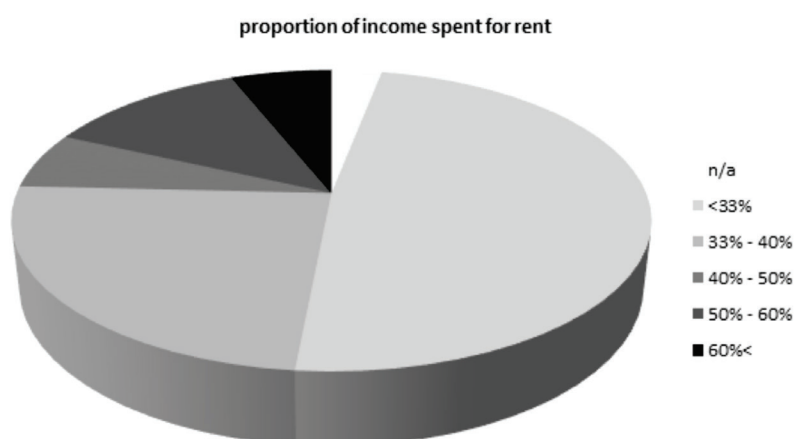
32 *ibid.*

33 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4: The Right to Adequate Housing' (13 December 1991) UN Doc. E/1992/23, para. 8.

c. Affordability

It is essential that personal or household financial costs associated with housing are at such a level that they do not threaten or compromise attainment and satisfaction of other basic needs such as utilities, food, clothing, transportation, and healthcare.³⁴ It has been stated that in general, the monthly average cost of housing should not be more than approximately one-third of the total monthly income.³⁵

All the interviewees indicated that they are tenants and rent their homes. One person stated that he stays at his workplace, which is a coffee shop. The highest proportion of income which is said to pay rent indicated during the interviews was 60% for a family of six. Fifteen interviewees (44%) stated that they spent more than one-third of their monthly income on rent. There is no policy to provide low-income or subsidized housing for refugees in the northern part of the island. In 2017, the RRA assisted one of the families to approach the Evkaf Foundation, whose mission is to serve the underprivileged and deprived sections of community, in order to be provided with low-cost housing rented out by the foundation. However, the application was not accepted on the grounds that they were not members of the Turkish Cypriot community.



d. Habitability

There should be adequate space for occupants for housing to be considered adequate, it should not be overcrowded so as to uphold the comfort and health of occupants, and it should also protect them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.³⁶

Out of the thirty four interviewees, two families, each comprising of 6 members (2 adults, 3 children, and an infant) live in one-bedroom houses. Another family comprising of 3 young adults, one elderly person and one infant live in a house with two bedrooms.

34 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4: The Right to Adequate Housing' (13 December 1991) UN Doc. E/1992/23, para. 8; United Nations Human Settlements Programme, Office of the High Commissioner for Human Rights 'Monitoring housing rights' (UN-HABITAT & OHCHR, 2014), page 13.

35 United Nations Human Settlements Programme, Office of the High Commissioner for Human Rights 'Monitoring housing rights' (UN-HABITAT & OHCHR, 2014), page 13.

36 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4: The Right to Adequate Housing' (13 December 1991) UN Doc. E/1992/23, para. 8; United Nations Human Settlements Programme, Office of the High Commissioner for Human Rights 'Monitoring housing rights' (UN-HABITAT & OHCHR, 2014), page 13.

e. Accessibility

Adequate housing needs to be accessible, or readily attainable to those entitled to it.³⁷ That is to say, disadvantaged groups should be provided with full and sustainable access to adequate housing resources.³⁸ Disadvantaged groups, which include “*the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, persons living in disaster-prone areas and other vulnerable groups*”, should be given some degree of priority consideration regarding their housing rights in law and policy that should also take their special housing needs into account.³⁹

In the northern part of Cyprus, there is no legal text or policy regarding the housing rights of refugees. Those that were interviewed included one person who was disabled, one with persistent medical problems, and one elderly person; except for irregular cash assistance provided by the RRA whenever it was absolutely needed, they did not receive any assistance from the local bodies in the northern part of Cyprus regarding their housing needs.

f. Location

According to the Committee on Economic, Social, and Cultural Rights, adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres, and other social facilities.⁴⁰ “This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households.”⁴¹ Correspondingly, “housing should not be built on polluted sites or in immediate proximity to pollution sources that threaten the right to health of the inhabitants”.⁴² As such, housing should not be built on or near environmental hazards, including garbage dumps and other such hazardous sites.

