

Contested B/Orders.

Turkey's Changing Migration Regime

An Introduction

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Turkey is currently the biggest refugee hosting country in the world without granting refugee status to any of its asylum applicants (UNHCR 2017: 3). This is without a doubt a direct result of the ongoing Syrian conflict that started in 2011 and the European Union's attempts to contain the onward movements of migrants further west. In addition to being a country with a long history of immigration and emigration, Turkey is still an EU candidate and a crucial partner in the process of externalization of the current EU migration and refugee regime. It is also a country where authoritarianism is escalating, featuring a new record of human rights violations of citizens and noncitizens alike gathered over the course of the last 15 years of uninterrupted single party rule of the AKP, turning Turkey again into a refugee producing country as well. Turkey's unpromising EU accession process, its NATO membership as well as its geopolitical position makes it a unique case of cooperation on migration and border ›management‹ that distinguishes it from other unstable political regimes in the Balkans, MENA, and Eastern Europe.

So how and ›where‹ can we situate Turkey within the larger context of migration and border studies after the beginning of the Syrian conflict? What are the implications of the European border regime's formation and its dominant policy of externalization in the case of Turkey? And vice versa: What effects do the Turkish border regime and migration policies have? How do the global and regional migration policies and institutions affect migrant groups in Turkey, who in return challenge, contest, and negotiate the current migration and border regimes? What are the consequences of legal and institutional ambiguities with regard to refugee protection in Turkey? And how do the continuing anti-democratic and authoritarian developments affect the field of migration? As a collaborative work of migration scholars and ac-

tivists from Germany, Austria, and Turkey, this special issue seeks answers to these questions.

The idea for such a collection of essays on Turkey's changing migration and asylum regime was born from the urge to criticize the infamous EU-Turkey deal of 2016 and to understand the regional social and political dynamics which made it come into existence and, in one way or another, led to its continuing implementation until now. Shortly after the deal came into force in March 2016, as a group of critical migration scholars and activists from three countries, we came together in Izmir on the Aegean coast of Turkey; the city that has been one of the main ›transit‹ points into the Schengen Area during the last decade. We organized a day-long conference to discuss the recent events in 2015 and their repercussions, when Turkey developed into one of the main gateways to Western Europe with thousands of migrants camping on public places of Turkish coastal cities like Izmir and jumped onto dozens of rubber boats to Greece. These movements of migration made their way to Western Europe and Germany in a breathtaking fashion along the so-called Balkan route, connecting societal developments in Germany with the political events in Turkey in a previously unknown high intensity. Against this background, we, as critical migration scholars in Turkey, Austria and Germany, were searching for ways to strengthen cooperation and to find ways to show solidarity with migrants and refugees who had been severely affected by the political attempts to curb these migration movements that culminated in the EU-Turkey deal (Hess et al. 2016). The organizers and participants agreed to work together to shed a critical light on the background to this deal and to monitor the EU-Turkish border regime.¹ With this aim in mind, this special issue of movements unpacks the processes of constructing the EU-Turkey deal as the ›solution‹ to the so-called ›refugee crisis‹ in Europe with due attention to the multiplicity of actors in different localities in and around Turkey that are involved in the making of the current migration and border regime and its discontents. Against its usual (bilingual) publishing standards, this movements issue will be published in English only.

In the following section, we will summarize the crucial turning points in Turkey's migration and asylum governance from a historical perspective in order to present a rough contextualization of the recent political developments before we briefly introduce the contributions to this issue.

1 | See the HarekAct website: harekact.bordermonitoring.eu.

