

# movements

Journal for Critical Migration and Border Regime Studies

Turkey's Changing Migration Regime  
and its Global and Regional Dynamics

[transcript]

Ilker Ataç, Gerda Heck, Sabine Hess, Zeynep Kaşlı, Philipp Ratfisch, Cavidan Soykan,  
Bediz Yılmaz (Eds.)

Turkey's Changing Migration Regime and its Global and Regional Dynamics

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Vol. 3, Issue 2/2017

Our journal is dedicated to the movements of migration as well as the attempts to control and govern them. *movements* aims at promoting interdisciplinary migration and border regime studies intervening into the knowledge field of migration in a self-reflexive fashion and critical of power relations. As a forum for critical social research, *movements* wishes to contribute to the development of an adequate understanding of the complex realities and power structures of migration and a substantiated critique of the current patterns of the government of migration. The content and strategic focus of the journal is closely related to that of the Network for Critical Migration and Border Regime Studies (kritnet). Its editorial work builds upon this relationship and the established structures of a collective knowledge production. *movements* features academic papers subjected to a collaborative peer review, but also early research reports, political, conceptual and methodological debates and interventions. The majority of its contributions are usually in German language. The journal is published in print with *transcript* as well as on our open access website (CC BY-SA 4.0): *movements-journal.org*.

Unsere Zeitschrift widmet sich in zwei Ausgaben pro Jahr den Bewegungen der Migration sowie den Versuchen, diese zu kontrollieren und zu regulieren. *movements* verfolgt das Ziel, eine interdisziplinäre Migrations- und Grenzregimeforschung voranzutreiben, die selbstreflexiv und machtkritisch in das Wissensfeld der Migration interveniert. Im Sinne einer kritischen Gesellschaftsforschung will sie dazu beitragen, ein adäquates Verständnis der komplexen, machtförmigen Realitäten der Migration und eine fundierte Kritik an den gegenwärtigen Formen der Regierung von Migration zu entwickeln. Die redaktionelle Arbeit baut auf die seit Langem im *Netzwerk kritische Migrations- und Grenzregimeforschung* (kritnet) etablierten Strukturen und Erfahrungen kollektiver Wissensproduktion auf. *movements* umfasst wissenschaftliche Aufsätze, die einem kollaborativen *double blind review* unterliegen, aber auch frühe Berichte und Aufsätze aus der Forschung sowie politische, analytische und konzeptionelle Interventionen. Die Beiträge sind überwiegend in deutscher Sprache. Die Zeitschrift erscheint als Druckausgabe bei *transcript* sowie parallel dazu auf unserer open access Webseite (CC BY-SA 4.0): *movements-journal.org*.

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# Contested B/Orders.

## Turkey's Changing Migration Regime

### An Introduction

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ILKER ATAÇ, GERDA HECK, SABINE HESS, ZEYNEP KAŞLI,  
PHILIPP RATFISCH, CAVIDAN SOYKAN, BEDİZ YILMAZ

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.<sup>1</sup> 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.

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1 | See the HarekAct website: [harekact.bordermonitoring.eu](http://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; Yüксеk 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,<sup>2</sup> 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

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2 | See the Directorate General of Migration Management website: [goc.gov.tr](http://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.<sup>3</sup>

## 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

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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 Fırat 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 Sarı 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. Sarı 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.<sup>4</sup>

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

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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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# **In Solidarity with Purged Academics and Activists in Turkey and Elsewhere**

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EDITORIAL BOARD

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I Not all authors in Turkey are currently able to publish their articles. Many pages stay empty. As editors of this special issue we express our full solidarity with the Academics for Peace, who had to face dismissal, firing, mobbing and every form of repression by their universities, and with those civil society members in Turkey who are silenced and imprisoned due to the ongoing crackdown on human rights by the Turkish government. If you want to show solidarity with the intellectuals and academics affected by the oppressions of the Turkish state and elsewhere, consider getting involved with the Off-University. It is a Berlin-based initiative aimed to provide new and emancipatory education and research opportunities for academics from Turkey and other anti-democratic regimes who are dismissed, forced to leave their posts or had been prosecuted due to their research and public statements, and for those who want to support these academics. Off-University is designed as an online education model which allows active participation of researchers and students unable to be mobile for various reasons. For further information please visit [off-university.de](http://off-university.de).





# Shattered Dreams

## Syrian Unaccompanied Minors and the EU-Turkey Deal

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EDA ELIF TIBET

Burhan was formerly kidnapped by ISIS from his hometown Manbij and was held captive in an ISIS Child soldiers' camp in Iraq. At the age of 14 Burhan managed to escape from the hands of ISIS and arrived in Turkey alone, after crossing the border from Aleppo to Hatay. Burhan was then sent to a refugee camp in Adana where he stayed for a few months in a tent especially made for unaccompanied minors. There, he met Mazen, who was formerly in the official youth shelter for unaccompanied minors (ÇOGEM) in Istanbul and was then transferred to the refugee camp as of November 2015. Mazen's referral to the camp happened as a side effect of the negotiations beginning between the EU and Turkey on how to curb the migration movements to Europe. As the authorities managing the youth shelter were afraid of having to take in more minors of other nationalities being deported back from the Greek islands to Turkey, they pushed the Syrian minors to the existing refugee camp infrastructure. However, together with Burhan, Mazen escaped from the refugee camp and came back to ÇOGEM Istanbul where I met both of them.

During the crafting of the EU-Turkey deal (October 2015-March 2016), I was conducting participatory youth action research with Burhan, Mazen, Yaman and two other Syrian unaccompanied minors (14-15 years old) temporarily based at the youth shelter (ÇOGEM) run by the (Turkish) Ministry of Family and Social Policies in Istanbul. Together with the participating youth, we conducted radio programs where we shared life stories with each other. Among other topics, migration experiences on crossing borders were extensively discussed, as they have become significant markers of identity (see also paper by the author *Escaping Exclusion* within the issue). Alongside the dialogical conversations that took place throughout the radio shows, we have also practiced photography elicitations where we have been able to collect metaphorical meanings of borders that show how borders have been experienced, not only in physical terms, but also in ways that have been preventing minors' social inclusion into their hosting society and restricting their access to formal education.

Burhan's photograph »The Turkish flag« shows how the minor is introduced to the nation state, that is, in the form of a fence. Yaman also shared his escape story with Burhan in one of the radio conversations we made together. Yaman took part in the uprising in Aleppo by chanting songs of liberation during 2011, and he was imprisoned by Assad forces. Like Burhan, Yaman too escaped to Turkey by crossing from the Aleppo border into Hatay.

Prior to the EU-Turkey deal, Burhan dreamt of school and associated it with hope, happiness, and dreams coming true (see his photograph: »rainbow«). Yaman also associated access to education with hope and a positive outlook to future (see his photograph »hope«) and so did Mazen (see his photograph »the sun«). However, with no prospect for schooling, over time, Mazen started expressing his longing to his family. While he was rejected by ÇOGEM for resisting his transferal to the refugee camp for the second time, he also started spending a week on his own staying out in the streets at night, and, sadly, self-harming (by cutting himself and abusing drugs). Due to my inquiries, the refugee camp in Adana initiated a searching operation and found his family. Mazen united with his family members who are among the Doms of Syria. Together with his twelve siblings, he is currently begging in the streets of Van in Turkey. Unlike Mazen, Yaman has not been able to unite with his family as he found out that his mother was killed during an air strike. After realizing that he would not be able to go to school, Yaman became more inclined towards returning back to Syria (see his photograph: »Where is my house?«). Yaman left ÇOGEM and stayed out at the streets in grief. Ever since, he keeps changing low paid jobs and cities. Having troubles with the authorities and other minors in the facility, Burhan was sent back to Adana refugee camp and has been placed into a center for criminalized children. Burhan's family once in ISIS controlled Mimbic area whom tried surviving under siege for many years are now living under the YPG forces.