All of those interviewed indicated that the nearest hospital was around 10 to 30 minutes by car from their homes. Except for one household, the school that the interviewees or their family members attended was a 5 to 30-minute walk. In one household, the nearest school that provided specialized education according to the needs of one of the family members was 30 minutes by car. Regarding the place of employment, 94% of the interviewees stated that their or their family member’s place of employment was at most a 20-minute drive by car. The remaining stated that they travelled on average an hour by car to reach their place of employment.

g. Cultural adequacy

Housing has an important role with regards to the lives of individuals and communities. Thus, it also needs to be culturally adequate. This means that “the way housing is constructed, the building materials used and the pol-

37 *ibid.*

38 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 4: The Right to Adequate Housing’ (13 December 1991) UN Doc. E/1992/23, para. 8

39 *ibid.*

40 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 4: The Right to Adequate Housing’ (13 December 1991) UN Doc. E/1992/23, para. 8

41 *ibid.*

42 *ibid.*

icies supporting these must appropriately enable the expression of cultural identity and diversity of housing”.⁴³ It has been suggested that, to fulfil this criterion, domestic legislation that guarantees involvement of local community when developing of housing policies, particularly with regards to minority racial and ethnic groups should exist.⁴⁴ Although the duty to consult the residents in a specific area prior to taking administrative action on issues relating to environment and planning is provided in domestic legislation,⁴⁵ in practice, they are not accessible to non-Turkish speaking residents as the invitations are made and meetings are held only in Turkish. Nevertheless, during the interviews, the issue of housing being inconsistent with the cultural needs of people in need of international protection did not come up.

43 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4: The Right to Adequate Housing' (13 December 1991) UN Doc. E/1992/23, para.8.

44 United Nations Human Settlements Programme, Office of the High Commissioner for Human Rights 'Monitoring housing rights' (UN-HABITAT & OHCHR, 2014), page 34.

45 "good administration law, no. 27/2013", Article 11.

4. Right to Health

“I can not speak Turkish very well. When my child was ill, I took her to the hospital. A paediatrician there told me, ‘this is not an Arab country’ and that I should bring an interpreter. The next day, I asked my friend to come and translate for me. When we entered the doctor’s room, he shouted at my friend and told us off for overcrowding the examination room.” (30 years old, female, Syrian)

Article 12(1) of the ICESCR states that *“The State Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”*.

It has been argued that,

“The concept of a right to health emphasizes the social and ethical aspects of health care and health status. A rights approach to health issues must be based on fundamental human rights principles, particularly the dignity of persons and non-discrimination”.⁴⁶

The ESC Committee lists the following as interrelated and essential elements of the right to health:⁴⁷

“a) Availability. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party ...

(b) Accessibility. Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:

(i) Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.

(ii) Physical accessibility: health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas. Accessibility further includes adequate access to buildings for persons with disabilities.

(iii) Economic accessibility (affordability): health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these ser-

⁴⁶ Virginia A Lear *Justiciability and Beyond: Complaint Procedures and the Right to Health*, Review of the International Commission of Jurists No. 55 (Special Issue: Economic, Social and Cultural Rights and the Role of Lawyers, Conference in Bangalore, India, (1995) pp.105, p. 109.

⁴⁷ UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 14: The Right to the Highest Attainable Standard of Health’ (11 August 2000) UN Doc. E/C.12/2000/4.

vices, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with health expenses as compared to richer households.

(iv) *Information accessibility: accessibility includes the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.*

(c) *Acceptability. All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.*

(d) *Quality. As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality. This requires, inter alia, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation."*

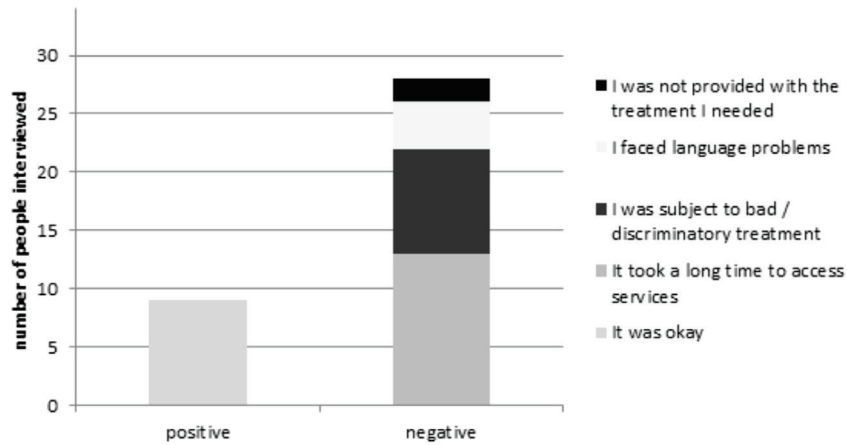
In the northern part of Cyprus, asylum seekers and refugees can access free initial diagnosis, treatment, and rehabilitation services at primary local healthcare institutions as well as secondary and tertiary healthcare services at local hospitals administered by local responsible bodies. In order to access these services, persons in need of international protection have to obtain a protection letter from the UNHCR and on the basis of this document, they need to register at local health institutions administered by local responsible bodies. Furthermore, they can access free medication, provided that it is prescribed by doctors and available at the stock of relevant local healthcare institutions administered by local responsible bodies. These health-related rights from which refugees in the northern part of the island can benefit are not provided by the local legal texts. They are granted upon policy decisions and are not legally protected.