A SHORT HISTORY OF THE TURKISH MIGRATION AND BORDER REGIME

Turkey's current legal and institutional structure, as well as the public discourses, policies, and practices regarding the governance of migration have developed in tandem with the EU membership negotiations since the early 2000s. At the same time, the harmonization with the EU border regime went hand in hand with decrees and regulations determined by Turkey's own political and economic interests. The increasing number of refugees from Syria since 2011 has deeply complicated the lines of this process. In close interaction with geopolitical dynamics at work in the Middle East, Turkey's migration regime implicates concurrent rigidities and flexibilities, continuities and ruptures, shifting spatialities and temporalities. While the general tendency in migration and border studies literature has been to study the EU's neighborhood as part and parcel of the EU's migration and border regime and its will to externalize it further south and east, the contributors of this volume show that the current practices in Turkey cannot be comprehensively analyzed within a Eurocentric conceptual framework drawing solely on the externalization of the EU border regime as an explanation. Far from being a passive recipient of European policy recommendations, the cross border movements in and through Turkey, which accelerated during the last two decades, have triggered new negotiations and repositionings at the state and societal level.

Turkey has been a country of emigration for decades: of Turkish guest workers or skilled migrants moving to Europe or the US and of refugees who fled from the 1980 military coup. Most recently, added onto the leftists and the Kurdish dissidents who sought asylum in Europe, there are more exiles, including journalists, scholars, and activists who escaped from the growing authoritarianism that became even more severe following the 2016 failed military coup attempt. However, simultaneously, Turkey has also been a country of immigration and refuge — for people of ›Turkish descent and culture‹ from the lost Ottoman territories (Kirişçi 2007) and, following the demise of the USSR, for labor migrants from the former Soviet Union countries who found precarious jobs in the extensive informal labor market in Turkey (Akalin 2007; Eder 2007; Yüksekler 2004). The last decades have witnessed thousands of asylum seekers fleeing to Turkey from wars in the neighboring countries as well as from the more distant ones in Asia and Africa. The arrival of many Syrians has made the sharpest impact on the newly developing structures of the Turkish migration regime, the labor market, and the public debates.

From 2011 onwards, a deliberate distinction found both in official discourse and in formal rules between the statuses of Syrians — regarded as ›guests‹ — and the

other refugees well defined the logic behind the governing of migration in Turkey. With the approval of the first asylum law in parliament in 2013,² Turkey assured to align its migration and asylum governance with the EU regime. The Law on Foreigners and International Protection was a long-awaited product of a process in which some Turkish civil society organizations were initially invited to participate in and contribute to. Legally speaking, the hope was that the accepted law would bring formality and regulation to the field by founding a responsible civil institution for the first time, i.e. the Directorate General of Migration Management (DGMM) that would replace the police as the main authority. The lack of specific rules applicable to access international protection within the Turkish borders, pushbacks by the Turkish and Greek border guards in the Aegean Sea and the Evros region, the deficit of basic rights for asylum seekers and refugees in the application process, and the security-driven mentality of bureaucracy were some of the problems that the Turkish human rights NGOs expected that the new legal framework would address (see Soykan 2015). However, despite references to international human rights norms in the policy making process, the law problematically combined aspects of protection of human rights and the safety of migrants with discourses of criminalization and practices of control. In practice, the new migration and asylum law contributed mainly to the reorganization of the field of governing migration at the national level. Within the context of ›becoming an immigration country,‹ national interests to ›manage‹ migration stayed in the forefront. As irregular migration is constructed as a risk and threat to national sovereignty, the solution is seen in the categorization and better ›management‹ of migration through the adoption of the new law and the establishment of new institutions (Ataç 2016). The discourse surrounding migration law was finally dominated by a framing of ›human rights from above‹ in which a human rights approach was used as a control paradigm with the aim of making migration movements governable. Social networks and organizations working closely with migrants and refugees have become relevant only in so far as they underpin the rhetoric of securitization and ›migration management.‹

The arrival of Syrians in large numbers starting from 2011 onwards changed the expected outcomes from the new legal framework. The new system was not designed for ›mass displacement‹ situations, combined with the insistence to hold the geographical limitation to the 1951 Refugee Convention which allowed Turkish authorities to grant refugee status only for applicants from European countries. Keeping Syrian refugees out of the framework of this new asylum law was the first step for the

2 | See the Directorate General of Migration Management website: goc.gov.tr [30.08.2017].