**»Turkish flag«**

**by Burhan (from Mimbic, 15 years old)**

»This is the first thing I remember seeing once I arrived in Turkey: the Turkish flag. I was scared but happy and you have no idea how many fences I jumped over.«



**»Rainbow«**

**by Burhan (from Mimbic, 15 years old)**

»If I go to school, that would be the happiest thing in my life, I will feel like I am seeing rainbows everyday, to go to school is my biggest dream. İnşallah I will go one day.«



**»Where is my house?«**

**by Yaman (from Aleppo, 15 years old)**

»Where is my house? Where is my mother? Is she still alive? I will go back to Aleppo soon, I will look for her, I only fear that I will find my house destroyed and my mother gone, this is my biggest nightmare. I wake up everyday that I will go back soon.«





**»The Sun«**

**by Mazen (from Aleppo, 15 years old)**

»The day I unite with my family will be the day of the sun shining back again into my life. I will also see sunny days if I go to school, I really wish to go to school. I can only see the sun then. Now I see no sun.«



**»Hope«**

**by Yaman (from Aleppo, 15 years old)**

»Like the seagulls on the roof, I am also brave. I am not afraid of anything anymore.  
To look at birds flying makes me happy.«





## Articles



# Tracing the Effects of the EU-Turkey Deal

## The Momentum of the Multi-layered Turkish Border Regime

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GERDA HECK, SABINE HESS

**Abstract:** Against the background of a recent ethnographic research project on the effects of the EU-Turkey deal and yearlong research activities in Turkey, the article will re-visit the changing dynamics of the recent Turkish border and migration regime in relation to the externalization policies of the EU. We argue that academic narrations, which tend to reduce Turkey's role to a simple externalization of EU border politics, are insufficient to explain the current Turkish migration regime. Rather, the article elaborates how the recent history of Turkey's migration and border regime has become interwoven with other multi-layered dynamics, shaped by different national, regional, and international developments and aspirations. Furthermore, it analyzes the effects of the EU-Turkey deal in regard to the current asylum and migration regime in Turkey.

**Keywords:** border regime, externalization, EU-Turkey deal, regionalization, deceleration of mobilities

Located on the Turkish Aegean coast near several Greek islands, Izmir has been a springboard for migrants attempting to make their journey to Europe by boat (see also Düvell/Wissink/van Eerdewijk 2013) for many years. Here, migrants generally meet in Basmane, an inner-city neighborhood next to one of Izmir's two main railway stations. The district is a lively agglomeration of Syrian shops and restaurants, tea houses, internet and telephone cafés, and cheap hotels. Long before the onset of the civil war in Syria, there was already a small Syrian community in Izmir (Interview with Muhammed Ali Salih, Association for Solidarity with Syrians, Izmir, May 2, 2016). Now, the cafés around Basmane Square are known for hosting a well-established network of facilitators and smugglers, which the migrants need to cross over to Greece.

During the summer of 2015, the number of transiting migrants rose steeply. About 850,000 people, half of them Syrians, made the crossing from the city (IOM 2016: 5). Almost every day, hundreds of migrants arrived in Izmir to pursue their journeys towards Europe. Since not all of them could find an affordable hotel room, people started to camp in the streets surrounding Basmane Square.

In order to stem these movements, on March 18, 2016, the EU Commission together with Germany and Turkey eventually introduced the so-called EU-Turkey deal, which we will describe in fuller detail later in this article. With its implementation in April 2016, movements through the city slowed down, but they have never completely stopped (UNHCR 2016, 2017).<sup>1</sup>

## TRAPPED IN LIMBO

It was in this neighborhood that we met Mohammad. He, his wife Mariam, and their two sons arrived in Izmir from Egypt in late autumn of 2015, with the intention of crossing the Aegean to Europe. When they arrived, Syrians still did not need a visa to enter Turkey by air. Three years before, the family had left Damascus for Lebanon, then continued on to Egypt shortly thereafter — quite a familiar step-by-step regional flight-migration biography which corresponds to that of many other migrants we met during our research.

Upon their arrival in Turkey, Mohammad quickly found a job as a cook at a Syrian restaurant in Basmane. While working to save up money for the trip, he and Mariam saw news of fatal shipwrecks and the implementation of the ›EU-Turkey statement‹ of March 2016. Eventually, the couple decided not to risk the lives of their children on a perilous boat trip, just to be stuck once again, this time on a Greek island.

Mohammad and Mariam saw that they were left with no options to move to Europe. However, remaining in Turkey did not offer many prospects either. So, they arranged a trip to go back to Egypt. This time, however, Egyptian border policies towards Syrians had changed following the overthrow of Egyptian President Morsi (UNHCR 2014: 2).<sup>2</sup> To get back, they would have to be smuggled from Sudan over the border into Egypt. For this journey, they paid a total sum of 4,000 USD. However, before departing Turkey, they realized that they had been cheated, and their money was gone. One year later, unable to move in any direction, Mohammad is saving money once again and still hoping to make it to either Europe or to Egypt. He wants to leave Turkey, as living conditions there remain precarious on several levels (see also Baban/Ilcán/Rygiel in this issue).

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1 | According to UNHCR statistics, 1,920 migrants reached the Greek islands in July 2016, and in August the figures increased to 3,447 (UNHCR 2016: 2). In the first five months of 2017, 7,607 migrants arrived in Greece (UNHCR 2017).

2 | On July 8, 2013, visa restrictions were imposed on all Syrians entering Egypt (UNHCR 2014: 2).

Mohammad is one interview partner whom we met several times. Like him, many of the others we interviewed expressed a sense of being trapped in limbo. This is certainly due to the introduction of the EU-Turkey deal and its effects on the regional migration and border regime, which gave Turkey a pivotal role in the so-called European ›refugee crisis.‹ But, as we will argue, Turkey is hardly a passive recipient of the EU's will to border its territory and curb the movements of migration.

In spring and summer 2016, we carried out ethnographic research in Ankara, Istanbul, Izmir, and Gaziantep on the »Destabilization and Re-stabilization of the European Border Regime« in the wake of the so-called ›refugee crisis.«<sup>3</sup> During our research, we learned a lot about the inconsistencies and pitfalls of the various kinds of humanitarianism at play in Turkey, and the complexities of pro-migration political practice. We also observed the harsh effects of the EU-Turkey deal, which we will roughly outline later on. However, several talks and experiences in the wake of our research point to different trajectories of Turkish domestic as well as foreign policy and the importance of the repercussions of the Syrian crisis for/in Turkey. Against this background, we hope to challenge conventional interpretations of the EU-Turkey deal in Western Europe as just another example of the power of the EU to simply externalize its border control policies. Therefore, we will analyze and discuss the changing dynamics of the Turkish border and migration regime, following the question of how much the EU actually drives the Turkish border and migration regime. Looking anew at the genealogy of the Turkish border and migration regime in relation to EU interests and politics as part of the context of EU accession negotiations, culminating — so to speak — in the EU-Turkey deal, we will challenge one of the central paradigms of border studies itself, namely externalization (Lavenex 2004; Lahav/Guiraudon 2000; Bialasiewicz 2012). This has been mainly characterized as a one-way, top-down process, initiated by the European Union on its neighboring countries. As such, we will also draw on research findings we made in the course of previous research projects in Turkey, which reach back to the beginning of the 2000s.