Except for one person, all interviewees stated that they or a member of their family visited a local hospital administered by local responsible bodies. 65% indicated that they or a member of their family also visited a private doctor/clinic/health centre.

68% of the interviewees indicated that a person or an organisation assisted them to obtain healthcare services at a local hospital administered by local responsible bodies or a private institution. The types of assistance received were transportation for 70%, interpretation for 43% and registration for 22%. 78% of those that received assistance indicated that they received assistance from the RRA, 35% from relatives, 13% from their neighbours and friends, 4% from other NGOs, and 4% from other refugees.

When asked about their experiences at the hospitals, 26% responded that it was okay; 38% complained about the long queues and waiting time before they could see a medical professional; 26% complained about bad and/or discriminatory treatment they faced by medical professionals and staff; 12% stated that they faced language problems; and 6% stated that they were not provided with adequate treatment. Regarding the bad treatment, one respondent said that she felt like doctors did not like refugees while another indicated that the doctor asked them, "*why are you not fighting in your countries instead of fleeing to Cyprus?*".

experiences when accessing healthcare services



When asked whether it was easy to get treatment, 29% responded that it was, while 9% did not respond. 62% indicated that it was difficult to receive treatment because of the reasons mentioned above.

44% of the interviewees stated that within the past year, they or a family member of their family got sick but did not visit the doctor. The reasons for not doing so included problems associated with transportation to the hospital and difficulties in accessing treatment there.

35% indicated that they have experienced ill-treatment at a health institution while 15% chose not to answer this question. The types of ill-treatment described included being yelled at for no reason, such as during interpretation for those that cannot speak Turkish, being subject to xenophobic language and discriminatory language specifically targeting refugees and being subject to disrespectful treatment regarding their cultural codes.

5. Right to Education

“The other kids at school do not play with me; they push me around and call me names because I am Syrian...because I am Arab.” (8 years old, male, Syrian)

Education is a human right and has an integral connection with the enjoyment of other human rights. This position is underlined by the ESC Committee as follows:

“Education is both a human right in itself and an indispensable means of realising other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”⁴⁸

The right of refugees and asylum seekers to education includes *“the right of children of refugees and asylum seekers to education at all levels of the domestic educational system”* and *“the right of adults to vocational training, including access to language instruction”*.⁴⁹

According to international human rights obligations to which the local bodies in the northern part of Cyprus have bound themselves unilaterally, everyone should be provided with the right to education and all children should have free access, at the least, to primary or elementary education.⁵⁰ In practice, many states also apply this obligation regarding secondary school children because of legal compulsory schooling requirements in those countries. It is also clearly laid down by the ESC Committee that *“the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of legal status”*.⁵¹

Article 22 of the Refugee Convention also talks about public education and does not limit it to those “lawfully staying” in the country meaning that it is also applicable to asylum seekers.

Although the European Convention on Human Rights (ECHR) principally focuses on civil and political rights, Article 2 of the First Protocol to the ECHR provides that:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

48 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 13: The Right to Education’ (8 December 1999) UN Doc. E/C.12/1999/10, para. 1.

49 Ryszard Cholewinski ‘Economic and Social Rights of Refugees and Asylum-seekers in Europe’ (2000) 14 Georgetown Immigration Law Journal, pp.709, page 722.

50 Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) [hereinafter “UDHR”], Article 26; ICESCR, Article 13; CRC Articles 2 and 28(1)(a).

51 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 13: The Right to Education’ (8 December 1999) UN Doc. E/C.12/1999/10, para. 34.