government to implement its own policy with regard to the situation in Syria. Hence a new regulation on temporary protection was adopted for Syrians in October 2014. In the beginning, this made the maneuvers of Turkish bureaucracy easier on the ground in coping with the many arriving people. On the other hand, it meant going back to square one in terms of securing basic rights for refugees as the new law and its procedural guarantees were put aside (Soykan 2017). Turkey once again moved into the grey zone of informality in the governing of migration and asylum with a highly differentiated application of rules to different classes, religious groups, LGBTIQs, and social status members.³

THE SUMMER OF MIGRATION OF TURKEY AND ITS AFTERMATH

Also, as of May 2015, Turkey changed its highly appreciated open door policy towards Syria. Syrians then had to pay smugglers and bribe soldiers to cross the border into Turkey. Those who were staying at the camps and in cities started to leave for Izmir and the Aegean coastal towns to cross to Greece. Izmir, specifically the Basmane neighborhood, all of a sudden turned into an open refugee camp along with a disclosed human smuggling business arena. It is argued that more than a million people crossed through Turkey to Greece in 2015 (IOM 2015). In mid-September, soon after 3,700 people reached the Munich train station and were warmly welcomed at the other end of their perilous journey, almost 3,000 people, mostly Syrians, marched to Edirne bordering Greece and Bulgaria. Seeing no possibility of a stable future in Turkey other than temporary protection, their demand was a safe passage to Europe instead of the dangerous sea route; hence, their slogan was »Crossing No More« (Fiedler 2015). While the reasons for joining the march towards Edirne varied, they all boiled down to a lack of social and economic rights in Turkey. A few days later, then prime minister Ahmet Davutoğlu and officials from DGMM in Ankara met a small group of representatives of the thousands waiting in Edirne. The government representatives and bureaucrats stated that the motivations of the marchers were well founded, and they called the European leaders to consider the pressing needs of asylum seekers waiting in Turkey. With that move, Turkish political leaders turned the

3 | For an application of David Lockwood's (1996) and Lydia Morris' (2003) civic stratification model to the Turkish case see Soykan (2015).

movement of migrants into a state's show of solidarity with the Syrians and a leverage to use in the negotiations of the infamous deal (Kaşlı 2017).

Moreover, with the delicate deal on the table, the Turkish government has freed itself of any critique by the European leaders despite the crackdown on media, universities, political parties, and civil society organizations that opposes the government's domestic and international agenda. This already became apparent in the postponement of the European Commission's progress report until after the November 2015 general elections in Turkey. The fragile situation of migrants and refugees as well as the citizens in Turkey exacerbated following the state of emergency that was declared on July 20, 2016, soon after the failed military coup of July 15. The Turkish government engaged in wide-ranging and systematic attacks on the human rights and security of its citizens, mainly from oppositional groups and political dissidents, including academics, trade unionists, and Kurdish activists critical of the authoritarian regime. The state of emergency gave immense power to the government by bypassing the parliament and decreasing the political opposition's scope for action as well as by increasing political pressure on civil society. The government also created a new citizenship regime towards its own citizens: Since July 2016, it has purged more than 100,000 public-sector employees, including over 5,000 academics working at Turkish universities (Amnesty International 2017: 6). In addition to their exclusion from the labor market, dismissed public-sector employees have their passports revoked, which limits their right to movement. Affected academics who have received a job or scholarship abroad cannot leave the country. Moreover, the Turkish government has published a decree in January 2017 (KHK 680), which allows them to arbitrarily deprive Turkish citizens living outside of Turkey of their nationality. It is reported that Turkish citizens living abroad have been denied consular services, that their passports are not extended, canceled, or confiscated (Institutesi 2017). In some cases, ex-Turkish citizens with German or Austrian citizenship have not been allowed to enter Turkey, after being held at the border for days and sent back. German-Turkish journalists such as Deniz Yücel and Meşale Tolu are also kept in pretrial detention in Turkey. This general restrictive atmosphere had also repercussions and consequences for the production of this issue as some authors just could not get their head around writing a proper paper while their friends were being taken to prison, or board members had to manage their new life situation and get acquainted with their new home in exile.