As we witnessed in the first research we did in the context of the Transit Migration Research Group on the implementation of the externalizing EU border regime in the region (Hess/Karakayali 2007), there was hardly any awareness of the topic of migra-

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3 | This multi-sited research project was funded by the Fritz Thyssen Foundation ([transitmigration-2.org](http://transitmigration-2.org).) The research in Turkey was carried out by Fırat Genç, Gerda Heck, and Sabine Hess. Alongside participant observation at NGO-run centers and fieldtrips to migrant settlements, we conducted over 30 ethnographic structured interviews as well as conversations with migrants, political activists with Turkish and Syrian backgrounds, workers in international and Turkish NGOs, and representatives of government bodies.

tion and migration politics, either from the Turkish state, or in academia, or among the public up to the first years of the 2000s.<sup>4</sup> Interest in migration appeared slowly during the course of Turkey's EU accession negotiations, and Europe's pressure on Turkey to regulate migration flows. However, it never has been just a top-down relationship (ibid.; Hess 2012; Heck 2013). Rather, as we will show in the following chapters, academic narrations, which tend to reduce Turkey's role to a simple enlargement of the EU border regime and a passive object of the EU's externalization policies, are insufficient when attempting to explain the current Turkish migration regime. Therefore, in the first part of this article, we will elaborate on how the recent history of Turkey's migration and border regime has become interwoven with other multilayered dynamics. In the second part, we will sketch the effects of the EU-Turkey deal in regard to the current asylum and migration regime in Turkey.

## EXTERNALIZATION REVISITED

The arrival of nearly 800,000 refugees, who crossed the Aegean Sea during the ›summer of migration‹ in 2015 (Kasperek/Speer 2015) and targeted northern countries in Western Europe, has not only undermined the basis of the EU border regime. It has also provided an opportunity to reopen the discussion of Turkey's role and position within international migration flows and the EU-driven border regime.

The introduction of the EU-Turkey deal, more accurately the ›EU-Turkey statement‹ (European Council 2016) of March 18, 2016, has again shown the increasingly significant role of Turkey in governing migration at the international and regional level, especially for European governments and international governance institutions. But this is not new. Since the late 1990s, controlling borders and migrants' mobility has been a matter of negotiations between the Turkish state and the EU, with very mixed outcomes (İçduygu/Kirişçi 2009; Özçürümez/Şenses 2011). Particularly in recent years, there has been evolving academic interest<sup>5</sup> focusing on the impact of

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4 | Some of the few exceptions of people who had already been writing on migration at that time were Ahmet İçduygu and Kemal Kirişçi.

5 | There are also many research projects that have emphasized the social conditions and realities of migrants and refugees in Turkey (Şenses 2016; Baban/Ilan/Rygiel 2016; Düvell/Wissink/van Eerdewijk 2013; Heck 2013; İçduygu 2015; Özden 2013; see also Baban/Ilan/Rygiel in this issue). Another body of research focuses on the legal aspects of the developing Turkish migration and border regime, such as the recent implementation of the Law on Foreigners and International Protection (Soykan 2011, 2012; Kirişçi 2012).

European externalization policies on Turkey. These are mainly driven by the question of how the EU and international and intergovernmental organizations have urged the Turkish state to follow the rationale of these policies (Düvell/Wissink/van Eerdewijk 2013; Hess/Karakayali 2007; Kirişci 2007; İçduygu 2007, 2011, 2014; Hess 2010). Thereby, many rely on the paradigm of ›externalization‹ as a more or less top-down, EU-driven process, which according to Lahav and Giroudon (2000) can be regarded as one of the central rationales of the European border regime.<sup>6</sup> Since the beginning of the 2000s, there have been growing concerns in the EU with respect to irregular migrants transiting through Turkey. This had already been expressed by the British government at the 2002 Seville Summit, which asked for sanctions against Turkey, should Ankara not adopt stricter measures against the uncontrolled movements on the Aegean Sea and the land borders along the Evros River (Hess/Karakayali 2007; İçduygu/Kirişci 2009).

However, though Turkey's legal and institutional architecture in the field of migration and border policies has been constructed within the context of the membership negotiations with the EU since 1999 (Kirişci 2007: 8), there has always been a certain autonomy, and different, endogenous geopolitical interests of the Turkish nation-state in the process.

Therefore, we propose characterizing Turkey's emerging border regime as a much hybridized formation, in which the intersection of different layers, scales, interests, and actors does not produce a linear process. The result, conversely, is a highly contradictory regime, full of cracks and ruptures, leading to a specific securitarian-humanitarian dispositif.<sup>7</sup> Applying the term ›border regime,‹ we aim to overcome a simplistic understanding of the border as a line surrounding national territories. Instead, we conceptualize it as a deterritorialized and pervasive ›borderscape‹ or assemblage of technologies, laws, institutions, representations, discourses, and practices. The Transit Migration Research group defines the »border regime« as a »more or less ordered ensemble of practices and knowledge-power-complexes« resulting in a space of heightened contestation and conflicts, with the movement of migration as

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<sup>6</sup> | See the formulation of a comprehensive EU externalization policy (European Commission 2005; Home Office 2002).

<sup>7</sup> | Applying the notion of ›securitarian-humanitarian dispositif‹ we not only refer to the growing literature on humanitarianism within border studies (Fassin 2007; Cuttitta 2014; Ticktin 2011), but also to the understanding that security policies are highly interwoven and entangled with humanitarian policies, best reflected in the case of Greece and the transnational attempts to stabilize and enforce a specific, highly restrictive asylum system.



one of the driving forces of the border regime (Karakayali/Tsianos 2007: 3). The erratic history of the Turkish border regime can be perceived as an exemplary case.

## **THE RISE OF THE TURKISH MIGRATION AND BORDER REGIME**

Since the 1980s, Turkey has been an important link for migration movements towards Europe from neighboring countries in the Middle East and from more distant countries in Asia and Africa. The Özal governments of the 1980s and 1990s pursued a pragmatic approach in their foreign policy, introducing a liberal visa regime to the citizens of Balkan, ex-Soviet, and Middle Eastern countries to enhance cross-border movements and increase trade (Kirişçi 2005: 351; Genç 2015: 535). This liberal approach to international migratory flows was based on the idea of the »trading state« (Kirişçi 2009), but contained limitations and contradictions within itself. The Turkish state's security concerns, especially in regard to its Kurdish population and the transborder activities of their organized factions/parties, had restrictive impacts on bordering processes that targeted certain groups and nationalities (Genç 2015).

Since 2002, the AKP (Justice and Development Party) governments have largely adopted this liberal approach to migration, in accordance with their political, economic, and geostrategic inclinations. At the same time, increased numbers of undocumented migrants in Turkey have become a major theme of the accession negotiations with the European Union (Kirişçi 2005; Özçürümez/Yetkin 2014). As such, the economic, political, and geostrategic dynamics that have made Turkey both a transit and immigration country have also led towards a certain institutionalization of the migration and border regime in close interaction with the European Union since 2000.

The accession negotiations for full membership with the EU since 1999 have represented the institutional context of this new phase, as the EU has demanded the adoption of the so-called »Schengen acquis« as part of the *acquis communautaire* regarding visa policy and practice, asylum, border protection, law enforcement, anti-trafficking politics, and the introduction of a new migration law as a requirement for accession (Kirişçi 2007: 8). However, from the very beginning, this institutional and political process has intrinsically been accompanied by contradictions, obstacles, and delays (Özçürümez/Yetkin 2014: 448).

On one hand, Turkey has fulfilled crucial demands by the EU, and has introduced a series of new laws in recent years (Tolay 2012: 40); it has revised its laws on work permits and naturalization, adopted the »Palermo Protocols« regarding human trafficking, expanded deportation facilities with the financial support of the EU, and

intensified the ›protection‹ of Turkish borders in 2006 within the scope of the National Action Plan for the Implementation of Turkey's Integrated Border Management (IBM) Strategy (Haase/Obergfell 2013: 35). In order to create an effective coordination and collaboration in accordance with IBM, the Ministry of Interior established the Directorate of Project Implementation on Integrated Border Management in 2004. This unit, responsible for planning, preparing, and administering EU projects on IBM, conceded these tasks to the Bureau for Border Management in 2012 (Sert 2013: 177). Finally, visa regulations have been reformed in accordance with the visa allocation policies of the EU (Tolay 2012: 45).