When this is read in connection with Article 14 of the ECHR on non-discrimination, it becomes evident that the provision on the right to education should be applied to both nationals and non-nationals who are within the territory on a non-discriminatory basis.⁵² It has been argued by many that, based on these articles, children of asylum seekers and refugees cannot be denied the right to receive education, even if their parents are irregularly present in a country that has ratified the convention and the protocol.⁵³

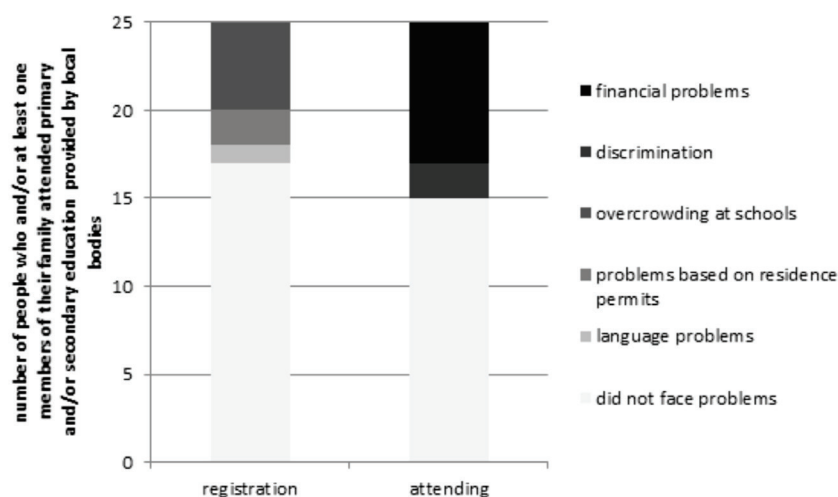
In the northern part of Cyprus, regardless of their status and gender, all children have the right to compulsory education. Compulsory and free education comprises of 8 years in two stages: 5 years of primary school (1st, 2nd, 3rd, 4th, and 5th grade), starting from age 6, followed by 3 years of lower-secondary school (6th, 7th, and 8th grade). For all children aged 4 and 5, free local preschool education administered by local responsible bodies is available. Attendance is not compulsory but highly recommended. Children who have successfully completed 8 years of compulsory education are entitled to enrol in high school. 4 years of local high schools (9th 10th 11th 12th grade) administered by local responsible bodies are also free. In high schools, both general and vocational-technical education is provided. Children with special needs also have the right to access free specialised educational institutions in Nicosia and Kyrenia during the compulsory education period. Refugee children may be enrolled in local schools at their place of residence with documents serving as proof of residence (bills or a document issued by the mukhtar), identification documents of children and parents, and protection letters issued by the UNHCR Representation in Cyprus.

All interviewees stated that they could access primary and secondary education in the northern part of Cyprus and that there was no one in their families under eighteen not attending school. Also, they all stated that they were satisfied with it. 74% of the interviewees stated that themselves and/or at least one members of their family attended primary and/or secondary education provided by local bodies. Thirteen (52%) of those stated that they did not face any problems in regards to registration and attending compulsory local education provided by local responsible bodies while twelve interviewees (48%) indicated that they did. One (3%) stated that she faced language problems while registering her children as the forms were in Turkish, two persons (6%) indicated that they could not register their children to primary education on the basis that they did not possess valid residence permits, and five (15%) stated that they were unable to register the children due to overcrowding. Later on, all of these eight people (24%) were assisted by the RRA and following the RRA's intervention and the issuing of protection letters by the UNHCR Representation in Cyprus, registrations were achieved. Two (6%) interviewees indicated that they or their family members faced problems regarding discrimination while attending schools and eight (24%) indicated that they faced financial problems as although the compulsory education should be free of charge, in practice students are expected to pay for uniforms, stationary and sometimes fees for school maintenance. It is noted that all families have been provided assistance by RRA to cover costs related to schooling.

65% of the interviewees stated that they or their family members had never been humiliated or insulted by anyone in an educational place. On the other hand, all the children at the age of compulsory education in-

52 Ryszard Cholewinski 'Economic and Social Rights of Refugees and Asylum-seekers in Europe' (2000) 14 Georgetown Immigration Law Journal, pp.709, p. 715.

53 See Pieter van Dijk, Codefridus J. H. Hoof, *Theory and Practice of the European Convention on Human Rights* (3rd edn. Kluwer, 1998), p. 654.



licated problems, such as being subject to physical and verbal violence and harassment by other children at school because of their countries of origin; many indicated that they were also made fun of by other students and teachers when they first started school, because they could not speak Turkish. One university student (%3) also indicated that she felt like some of her teachers did not want to speak to her because she is an Arab. Two women (%6) with children also expressed concerns regarding the discrimination which their children face. One stated that both her children at primary school are discriminated by their school headmaster, physically assaulted by their teachers, and made fun of by other children because of their nationality, while the other indicated that she had come across people making comments such as “*the place was already filled with those coming from Turkey, and on top of it, now the Syrians are coming*”.