The ongoing state of emergency has also direct implications for refugees and migrants in Turkey. Although the principle of *non-refoulement* is set in Article 4 of the Law on Foreigners and International Protection, a change was made in the law with a decree in October 2016 (KHK 676) with regard to the scope of removal decisions.

It is reported by lawyers that removal decisions are now being taken for international protection applicants. Since the deal was agreed, Turkey increased its detention capacity by turning reception facilities into removal centers. With the new centers being built with EU funding, Turkey's detention capacity has been raised to 15,000 people at once (DGMM 2017). Moreover, it is not clear whether all the returnees that have been deported back from Greece under the deal could access the asylum system in Turkey — contrary to what the EU Commission argued, based on the information obtained from the Turkish authorities (European Commission 2017). Since all the non-Syrian returnees are still considered as irregular migrants and put into administrative detention for deportation purposes in a removal center in Kayseri, an inland ›satellite city,‹ it is likely that they might not be provided with the vital information on how to seek international protection in Turkey. The ongoing crackdown on NGOs also makes it nearly impossible for human rights defenders and bar associations to provide legal aid to potential applicants.

In early 2016 Turkey also introduced new visa requirements for Syrian citizens (DW 2016). Additionally, as of summer 2017, the construction of a 590-kilometer long concrete wall has been completed at the Turkish-Syrian border, and the government has started to build another 144-kilometer-long wall at the Iranian border (Hürriyet Daily News 2017). Just as the other asylum seekers who can only acquire conditional refugee status in Turkey, Syrian refugees have been eventually trapped in Turkey.

It is in this political context that, in July 2017, the racist hashtags #suriyelilerevine-donsun (Syrians should go home), #suriyelilersinirdisedilsin (Syrians should be deported) and #suriyeliistemiyoruz (We do not want Syrians) went viral and became top trends on Twitter in Turkey for nearly a week, and another summer brought racism and hatred against Syrian refugees for the second time in a row. In July 2016, Syrians' shops and homes were attacked and looted by locals after violence spilled onto the streets in the Demetevler district of Ankara. Similar incidents in different cities were followed by a murder of a nine months pregnant refugee with her ten-month-old baby in Sakarya. Emani Arrahman was raped in name of revenge by her husband's two Turkish co-workers and then brutally killed. This case contrarily led to a campaign on social media that called Syrians brothers and sisters of Turkish people. The Ministry of Interior had to issue a statement to make a public call for peace between the citizens and the Syrian ›guests.‹ In 2017, the statement of Prime Minister Binali Yıldırım went into a more nationalist direction. He assured the public that any Syrians stepping out of line would be deported (NTV 2017).

The EU and its member states — above all Germany that had a leading role in the design of the EU-Turkey deal as a way to save the EU-Schengen construct in the

wake of the 2015 events — have remained silent and short-tailed in their critique of the deteriorating democratic situation and the ongoing human rights violations for both citizens and noncitizens in Turkey. It seems that the deal gave Turkey immense power over the EU by making it rather dependent on Turkey — and not the other way round.

Yet, migrants have kept protesting against ill-treatment, human rights abuses, and the general social and political situation — on a daily basis in rather imperceptible ways in their co-ethnic networks and communities as well as on a publically visible level. Afghan refugees had a protest against their exclusion from the UNHCR system with a public hunger strike for weeks in 2014 (Speri 2014); and a self-organization of unaccompanied minors got such a public outreach at least in Istanbul for a time that they rose awareness about their specific case; moreover, there were hunger strikes in different removal centers and campaigns against police brutality and racial profiling. Dozens of solidarity groups, networks, social centers, and human rights-NGOs and mostly religious based relief organizations were founded in the last couple of years addressing especially the situation of the millions of Syrians. In this regard, for a small period of time one could also observe in Turkey the emergence of something like a welcome practice on a grass root level as well as new social-political subjectivities being formulated around the question of solidarity with the movements of migration as Firat Genç and H. Pınar Şenoğuz hint at in this issue.