On the other hand, geopolitical and economic interests within the context of Turkey's approach towards the Middle East and Africa led to a revision of its restrictive visa policy in 2005 (Genç 2015: 536). This turn was driven by Turkey's new foreign policy orientation, which has aimed to intensify trade and investment opportunities, that play a greater role in regional and international affairs, with increasing efforts to align the country with non-Western states (Açıkgöz 2015: 102; Aksel/Danış 2014; Börzel/Soyaltın 2012: 14). Accordingly, Turkey began to establish and intensify economic relations with various African states, and, as part of this endeavor, lifted visa restrictions.<sup>8</sup>

In a similar manner, Turkey and Syria introduced a mutual visa exemption agreement in 2009. This agreement applied to both states and included the formulated aim to create a Schengen-type joint visa policy together with Iran and Iraq, which would be called »Şamgen« (Gökalp Aras/Şahin-Mencütek 2015: 199; Özler 2013: 52). The fact that Turkey maintained visa agreements with a series of third countries that were listed on the EU's ›negative list‹ has caused persistent displeasure on the part of EU authorities (Haase/Obergfell 2013: 6).<sup>9</sup>

The Turkish state's refugee and asylum policy has been another item producing constant tension with the EU. Turkey is a signatory to the UN's 1951 Geneva Convention and the 1967 Protocol, but it has maintained the geographical limitation clause of the Convention. It therefore only accepts applicants coming from Europe — the borders of which are defined by the European Council — as »convention refugees«

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<sup>8</sup> | In 2003, a strategy on the development of the economic relations was compiled by the Undersecretariat for Foreign Trade, and, in 2005, the Turkish government declared the ›Year of Africa.‹ In the following years, the Turkish state put significant effort into a range of different measures to intensify relations with various African states (Republic of Turkey Ministry of Foreign Affairs).

<sup>9</sup> | Turkey has also abolished visa requirements with countries such as Jordan, Lebanon, Russia, and Serbia, which have been also on the EU's negative list (Canefe 2016: 23).

(Brewer/Yükseker 2009: 650). In the case of non-Europeans, this implies that the procedure to gain refugee status must be channeled through the UNHCR. This geographical limitation to European citizens for the full recognition of refugee status was also retained in the new Law on Foreigners and International Protection, which went into effect on April 12, 2014. The EU has frequently demanded the abolition of this restriction as a requirement for EU accession (Council of Ministers of the EU 2001: 21–22; Kirişci 2012: 75).

Turkey, however, has resisted such demands, arguing that the country could become a reservoir for asylum seekers who have been rejected from the European Union, without having ensured Turkish accession to the EU, since the adoption of the current EU *acquis* would turn Turkey into a so-called ›country of first reception‹ for asylum seekers. Therefore, Turkey, as a third country confronted with deportations from the EU, opted to keep the main lines of its asylum procedure intact before full membership has been granted (Kirişci 2012: 75). Added to that, although the EU had already started negotiating an EU-Turkey readmission agreement in 2002, it took more than a decade until it was finally signed in December 2013 (Kirişci 2014).

In 2013, Turkey passed the Law on Foreigners and International Protection alongside the negotiations with the EU as the primary legal framework on which current regulations on asylum and international protection are based. The Directorate General of Migration Management (DGMM), the main state regulatory institution to administer the field of migration, was established in compliance with this law, and has been given highly centralized authority regarding the registration, protection, detention, and/or deportation of both documented and undocumented migrants.

While in the midst of revising the legal and administrative system regarding migration and asylum, the Syrian civil war erupted in 2011. This has had a huge impact on the orientation and implications of Turkey's new migration and border regime.

## **THE SYRIAN CRISIS AND THE CREATION OF ›GUEST‹ STATUS**

In spring of 2011, the Turkish state's initial response to the growing war in Syria was the introduction of an unconditional ›open door policy.‹ With this, they welcomed all Syrian refugees crossing through the southern land borders *en masse*, formally designating them as ›guests‹ — a category that is not defined in either international or national refugee law.

However, this initially optimistic response began to shift by November 2011, when the government signaled the implementation of ›temporary protection status‹ for Syr-

ians, which was legally defined and later adopted by the Ministry of Internal Affairs in October 2014 (Gökalp Aras/Şahin-Mencütek 2015: 201). The 2013 Law on Foreigners and International Protection introduced two forms of international protection for non-Europeans, which were meant to be temporary: ›conditional refugee status‹ in the case of persons who are under direct personal threat, and ›subsidiary protection status‹ in the case of persons coming to Turkey from countries where a general situation of violence prevails.

Syrian refugees, however, were excluded from these categories, because they have been granted ›temporary protection status‹ (TPS) (see also Baban/Ilcay/Rygiel and Sarı/Dinçer in this issue). This special category refers to the European Council Directive on ›Temporary Protection‹ of 2001 for migration *en masse* (Gökalp Aras/Şahin-Mencütek 2015: 201). The category of TPS creates severe legal, political, and social ambiguities and disenfranchisement, since its temporal scope and prospects for naturalization have not been properly defined (Mülteci-Der/Pro Asyl 2016). In short, the legal framework and practice relating to non-European refugees in Turkey is two-fold: Syrians and non-Syrians are subjected to two separate legal and administrative systems, which have varying effects on their statuses, material conditions, daily life experiences, and expectations.

It would be reasonable to argue that the Turkish state's initial ›open door policy‹ towards Syrian refugees implied a different approach from the current global trends in terms of border regimes. It also looked different from Turkey's previous reactions to similar massive refugee movements as exemplified during the first Gulf War in the early 1990s, which had been primarily based on securitization perspectives.<sup>10</sup> Researchers and political analysts have argued that this approach, which was justified by the national authorities on the basis of humanitarian aspirations and geopolitical priorities, enabled Turkey to appear, during the first years of the Syrian civil war, as a regional power and a model state that sought to play the role of a regional mediator in the face of acute humanitarian problems. However, in the wake of the failure of the mediating attempts of Minister of Foreign Affairs Ahmet Davutoğlu in 2011 (Aras 2012), Turkey has increasingly relied on the prospect that the Syrian opposition could gain power soon (Erdoğan 2014; Genç/Öner 2015: 1; Gökalp Aras/Şahin-Mencütek 2015: 201).

By 2013, it became obvious that the war in Syria would not end soon. With that, the ›guests,‹ a term framed and justified in reference to the notion of religious frater-

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**10 |** In response to Iraqi refugees at the beginning of the 1990s, Turkey intensified its border enforcement and introduced restrictive asylum regulations after 1993 (Şahin-Mencütek 2012: 140).

nity as well as indicating a temporary stay, would not return to Syria soon. Complicated by the shifting balances of military power and increasing geostrategic anxieties spurred by the Kurdish forces' military and political influence in northern Syria, the features of the Turkish state's approach to Syrian refugees began to change in a dramatic way. Consequently, since the beginning of 2014, Turkey has undertaken more systematic steps to register Syrian refugees, and more importantly, canceled the ›open door policy‹ for Syrian refugees (Gökalp Aras/Şahin-Mencütek 2015: 205). This has occurred despite credible accounts demonstrating that the southern land borders were open in a limited and selective way until the autumn of 2015 (ibid.: 194).

Meanwhile, the dynamics of long-term military and political conflicts between the Kurdish population and the Turkish state have had impacts on the AKP's Syrian policy and thus on the border regime in regard to Syrians. In the aftermath of the widespread popular mobilization among Kurdish citizens of Turkey against attacks by the so-called Islamic State (IS) on Kurdish-populated territories in Syria, peace negotiations between the Turkish state and the armed forces of PKK came to an end in 2015. This resulted in an intensification of ethnic rivalries and conflicts, and eventually restrictions on cross-border movements (see Şenoğuz in this issue).

## THE EU-TURKEY DEAL

By the summer of 2015, Turkey was once again a focal point for European migration control politics. With a rising number of migrants reaching Europe via the Aegean Sea, the EU Commission discussed including Turkey in the group of ›safe countries of origin‹ as early as June 2015 (Bendel 2015: 25).