The two objectives provided for the right to education under Article 13(1) of the ICESCR include full development of individual personality and effective participation in society as follows:

“States Parties ... agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society ...”

Thus, it has also been argued that the fundamental right to education should also include addressing “the specific needs of refugee children in order to facilitate their integration into society and to ensure that they are not placed at an educational disadvantage to the children of nationals”.⁵⁴ In line with this, formal equality between refugee children and the children of nationals regarding access to education is not sufficient. The European Council on Refugees and Exiles⁵⁵ have put forward that:

“[c]hildren must be given access to the State education system at the earliest opportunity, irrespective of where they are accommodated. When joining local schools, they will require

54 Ryszard Cholewinski ‘Economic and Social Rights of Refugees and Asylum-seekers in Europe’ (2000) 14 Georgetown Immigration Law Journal, pp.709, page 721; Ryszard Cholewinski, *Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment* (Clarendon Press, 1997).

55 The European Council on Refugees and Exiles (ECRE) is a pan-European alliance of 99 NGOs in 40 countries protecting and advancing the rights of refugees, asylum seekers and displaced persons.

induction into the new education system and additional support to meet their particular linguistic and psycho-social needs. [There is concern] about separate educational provision for refugee children within reception centres, where this may hinder a child's learning. Where such separate provision occurs, this should be for a limited period and for reasons other than simply organisational convenience.”⁵⁶

Special measures may also include preparatory and adaptation classes, assistance with homework, and intercultural education.⁵⁷

Article 29(1)(c) of the CRC further states that the education of the child shall be directed to:

“[t]he development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own.”

Thus, another special measure may include teaching children their language and culture of origin.

In the northern part of Cyprus, in addition to refugee children facing some problems in accessing the fundamental right to education on an equal basis with other migrant and children that are members of the Turkish Cypriot Community, there are no special measures implemented by the relevant local bodies. The RRA on the other hand, in line with the above principles, implements afternoon classes for refugee children three times a week that involve teaching their mother tongue, Arabic, and the English language. Indeed, when asked what they would like to change in regards to education and schools in the northern part of Cyprus, more than one-third of the interviewees stated that they would include lessons on teaching their mother tongue (mainly Arabic as well as Kurdish as stated by one interviewee) and increase the number of hours of English language teaching.

Regarding adult refugees and asylum seekers, educational rights mainly concern vocational training and language instruction.⁵⁸ The rationale behind this is the prevention of exclusion from the host society and facilitation of reintegration upon return to the country of origin.⁵⁹ This also complies with the two objectives of Article 13(1) of the ICESCR. Furthermore, vocational training and language instruction are also vital with regards to the realization of the right to work provided under Article 6 of the ICESCR, which is discussed in the following chapters. In fact, Article 6(2) of the ICESCR stipulates that the “steps to be taken by a State Party ... to achieve the full realization of this right shall include [inter alia] technical and vocational guidance and training programmes”. The ESC Committee has also stated in its General Comment regarding the right to education that “technical and vocational education. . . forms part of both the right to education and the right to work”⁶⁰ and that it also

⁵⁶ ECRE, *Position Paper on the Reception of Asylum Seekers* (June 1997), para. 46

⁵⁷ Ryszard Cholewinski ‘Economic and Social Rights of Refugees and Asylum-seekers in Europe’ (2000) 14 *Georgetown Immigration Law Journal*, pp.709, p. 722.

⁵⁸ *ibid.*

⁵⁹ ECRE, *Position Paper on the Reception of Asylum Seekers* (June 1997), paras. 47 and 48.

⁶⁰ UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 13: The Right to Education’ (8 December 1999) UN Doc. E/C.12/1999/10, para. 15.

comprises “in the context of the Covenant’s non-discrimination and equality provisions, . . . programmes which promote the [technical and vocational education] of women, girls, out-of-school youth, unemployed youth, the children of migrant workers, refugees, persons with disabilities and other disadvantaged groups”.⁶¹

More than one-third of the people interviewed (38%) stated that they could not speak adequate Turkish. Amongst those that did, there were children at school age who learned Turkish at school (26%), as it is the language of instruction, two people (6%) stated that they already knew Turkish before coming to Cyprus, while others (30%) stated that they learned Turkish at work, through socializing, and television. Those who could not speak Turkish noted that they struggled during their daily life because of this, be it at their workplace, in hospitals, or at the school of their children. Indeed, when asked what they would like to change with regards to education and schools in the northern part of Cyprus, two interviewees (6%) highlighted that they wished there were free Turkish classes for adults. It should be noted that 69% of those who stated that they could not speak Turkish very well, or not at all, are all women.