IN THIS ISSUE

In this volume, we present twelve contributions including papers, interviews, discussions, and an art contribution, which address the above questions from different methodological and disciplinary perspectives.

Relying on their previous and recent multi-sited ethnographic projects on (transit) migration in Turkey, Gerda Heck and Sabine Hess show that Turkey's emerging border regime is a very hybrid figuration in which different intersecting layers, scales, interests, and actors do not produce a linear process. A closer look at migrants' complex itineraries and their feeling of being entrapped in Turkey demonstrates that the deceleration of migrant movements is not only influenced by the EU-Turkey deal, but also by Turkey's own dynamics regarding its asylum system, its regional political aspirations, and other Middle Eastern political dynamics. Finally, Heck and Hess argue that, contrary to the expectations of the EU policy-makers, the externalization politics ironically opened up further space for maneuvers of the Turkish government.

Elif Sari and Cemile Gizem Dinçer disclose the positions of different actors currently involved in migration/asylum governance in Turkey and assess how institutional and procedural changes towards standardizing and systematizing the processes as well as civilianizing the migration/asylum ›management‹ work out in practice. Sari and Dinçer argue that the ongoing dual asylum procedures create a »fragmented configuration of the transnational asylum regime,« which has so far worked with the mentality of »mak[ing] it up as you go along« (*kervan yolda düzülür*). According to them, this is giving rise to improvisation, unpredictability, and irregularity in which refugees still occupy ambivalent spaces in-between national and international bodies of law. They also demonstrate that the ongoing state of emergency has further heightened the securitization of migration and asylum matters.

Feyzi Baban, Suzan Ilcan, and Kim Rygiel examine in their contribution the insecurities Syrians face in urban centers in Turkey as a consequence of the ambiguous subject position that has been forced upon them. The latter, they state, is a result of border politics at the national level through Turkey's temporary protection regime, while at the regional level it is consolidated through the EU-Turkey deal. The authors argue that such border politics aim at stripping Syrian refugees of their political subjectivity and ability to claim rights under the international refugee protection regime by reconstituting Syrians — and indeed the figure of the refugee — »as objects of humanitarian assistance, rather than political agents with rights.«

In the interview she gave to us, Dawn Chatty claims that a fundamental right, the right to seek asylum from persecution once guaranteed by the Universal Declaration of Human Rights, is now curbed by states by making this very act illegal. Coming from an anthropology background, she argues that only through an insider's view can we explain our similarities and differences with the ›Other‹ by reducing discrimination and ethnic violence in receiving societies. However, Chatty sees temporary protection offered to Syrians in the Middle East as the best possible option since most of the refugees would prefer to go back to their country when the conflict is over. She argues that as long as one can support her/his family and has basic rights recognized in this system, temporary ›citizenship‹ of refuge and asylum might be the prevailing form of protection in future conflicts. In our view, this point misses that temporary protection has no accepted framework under international law, which makes it an exceptional measure at the state's sovereign discretion. In the Turkish context, although Turkey is party to the 1951 Refugee Convention, Syrians' access to international protection is blocked under the temporary protection system. Until the infamous deal started to be negotiated, Syrians even had no officially recognized right to work in Turkey. As is shown by the authors of this issue, it is this ambiguity, informality, and the selective inclusion of the Turkish system, both for Syrian refugees and all

other asylum seekers, that makes their lives unendurable and let them seek protection elsewhere in the summer of 2015.⁴

The intervention section opens up with Fırat Genç discussing the possibilities and limits of migrant (solidarity) struggles in Turkey from the perspective of a member and co-founder of the grassroots organization Migration Solidarity Network (GDA). Contextualizing its formation, trajectory and eventually dissolution against the background of the shifting migration regime as well as the alterations of the radical left in Turkey, he traces the dynamics in the terrain of political contestation, wherein paternalistic, technocratic, and solidarity perspectives are in fierce antagonism. However, he concludes, recent transitions in the field of migration have also provided the ground on which new solidarity initiatives and migrant struggles emerged, that opened spaces for new potentials, encounters, and diversifications.