In 2015, after several hundred thousand people entered Western Europe via the ›Balkan Route,‹ the EU states and Turkey reached a consensus on an ›EU-Turkey joint action plan.‹ This agreement on migration control came during a special summit held on 29 November in Brussels (European Commission 2015).

The agreement was that Turkey would control its borders facing Europe and improve the conditions for Syrian refugees in the country. In return, Turkey would receive three billion Euros as well as visa liberalization for the Schengen area for Turkish citizens. Furthermore, the EU accession negotiations would be resumed (Müller 2015). In response, on January 8, 2016, Turkey implemented visa restrictions for Syrians entering the country through air or sea borders, aiming to prevent newcom-

ers arriving to Turkey who had the goal of reaching the EU countries in clandestine ways.<sup>11</sup>

Finally, during a summit in March 2016, the EU countries and Turkey signed a further common statement — the »EU-Turkey statement« (European Council 2016). This action allows the deportation of all migrants who would arrive on the Greek islands via the Aegean Sea after March 20, 2016 back to Turkey. These deportations would follow an asylum fast-track procedure for the migrants based on the question of whether Turkey is a »safe third country« or a »country of first asylum« for applicants. This procedure is based on Article 60(4) of the newly introduced Greek Asylum Law (L 4375/2016), which allows the Greek Ministries of Interior and Defense to implement exceptional measures in cases of large numbers of arrivals filing asylum applications at the border. Only vulnerable applicants (e.g. disabled persons, persons with chronic diseases, or single mothers with children) are exempt from this procedure (and the following deportations) and have a chance to claim asylum under the regular asylum procedure (AIRE Center/ECRE 2016: 10).

The deal itself lacks any international consensus and is only based on an older readmission agreement between Greece and Turkey. In return, the EU has promised to accept up to 72,000 Syrians from Turkey via quotas; specifically, for every Syrian deported from the Greek islands, another Syrian from the Turkish camps is accepted in the so-called »1:1 Procedure« (Peers 2016). The deal states that migrants who had not tried to reach Europe clandestinely would be prioritized. Furthermore, Turkey would enhance its border controls towards Europe as well as the living conditions for Syrians within the country in order to render crossing a much less desirable option. In response, the EU promised Turkey to increase its financial support to six billion euros to be spent to improve physical infrastructure and the institutional capacity of the Turkish state institutions. In addition to the lucrative monetary incentives, the political discourse employed by the Turkish government to justify the agreement publicly was based on the prospect of visa liberalization for Turkish citizens for the Schengen area and acceleration of the EU accession negotiations.

Regardless of the great expectations projected onto the deal in spring of 2016, it has proven ineffective to some extent. However, one effect of the deal is indeed that the number of crossings drastically diminished, even though they have also been on the rise again since the *coup d'état* attempt in Turkey on July 15, 2016. At that point, Turkish citizens themselves also started to use the same route to escape the

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11 | However, the government also announced that visa restrictions would not apply to Syrian refugees crossing the Syrian-Turkish border by land to flee the war zones in Syria (Hürriyet Daily News, January 10, 2016).

deteriorating political conditions in the country. It can also be said that as an effect of the deal and the implementation of the EU ›hotspot approach‹ as laid down in the European Agenda of Migration (Antonakaki/Kasperek/Maniatis 2016; Tazzioli 2016), the arriving migrants are generally locked down on the islands under very poor living conditions (Heck/Hess 2016), and the asylum procedure has been reduced to a so-called ›inadmissibility‹<sup>12</sup> check (Antonakaki/Kasperek/Maniatis 2016).

By the end of April 2017, only 5,035 Syrian refugees had been resettled from Turkey to the EU, since many EU countries refuse to admit them. During the same period, only 1,094 migrants who had arrived on the islands via Turkey had been returned as part of the EU-Turkey statement (Danish Refugee Council 2017). Since its introduction, it has become clear that the deal itself is very fragile and in danger of failing for various reasons. Already in May 2016, a Greek appeals committee stopped the deportation of some Syrian refugees, stating that Turkey is an unsafe country (The Guardian 2016; see Gkliati in this issue). This jurisdictional contingency strikes at the core of the deal.

Meanwhile, the fact that the deal was so deeply connected with the prospect of visa liberalization for Turkish citizens stimulated increased reactions among many local EU citizens. These reactions are due to various political motivations deriving from liberal-democratic objections to manifest signals of mounting authoritarianism in Turkey and to xenophobic and anti-Muslim populist reactions in Europe aggravated by the so-called »migration crisis« (Die Zeit 2016). All of this made the deal a point of contention within Europe.

Following the political turmoil that occurred in the aftermath of the recent *coup d'état* attempt, EU politicians and bureaucrats publicly announced that visa-free travel for Turkish citizens did not seem likely under the resulting circumstances. Ankara has expressed multiple threats in response, saying it would renounce its obligations should there be no progress on the visa waiver front (see Eurotopics 2016). Overall, we can define the effects of the EU-Turkey deal in combination with the hotspot approach and the official closure of the Balkan route as resulting in a manifest deceleration of the migrants' movements. As an outcome, many of our interview partners, such as Mohammad, felt stuck.

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**12** | Under the conditions of the EU-Turkey statement and the newly introduced Greek Asylum Law (L 4375/2016), Turkey can be considered either a ›safe third country‹ or a ›country of first asylum.‹ A ›safe third country‹ means a country where the applicant could apply for asylum. A ›country of first asylum‹ is a country that has already granted protection status to the applicant. In both cases, the applicant is declared inadmissible to the Greek Asylum system and accordingly has to be readmitted to Turkey (Antonakaki/ Kasperek/Maniatis 2016)

The genealogy of the Turkish border and migration regime clearly shows that the implementation and further Europeanization of migration control policies have not followed a clear and straight path in the case of Turkey. Instead, as we have outlined so far, the Turkish border and migration regime can be understood as a contingent product spurred by complex national and international dynamics and political interests in the field of geopolitics, security, the economy, and the biopolitical aspirations of the Turkish state. Paradoxically, the dynamics of externalization of migration control politics have opened up space for a certain degree of autonomy for the Turkish government. There, it strategically and pragmatically seeks to benefit from anxieties triggered by the recent massive migration movements to and through Europe. Especially in the months following the failed *coup* attempt in Turkey, European leaders had been increasingly criticized by human rights organizations and opposition leaders for not speaking up more clearly against the post-*coup* purges, arguing that the EU-Turkey deal made them susceptible to blackmail by Turkey, and that the EU has put itself in a difficult position of dependency (Hauge 2017).

### **... AND ITS EFFECTS: THE COLLAPSE OF THE ASYLUM SYSTEM IN TURKEY**

According to the TPS, Syrians are entitled to access to basic health care services, education and a work permit, and are not forcibly encamped<sup>13</sup> like most asylum seeking refugees in European countries. Nevertheless, the actual living conditions in Turkey are harsh for all migrants (Şenses 2016), as many interviewees stated during our field research. For Syrians, the main reason to leave Turkey is the temporary nature of their legal status; this entails constant legal and social insecurity (Baban/Ilgan/Rygiel 2016) and casts dark shadows on their future prospects. This is accentuated by the fact that in Turkey, the time spent under the TPS does not qualify them for a long-term residency permit (Boček 2016: 4). Furthermore, it prevents Syrians from applying for ›international protection‹ since the UNHCR and Turkey agreed that persons subject to ›temporary protection‹ would not be registered by the UNHCR and would not be processed for refugee status determination under its mandate (Mülteci-Der/Pro Asyl 2016).

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**13** | Only about 240,000 Syrian refugees, i.e. 10 percent of the Syrian refugee population, live in the camps, which are mostly situated along the Syrian border and run by the Disaster and Emergency Management Presidency of Turkey (AFAD) (European Commission 2017).