61 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 13: The Right to Education’ (8 December 1999) UN Doc. E/C.12/1999/10, para. 16(e).

6. Employment Rights

“I work 10 hours a day, 6 days a week. I earn 1500 TL. I don’t know whether my social insurance and provident fund payments are made. I don’t think they are. I never made a complaint about this because I don’t think they [the ‘local bodies’] would do anything about it.” (19 years old, male, Syrian)

As noted in section 3, the Refugee convention grants refugees the right to be provided with the “most-favoured-nation” treatment under Article 17(1). Nevertheless, Article 17(2) goes on to state that, in cases of refugees who have been residents in the country for three years or whose spouse or children possess the nationality of the country of residence should not be subject to restrictive measures imposed on non-nationals for the protection of the national labour market.

In Article 6 the ICESCR articulates the right to work in a general sense. In Article 7, the individual dimension of the right to work is addressed through the recognition of everyone to the enjoyment of just and favourable work conditions, in particular, the right to safe working conditions. In Article 8 the collective dimension of the right to work is addressed through enunciating the right of everyone to form trade unions and join the trade union of his/her choice as well as the right of trade unions to function freely. Furthermore, in Article 9 the right of everyone to social security, including social insurance, is recognised.

The ESC Committee states that ‘work’, as specified in Article 6 of the Covenant, must be ‘decent’ work that respects the fundamental human rights as well as the rights of workers in terms of conditions of work safety and remuneration and provides an income allowing workers to support themselves and their families, respects the physical and mental integrity of the worker in the exercise of his/her employment.⁶²

Furthermore, The ESC Committee also states that the exercise of work requires the existence of the following interdependent and essential elements:

“(a) Availability. States parties must have specialized services to assist and support individuals in order to enable them to identify and find available employment;

(b) Accessibility. The labour market must be open to everyone under the jurisdiction of States parties.⁴ Accessibility comprises three dimensions:

(i) the Covenant prohibits any discrimination in access to and maintenance of employment on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, or civil, political, social or other status, which has the intention or effect of impairing or nullifying exercise of the right to work on a basis of equality. . . ;

(ii) Physical accessibility is one dimension of accessibility to employment [with regards to] persons with disabilities;

⁶² UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 18: The Right to Work’ (6 February 2006) UN Doc. E/C.12/GC/18, para. 7.

(iii) *Accessibility includes the right to seek, obtain and impart information on the means of gaining access to employment through the establishment of data networks on the employment market at the local, regional, national and international levels;*

(c) *Acceptability and quality. Protection of the right to work has several components, notably the right of the worker to just and favourable conditions of work, in particular to safe working conditions, the right to form trade unions and the right freely to choose and accept work*".⁶³

Furthermore, the ESC Committee underlines "the need for a comprehensive system of protection to combat gender discrimination and to ensure equal opportunities and treatment between men and women".⁶⁴

The ESC Committee has emphasized that the reference to "everyone" in Article 7 highlights that it applies to all workers, including refugee workers.⁶⁵ When elaborating the right to just and favourable conditions of work in relation to refugees, the ESC Committee clearly states that the "[s]tate parties should enact legislation enabling refugees to work and under conditions no less favourable than for nationals".⁶⁶

In the northern part of Cyprus, refugees and asylum seekers have the right to obtain a work permit and work in jobs in which foreigners can be employed. Upon presenting an international protection letter issued by the UNHCR Representation in Cyprus to the "labour department", refugees and asylum seekers become exempt from prior authorisation required from other foreigners. The work permits are issued on their travel documents. This right is not specified within the local legal texts; it is implemented as a policy decision following years of advocacy undertaken by the RRA.

14 of the interviewees (41%) were full-time students while 2 of them (6%), both adult women, worked part-time during their university studies in the northern part of Cyprus. Out of the remaining 20 adults, half (50%) were employed. Except for one adult woman, all those that had a paid work were adult men and except for one adult male, all of those that did not have paid work outside their homes were adult women. The reasons given by women for not having paid work outside of home were language barriers, their child-care responsibilities at home, and stereotypes and customs regarding women working outside of home. On the other hand, 87.5% of the women and 66% of the men stated that they believed that it is important for women to gain a separate income. The reasons given by men who believed that women should not work included discriminatory cultural practices that do not allow women to work outside the home and the stereotype that women's principal responsibility is child care.

63 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 18: The Right to Work' (6 February 2006) UN Doc. E/C.12/GC/18, para. 12.

64 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 18: The Right to Work' (6 February 2006) UN Doc. E/C.12/GC/18, para. 13.