By looking at the enterprises established by Syrian refugees in Turkey, Duygu Gürsel claims that there is an emerging discourse of (differential) inclusion that does not depict Syrian refugees as victims or guests, but rather as enterprising subjectivities. Drawing on the approach of »autonomy of migration« she critically reflects the ambivalent figure of the migrant entrepreneur and relates it to the experiences and struggles of former migrants and their recuperation in a neoliberal framework. Finally, she argues that recent changes in migration politics with a focus on the ›economic potential‹ is institutionalizing this form of differential inclusion.

Taking recent anti-migrant discourses and political dynamics in Europe after the so-called ›refugee crisis‹ into consideration, Bernd Kasperek, Maren Kirchhoff, Johanna Neuhauser, and Helge Schwiertz discuss the connections between nationalism and racism. Their debate focuses on Germany and the EU, where anti-migrant parties and movements have gained more influence during the last five years. They highlight that in these current anti-migrant mobilizations, gender plays a crucial role, which is also linked to colonial narratives of Western Europe as the origin of ›civilizing superiority.‹ They conclude by discussing modes of subverting and reaching beyond the national by reflecting on struggles against deportations and on rebuilding a Europe from below.

Finally, in the research-lab section, analyzing the tensions and conflicts among Turkish citizens, Syrian refugees, and local authorities in the border city of Gaziantep, H. Pınar Şenoğuz argues that these tensions are not at all the immediate consequences

4 | Although Turkey is party to the 1951 Refugee Convention, this status was never generously provided. There were only forty-four European refugees known under the Convention status in Turkey. These refugees were from Greece, Bulgaria, Serbia, Azerbaijan, and Albania (UNHCR 2011: 25).

of the encounters among locals and refugees. She rather describes how these tensions are encompassed by the mode in which the emergency and societal responses to the ›refugee crisis‹ are politically used and discursively depicted.

Based on her research in Şanlıurfa, Rejane Herwig explores Syrian women's strategies of resistance in the city, and investigates how these strategies are shaped and limited by their experiences of violence. However, as she depicts in detail, they overcome and modify these limitations by acting as *eigensinnige* (willful) agents, developing everyday strategies to circumvent violence, protect themselves, and resist.

By following the lives of Syrian unaccompanied minors who were able to leave a refugee camp in Adana, Eda Elif Tibet explores the act of ›escaping‹ from different life-threatening conditions, moments, and situations that often prevent minors from participating in daily life, which deny them the rights to access education and other social services as well as having a childhood in general. By doing this, she shows how crossing the fence manifests itself, not only as an act of escaping from state control, but also as an act of reclaiming ›freedom‹ in relation to minors' agency.

From a legal perspective, Mariana Gkliati analyzes the reasoning of the first judgments of the Greek Asylum Appeal Committees, which are part of the Greek Asylum service responsible for the implementation of the EU-Turkey deal. She shows that in 390 out of 393 decisions, the Appeal Committees ruled that Safe Third Country requirements were not fulfilled with respect to Turkey, essentially impeding the application of the EU-Turkey deal. Gkliati also draws our attention to the fact that the timing of the decision to reorganize the initial Appeal Committees coincides with decisions of the Committees blocking returns to Turkey. While the new Committees now seem to be controlled by a majority by the state, she underlines that this can lead to the responsibility of Greece for violating the ECHR and the EU Charter of Fundamental Rights.

Overall, the contributions in this volume demonstrate the impacts of the current migration and asylum policies in and around Turkey on the ground. They also unravel the various ways in which the recent responses of European states to contain migration movements within the region only contribute to the suspension of basic rights of local dissidents as well as refugees and migrants. These analyses will hopefully inspire new practices, creative ideas, and actions, which will proliferate communication and solidarity channels attentive to the dire impacts of the border regime developing at the margins of Europe.

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mOvements

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[transcript]