As a rule, the UNHCR only resettles Syrian refugees classified as ›vulnerable‹ to third countries.<sup>14</sup> This means for the male Syrians we met, although some of them are prototypical political refugees, who have experienced long imprisonment and torture, they can apply for neither ›international protection‹ nor ›resettlement,‹ since they do not match the vulnerability criteria of the UNHCR (see Fassin 2016 concerning the effects of this humanitarian narrative). Hence, these people are also excluded from the international resettlement program. Being stuck in this state of legal limbo applies not only to Syrian migrants, but also to other international asylum seekers who see themselves trapped under the disempowering circumstances resulting from the EU-Turkey deal, the Turkish bureaucracy, and UNHCR policies.

The current dynamics of the asylum system and the changing policy orientation of the UNHCR involve further obstacles and disenfranchisement for refugees in Turkey. In principle, asylum seekers are eligible for resettlement in third countries according to quotas determined by states such as the US, Canada, or Sweden if they are granted refugee status (Biehl 2015).<sup>15</sup> However, in practice, the scope and limit of the UNHCR's RSD and resettlement procedures have been narrowed to such an extent that asylum for certain nationalities and social groups is no longer a viable option. During our field research, we had the chance to observe that refugees who had been recognized by the UNHCR a few years earlier were still waiting for their resettlement due to the low limits of the quotas.<sup>16</sup>

In 2013, the UNHCR suspended asylum applications for Afghans, citing a backlog of cases. They have only been registered by the UNHCR, and RSD interviews have not been conducted. Moreover, as we were told during our interviews with UNHCR

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**14 |** The latter category has priority within the scope of the 1:1 procedure defined in the Turkey-EU deal.

**15 |** The ultimate decision is given after the Refugee Status Determination (RSD) interviews have been completed by the UNHCR. Thereafter, the applicant needs travel documents to be granted by the DGMM, which evaluates each applicant's file separately in order to go on with resettlement. There are documented cases where applicants cannot obtain the travel documents and be resettled, even though they have been granted refugee status. This is due to their unregistered status in Turkey, since they left their assigned ›satellite city,‹ the city in which they have to live during their asylum procedure at some point. The UNHCR has a differentiating policy of application and interviews for different nationalities (also see Sarı/Dinçer in this issue).

**16 |** One example is the case of a Congolese refugee, Christian Kinangu, whom we met several times in Istanbul. Although being accepted as refugee by the UNHCR in 2012, he, with his wife and two children, has been waiting for resettlement since 2012, in economically and legally precarious conditions.

officials, due to the tremendous increase in the number of asylum seekers in the last few years,<sup>17</sup> the UNHCR has come to a decision to suspend applications from all nations and restrict access to resettlement only to vulnerable cases that by definition exclude certain profiles.<sup>18</sup> Even in particular cases where the applicant is under a severe and immediate personal security threat, the process might only be initiated after a wait of two years due to the extreme workload of the UNHCR.

## INTERNATIONAL PROTECTION VS. OPPORTUNITY

On April 4, 2016, the first migrants were returned from the Greek islands Lesbos and Chios to Dikili under the mandate of the EU-Turkey readmission agreement. Among the 66 migrants deported from Chios was a group of migrants from different African countries with whom we got in contact. Upon their arrival in Turkey, they were directly transferred to the Kırklareli Gaziosmanpaşa Removal Center at the Bulgarian border, which has been in use since 2014.

In the interview, they described in great detail how in Greece they were systematically hindered from applying for asylum and were, without being informed previously, summarily deported back to Turkey. Once in Turkey, national authorities tried to prevent them from seeking ›international protection.‹ Only after the involvement of lawyers connected with a refugee rights organization were they finally able to submit their application after seven weeks of imprisonment. Then, in summer 2016, they were granted ›international protection‹ by the UNHCR according to the Geneva Conventions, released and sent to the satellite city of Konya, where they were obliged to reside and report to the police every week (Interview with M. Elaka, Kırklareli, May 19, and Istanbul, July 5, 2016).

As Turkey only accepts refugees coming from European countries as ›convention refugees,‹ all non-Europeans (except Syrians) must apply at the UNHCR for refugee status, which operates in parallel to the DGMM.<sup>19</sup> Upon the initial registration by the

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17 | In 2012, new asylum applicants at the UNHCR Turkey numbered 26,500; in 2015, the number of new asylum applicants increased to 133,300 (UNHCR 2015: 40).

18 | The only exception are Iraqi refugees, whose cases are evaluated by the UNHCR under the scope of a procedure termed »simplified RSD« (Interview with UNHCR official, October 15, 2016).

19 | The primary aim of this initial registration is to record basic information on behalf of the UNHCR and then file a case to be evaluated by UNHCR personnel. At the same time, asylum seekers must register a second time at the DGMM in Ankara.

UNHCR and the DGMM, asylum seekers are obliged to settle in a so-called ›satellite city‹ assigned by the DGMM and must continue to stay there so as not to lose their registration status, and the status of being under ›international protection.‹<sup>20</sup> Like Syrian refugees, they have access to basic health care services and the public education system. After the recent legal changes, which regulate work permits for foreigners, they also have access to formal employment.

Yet in stark contrast to the recent legal reforms, the social realities are very different. The overwhelming majority of the asylum seekers and Syrians under TPS have no access to adequate social and economic opportunities, condemning them to dire, precarious arrangements (Şenses 2016; Baban/Ilcan/Rygiel 2016; Eder/Özkul 2016). Furthermore, residing in a satellite city in inland Turkey, where economic prospects are much more limited, worsens the troublesome circumstances that define migrants' lives. Therefore, risking their legal status, many of them leave the satellite cities for metropolises such as Istanbul, so as to be in an economically viable environment and close to established networks of migrant communities, or they repeatedly try to cross the border.

Not seeing any possibility for making a living in Konya and not knowing when and if they ever would be resettled to another country, our interview partners decided to give up on ›international protection status,‹ moved to Istanbul, and eventually successfully left the country headed towards Europe.

The last news we received from them was to inform us that they had again reached Greece, and some of them even had headed on towards Western Europe.

## CONCLUSION

In this article, we described how the dynamics of the EU-Turkey deal have decelerated movements of migration (Panagiotidis/Tsianos 2007). This deceleration is exemplified in the case of Mohammad and his family, who are still waiting for their chance to move on. It is also reflected in the case of the sub-Saharan migrants, who had been deported and detained, and who journeyed on again half a year later.

Despite slowing down, the migrant movements have never stopped, as UNHCR statistics show. We argue that the deceleration of migrant movements is not only influenced by the EU-Turkey deal, but also by Turkey's own dynamics regarding its

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**20** | Even though the implementation depends on attitudes of local officials, refugees are expected to prove their presence by regularly visiting local Foreigners' Police Departments, reporting two or three times a week.

asylum system and other Middle Eastern political dynamics. Furthermore, the case of Mohammad illustrates the complexity of individual cases and conditions, which result in »fragmented journeys« (Collyer 2010). Initially fleeing to Lebanon, the economically extremely precarious situation in which they found themselves led them to move on to Egypt. Following the overthrow of President Morsi in 2013, the hostility against Syrians rose in the country, leading to the exodus of many Syrians, like Mohammad, and the introduction of strict visa obligations against them.

Like them, numerous migrants are trapped both by the EU pressure on Turkey regarding the sea-crossing route towards the Greek islands and its visa policies. At the same time, the most obvious obstacle for Syrians, but also for other non-European refugees, remains their exclusion from rights of citizenship and the prospect of a secure future in Turkey.<sup>21</sup> Different rationalities and trajectories have led to a highly hybrid formation of legal provisions, and social and political rights. With the implementation of the new immigration law and the system of Temporary Protection Status in 2014, migrants residing in Turkey acquired more rights concerning labor, education, and social health care, with the government endeavoring to implement some integration measures as well. Still, these migrants reside, for the most part, in very precarious social and economic situations (although it has to be stressed that most of the refugees are not encamped and therefore can draw on and live with their communities and networks).