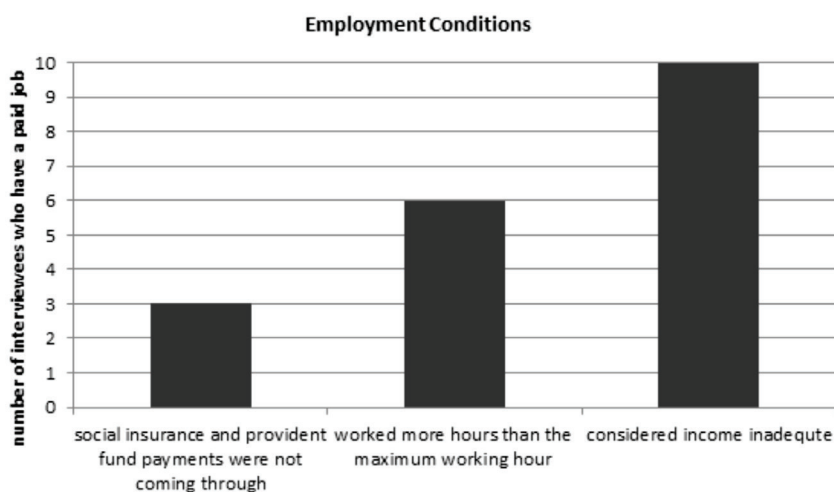
65 UN Committee on Economic, Social and Cultural Rights, 'General Comment No.23: The right to just and favourable conditions of work' (20 January 2015) UN Doc. E/C.12/54/R.2, para. 5.

66 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 23: The right to just and favourable conditions of work' (20 January 2015) UN Doc. E/C.12/54/R.2, para. 47.

Except for one family, all the households had at least one employed person. One-fourth of those who were employed stated that they were not happy with their jobs. The reasons provided included high risks of occupational hazards and low salaries. When answering this question, one interviewee stated that he did not believe he had other opportunities. Half of those that were employed stated that they had been humiliated or insulted by others in the workplace. Two of them believed that they were subjected to such treatment because of their lack of knowledge of the Turkish language. One person indicated that there is discrimination against foreigners in the northern part of Cyprus in general, including workplaces.

In the northern part of Cyprus, employers have to pay for the social security premiums and provident funds of their employees on a regular basis. 30% of those that worked full-time indicated that their social insurance and provident fund payments were not coming through. 60% of those who worked full-time indicated that they worked more hours than the maximum working hour provided in domestic legal texts which is 8 hours a day or 40 hours a week. Those that worked the least number of hours (who made up 43% of those that worked full-time) were working 48 hours a week; the maximum number of hours indicated was 60 hours a week. Except for two persons, all the interviewees (94%) indicated that their income was not adequate. When asked about the things that they wanted to do but could not, the following answers were given:

- buy a house (23%)
- meet various needs and wants of their children such as purchasing more food and toys (16%)
- buy a car (12%)
- buy clothing (10%)
- access private healthcare (10%)
- set up a business (10%)
- go on holiday (7%)
- access private education (6%)
- pay off debt (6%)



7. Social Assistance

“I have received food, clothing assistance and cash assistance for rent and medical needs from the RRA and SOS. They were not adequate, but they helped a lot.” (29 years old, female, Palestinian)

Social security may refer to both the ‘earned’ benefits as well as ‘need-based assistance’.⁶⁷ Article 9 of the ICESCR provides that, ‘[t]he States Parties to the present Covenant recognize the right of everyone to social security, including social insurance’. The ESC Committee has highlighted that special attention should be given “to those individuals and groups who traditionally face difficulties in exercising this right”, particularly to refugees and asylum seekers among other groups.⁶⁸

The Committee has further elaborated that non-nationals that have contributed to a social security scheme should be able to benefit from it and “retrieve their contributions if they leave the country”⁶⁹ and “refugees, stateless persons and asylum-seekers, and other disadvantaged and marginalized individuals and groups, should enjoy equal treatment in access to non-contributory social security schemes, including reasonable access to healthcare and family support, consistent with international standards.”⁷⁰

Additionally, it has been argued that Article 11(1) of the ICESCR on the right to an adequate standard of living also covers “social assistance and other need-based forms of social benefits in cash or in kind to anyone without adequate resources”.⁷¹

In the northern part of Cyprus, financial assistance is provided by the “social welfare services department” only to members of the Turkish Cypriot Community and their spouses. On the other hand, during the time this report was being drafted, representative of “social welfare services department” indicated that they provide material assistance, in terms of food aid and provision of school-related materials for foreigners and indicated their willingness to extend their services to persons in need of protection that are registered with the RRA.