It has become apparent that Turkey is now in a situation in which asylum has essentially collapsed. This has been brought about by the disintegration of UNHCR Turkey, which has been woven into the very nature of the formation of the Turkish migration regime. With the UNHCR no longer capable of dealing with the rising numbers of asylum seekers and a policy of excluding certain nationalities from resettlement, and given that the international community largely refuses to accept more refugees from Turkey, the country and its asylum-seeking population are reaching an impasse.

The cases of most asylum seekers are now no longer being processed, and even if one is granted »international protection« in Turkey, the lack of real prospects and the prevailing social and economic conditions induce people to move on, if or when they can. Added to that, by turning the right to claim asylum into a »favor,« as Didier Fassin has put it (2016), we can observe a paradigmatic shift within the asylum regime

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21 | Moreover, rights of citizenship are under severe threat and are being radically curtailed for Turkish citizens as well in the context of the state of emergency following the attempted *coup* in July 2016.

towards a shift to ›vulnerability‹ (see further Baban/Ilan/Rygiel in this issue), since only vulnerable persons have any chance to be resettled in a foreseeable timeframe.

Furthermore, as delineated in this essay, the Turkish border regime has always been shaped by different national, regional, and international developments and aspirations. Therefore, the notion of externalization, that by definition prioritizes the strategic inclinations of the EU, is insufficient to explain the level of autonomy the Turkish state has assumed in a context where the further regionalization of migration politics on supranational and international scales has ironically opened up a space for maneuvers for such transit countries. With respect to Turkey-EU relations, this can be termed a »boomerang effect« (Hess 2008), as the Turkish government has also understood how to use the ›migration card‹ quite well, not just since the recent ›European refugee crisis‹ and the EU-Turkey agreement. Counted together, we are now in a situation where Turkey has gained some sort of a *carte blanche* vis-à-vis the EU.

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# Toward a New Asylum Regime in Turkey?

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ELIF SARI, CEMILE GIZEM DİNÇER

**Abstract:** Although Turkey is party to the 1951 Geneva Convention Relating to the Status of Refugees, it extends its protection only to refugees with ›European countries of origin.‹ Under this regulation, Turkey grants only ›temporary asylum‹ to non-European refugees until the United Nations High Commissioner for Refugees (UNHCR) resettles them to a third country. In this fragmented configuration, refugees in Turkey occupy ambivalent spaces in-between national and international bodies of law, while navigating both the multiplicity of asylum authorities and the sophisticated techniques meant to evaluate their asylum claims. In line with Turkey's European Union accession, the Turkish government has recently attempted to restructure the country's migration/asylum regime, aiming to provide better protection to refugees in accordance with international human rights standards. This article critically examines the recent changes towards a) standardizing and systematizing the legal and administrative asylum procedures, and b) civilianizing the migration/asylum management that used to be coordinated largely by the police. We argue that, on the one hand, Turkey's asylum regime continues to give rise to uncertainty, unpredictability, and improvisation and, on the other hand, it presents a striking continuity with the previous regime in that it prioritizes securitizing migration/asylum management over ensuring the rights and protections of refugees.

**Keywords:** migration/asylum management, securitization, uncertainty, state of emergency, Turkey

The asylum regime in Turkey is not a homogenous entity, but rather a complex constellation of local, international, and transnational actors, laws, and policies. As European countries have taken increasingly harsh measures to prevent migration from the Middle East, Africa, and Asia, Turkey has become both a) a transition country for displaced refugees who, trying to make their way West, are waiting in Turkey with unpredictable legal status for an undetermined time period, and b) a transnational legal and humanitarian hub where multiple asylum authorities operate simultaneously. Although Turkey is one of the original signatories of the 1951 Geneva Convention Relating to the Status of Refugees, it retains a »geographical limitation« (Kirişçi 1991) to the Convention, applying restrictions on non-European asylum applicants' right to seek protection. In line with the ›geographical limitation,‹ which creates a so-called »parallel track« (Zieck 2010) or »dual« (Biehl 2009) asylum system, the Turkish authorities grant non-European asylum applicants the status of ›conditional refugee,«

enabling them to temporarily reside in Turkey; it is the United Nations High Commissioner for Refugees (UNHCR) that grants them the status of ›refugee,‹<sup>1</sup> which ensures their right to seek resettlement in a third country that is willing to receive them (Biehl 2009; Kirişci 1991, 1996; İçduygu/Yükseker 2010).

The breadth and complexity of actors, laws, and policies in Turkey's asylum landscape have substantially broadened in recent years. With support from the UNHCR, the Association for Solidarity with Asylum Seekers and Migrants (ASAM), was established in 1995; it is Turkey's first non-governmental organization (NGO) dealing solely with refugee-related issues (Kirişci 2012: 69). Since 2013, ASAM has worked as UNHCR's implementing partner, registering refugees and settling them into refugee settlement cities (known as ›satellite cities‹). Additionally, ASAM performs an intermediary role between refugee groups, Turkish authorities, and national and international NGOs.

Furthermore, in line with Turkey's European Union accession, the Turkish government has attempted to restructure the country's migration/asylum regime<sup>2</sup>, aiming to provide better and more effective protection to refugees and migrants in accordance with international human rights standards. Accordingly, it has set up the Directorate General of Migration Management (DGMM), under the Ministry of Interior, to civilianize Turkey's migration/asylum management<sup>3</sup>, which used to be coordinated largely by special police units called the Foreigners' Police. The DGMM has recently begun to implement Turkey's first asylum and migration law, the Law on Foreigners and International Protection (LFIP), which came into force in April 2014.

Although it is beyond the scope of this article, the ›temporary protection‹ procedures directed at Syrian refugees have further complicated Turkey's asylum terrain. Syrian refugees are neither registered by UNHCR nor offered ›conditional refugee‹ status by Turkey. Instead, the Turkish state grants them ›temporary protection,‹<sup>4</sup>

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1 | We have mostly used the term ›refugee‹ for both groups throughout the article partly in order to challenge the sovereign taxonomies created by the legal terminology of asylum regimes and partly because we believe that every human being has the right to protection regardless of the legal identification status they have.

2 | Although scholars have often distinguished migration and asylum both legally and analytically, we use ›migration/asylum‹ to indicate that the Turkish state does not have separate systems for migration and asylum.

3 | We use the phrase ›migration/asylum management‹ to describe how governmental bodies render the phenomenon of human mobility a problem that needs to be managed within a global system of power and control.

4 | For more details: [goc.gov.tr](http://goc.gov.tr).

which provides them access to public services such as education and health care. After they register with the newly established DGMM, Syrian refugees can live in any city that they like, or can settle in camps that are constructed specifically for Syrian refugees and run by the Disaster and Emergency Management Presidency (DEMP).

In this article, we will examine Turkey's recent attempts to reconfigure and consolidate its migration/asylum regime. In the first section, we will present a brief history of Turkey's contemporary migration/asylum regime. In the next section, we will chart Turkey's complex asylum landscape and introduce the dual asylum system that has shaped the terrain upon which refugees in Turkey file their asylum claims and wait until their resettlement into a third country. On the one hand, we will discuss how, despite the new law's aim to systematize and standardize migration/asylum management, Turkey's migration/asylum regime continues to be shaped by multiple asylum actors and their incomplete, unpredictable policies and practices; on the other hand, we will look at the novel indeterminacies and ambiguities the implementation of the new law has introduced. In the third section, we will analyze the recent attempts at establishing a civilian migration/asylum regime for providing better protection to refugees in line with international human rights standards. We will explain how the new migration/asylum regime is, quite paradoxically, emerging in tandem with the increased securitization of the transnational migration/asylum, severely undermining the new law's potential to improve the rights and protections provided to refugees and migrants. In the final section, we will explore how the current state of emergency, implemented in the wake of the military *coup* attempt of July 2016, has affected the migration/asylum regime in Turkey.