Twenty nine (85%) of the interviewees stated that they have received social assistance during their stay in the northern part of Cyprus. Twenty seven interviewees (79%) received food, twenty five (74%) clothing and thirteen (39%) received other material assistance, such as basic home appliances and medication. Twenty two (64.7%) indicated that they have received cash assistance for housing, education, and health-related needs. 100% of those that have received assistance stated that they have received assistance from the Refugee

67 Martin Scheinin, ‘The Right to Social Security’, in Asbjørn Eide, Catarina Krause, Allan Rosas (eds.), *Economic, Social and Cultural Rights: A Textbook* (Martinus Nijhoff, 1995), pp.89, p.105.

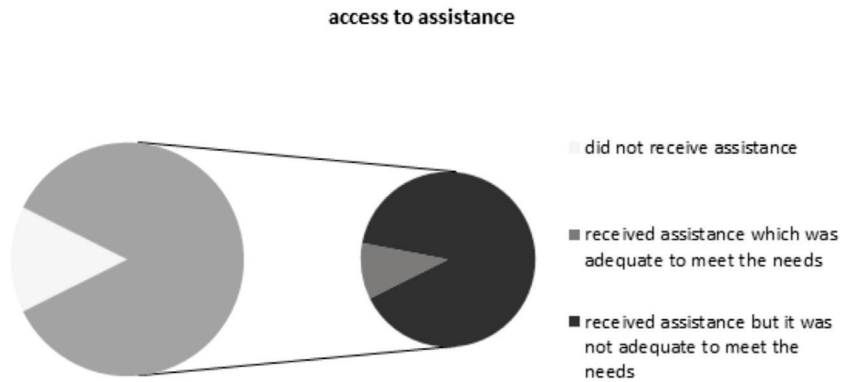
68 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 19: The right to social security’ (4 February 2008) UN Doc. E/C.12/GC/19, para. 31.

69 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 19: The right to social security’ (4 February 2008) UN Doc. E/C.12/GC/19, para. 36.

70 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 19: The right to social security’ (4 February 2008) UN Doc. E/C.12/GC/19, para. 38.

71 Martin Scheinin, ‘The Right to Social Security’, in Asbjørn Eide, Catarina Krause, Allan Rosas (eds.), *Economic, Social and Cultural Rights: A Textbook* (Martinus Nijhoff, 1995) pp.89, p. 162.

Rights Association and 56% stated that they have also received social assistance from the SOS Children's Village as well. The difference in numbers may be due to the fact that the latter started providing assistance to refugees relatively recently. Furthermore, one family has also received assistance from the Evkaf Foundation through the assistance of the RRA, as described under Section 5. Twenty six (76%) of those interviewed stated that the assistance they have received has not been adequate to meet their needs, but merely provided temporary solutions to the immediate difficulties they face.



Recommendations

1. Rule on *non-refoulement* shall be respected in legal texts and in practice.
2. Asylum seekers should not be detained for immigration-related reasons.
3. Low-income or subsidised housing must be made available to asylum seekers and refugees in need of assistance, and such housing must also comply with the other provisions stipulated under section 5 in order to be adequate.
4. Rights provided to refugees and asylum seekers in practice, regarding the right to health, education, and employment, need to be provided in the legal texts as well.
5. Measures should be taken by the local bodies to eliminate the practice of discrimination when accessing local services provided by local responsible bodies. This may include, but is not limited to providing training to relevant personnel.
6. Translation services should be made available, especially in health care facilities, or, organisations that provide such services should be provided with assistance in order to ensure effective access to fundamental rights.
7. Compulsory primary and secondary education should also be free in practice. Registration should not depend on the payment of fees. Additionally, assistance should be provided to those in need with regards to the purchase of educational materials, uniforms, and other similar needs.
8. Special measures must be introduced to counteract difficulties experienced by the children of asylum seekers and refugees with respect to their future training, employment or entry into higher education such as language instruction, preparatory and adaptation classes, assistance with homework, and intercultural education. CSOs should also be financially supported in their efforts regarding teaching children their mother tongue or this shall be implemented by relevant local bodies as special measures.
9. Appropriate measures, such as inspections, shall be taken to ensure the effective application of domestic rules on minimum wages and working hours for everyone. Effective complaint mechanisms shall be adopted which shall also be accessible to refugees and asylum seekers.
10. All services and assistance provided by the “social welfare services department” and the Evkaf foundation should be extended to asylum seekers and refugees.
11. Civil society organisations that provide services to refugees should be supported by the local bodies.
12. Special measures should be introduced to guarantee asylum seeker and refugee women’s access to education and employment including targeted language classes, awareness raising activities to ensure empowerment and combatting of discriminatory stereotypes.

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