We approach the new asylum law as a »semi-autonomous social field« (Moore 1973), actively produced, interpreted, and negotiated by various actors involved in asylum processes. Because refugees' everyday lives and their temporal experiences of waiting in Turkey are largely shaped by these multiple migration/asylum authorities and their shifting and, at times, contradictory policies and practices, we deliberately chose to present a »thick understanding« (Albahari 2015: 26) of relevant actors, institutions, and policies. In doing so, we keep in mind Maurizio Albahari's warning that in offering a meticulous account of migration, contexts, situations, relations, and mechanisms, they are »not accessory background and minor details,« but, rather, constitute the very fabric of sovereignty — be it national, regional, or transnational — and the human lives it claims to protect (ibid.: 10). Invoking Bruno Latour's insightful argument that the distinction between description and explanation is often a false dichotomy (ibid.: 137), Albahari argues that presenting a »rigorous and honest description [of contexts, situations, relations, and mechanisms] is analysis« (ibid.: 25). In the same vein, we contend that investigating the complex and shifting asylum

terrain in Turkey demands, before anything else, a ›rigorous and honest description,‹ which diachronically traces the old and newly emerging migration/asylum agencies, changing asylum laws, and ongoing reconfigurations of legal and administrative practices.

The data on the recent structural changes in Turkey's migration/asylum regime was obtained from our research trip to ASAM's headquarters in Ankara in December 2016, where we interviewed two coordinators and three experts from the Registration and Protection units.<sup>5</sup> In addition, we interviewed three asylum lawyers in May 2017 about legal changes after the implementation of the new asylum law. The data on the legal and administrative aspects of the asylum regime prior to these recent changes was gathered during our previous research trips to the UNHCR's headquarters in Ankara in 2014, and to local ASAM offices and the Foreigners' Police offices in Ankara, Kayseri, Denizli, and Van between 2014 and 2016. We both have been working on various aspects of the migration/asylum regime in Turkey since 2012. Therefore, our analysis also deeply benefits from our long-term engagement with different refugee and migrant groups (e.g. Syrian refugees, LGBTI refugees, unaccompanied minors, and migrant domestic workers) and multiple migrant rights and advocacy groups operating in different cities.

## **A BRIEF HISTORY OF THE CONTEMPORARY ASYLUM REGIME IN TURKEY**

Turkey is an original signatory to the 1951 United Nations Convention Relating to the Status of Refugees. In 1961, it ratified the Convention and later its 1967 Protocol by adding an optional ›geographical limitation, extending its protection only to refugees from Europe.‹<sup>6</sup> Until 1994, the UNHCR was singularly responsible for evaluating refugees' asylum claims and resettling them into third countries. In 1994, with the arrival of a considerable number of refugees fleeing Iraq, the Ministry of Interior passed Turkey's first national legislation pertaining to the treatment of asylum seekers. Accordingly, Turkey started to grant temporary asylum statuses to non-European refugees until the UNHCR would resettle them into a third country willing to receive

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5 | We had tried to conduct research at the UNHCR as well; we used our personal and official contacts and managed to reach to UNHCR staff. However, we never received any feedback, negative or positive, from them over the course of six months.

6 | In addition to Turkey, only two other states opted for this geographical limitation, specifically the Democratic Republic of Congo and Madagascar.

them, such as the United States or Canada (Kirişçi 1991, 1996; İçduygu/Yükseker 2010). Scholars have pointed out that the 1994 Regulation was informed by the arrival of refugees from Iraq, which »accelerated [Turkey's] security concerns« (Biner 2014: 83). While Kirişçi (1996: 294) states that it suggested Turkey's desire to hold control over refugee status determination, Biehl takes this analysis one step further, by arguing that the 1994 Regulation may be seen »as the first marker of the ›migration securitization‹ approach in Turkey« (2009: 4).

The 1994 Regulation has created a so-called »parallel track« (Zieck 2010) or »dual« (Biehl 2009) asylum system, which includes not only a double asylum seeking procedure, but also a double terminology (Biner 2014: 88). First, applicants are supposed to file their asylum claims with both the Turkish authorities and the UNHCR. Second, although they use the same criteria to evaluate asylum claims (i.e. whether there is a »well-founded fear of persecution« based on one or more of the five grounds stated in the 1951 Convention), the Turkish authorities grant non-European applicants ›asylum seeker‹ status (thus the right to temporarily reside in Turkey), while the UNHCR grants them ›refugee‹ status (thus the right to seek resettlement in a third country) (Biner 2014: 87).

At the 1999 Helsinki summit, Turkey »reached a turning point in [its] European Union accession bid« (Öner/Genç 2015: 27), and, as a result, started to implement new migration and asylum laws and policies in preparation for accession negotiations. Scholars argue that the post-Helsinki period can be described as the Europeanization or EU-ization of Turkey's migration/asylum regime (İçduygu 2007; Biehl 2009). In 2005, the Turkish government introduced a National Action Plan for Adoption of Acquis on Asylum and Migration, aimed at modernizing (i.e. Europeanizing) the existing legal structure of migration and asylum. The 2005 National Action Plan was first applied through the 2006 Implementation Drive, which »introduced references to the European Union (EU) Directives as legislation that needs to be incorporated into to the national legal system« (Biner 2014: 83). The 2006 legislation expanded the asylum seeking procedure timeline from the first ten days following the applicants' entry to an unspecified period of time. Moreover, it extended the Foreigners' Police units' legal authority, allowing them to process and evaluate asylum seekers' applications (ibid.: 83; Soykan 2014: 4).

Turkey's most recent attempt to reconfigure its migration/asylum regime in accordance with EU's migration and asylum laws was to prepare *The Law on Foreigners and International Protection* (LFIP),<sup>7</sup> which was enacted in April 2013 and has been

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7 | For English version: [goc.gov.tr](http://goc.gov.tr).



fully enforced since April 2014. Legal scholars, asylum experts, and human rights advocates alike cite the LFIP as the first law that regulates the asylum process and ensures the international protection of refugees in Turkey. The purpose of the law is to regulate the procedures on foreigners' mobility (entry, stay, and exit), as well as the scope and implementation of protection for asylum seekers (Article 1). More importantly, the law seeks to reform the entire structure of migration/asylum, as it aims to: provide better protection for refugees in accordance with international human rights standards; civilianize migration/asylum management, which used to be coordinated largely by the police; and standardize and systematize the legal and administrative asylum procedures.

A significant step towards the establishment of a standardized and civilian regime was the founding, in 2013, of a new migration/asylum authority, the Directorate General of Migration Management (DGMM), operating under the Ministry of Interior. The law recognizes the DGMM as the main authority charged with implementing the asylum law, registering refugees, and evaluating their asylum claims. The DGMM has, for now, taken over the responsibility of overseeing all matters related to asylum and migration from the Foreigners' Police. We should note here, however, that this new legislation has not yet managed to entirely eliminate the dual asylum procedures. Refugees still follow two asylum application processes — one with the UNHCR and its implementing partner, ASAM, and one with the DGMM. In the next section, we will describe the legal and administrative asylum processes in Turkey, while analyzing the efficacy of the recent attempts to systematize and standardize these processes.

## ›MAKE IT UP AS YOU GO‹: SYSTEMATIZING TURKEY'S ASYLUM REGIME

To become a recognized refugee in Turkey,<sup>8</sup> one needs to go through a lengthy and arduous process, which includes the stages of registration, refugee status determination, and resettlement. As regulated by the new asylum law, refugees entering Turkey need to apply to governorates, and they are informed about the date and place of the status determination interview during the registration (Article 69/5). At the same time as they register with state authorities, refugees must also apply to ASAM to file their

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**8** | By using the term ›becoming,‹ we refer to a critical shift in refugee studies, through which scholars have turned the focus away from studying refugees as a generic, aggregate population, and refugeeness as an ontological given, to the *processes* and *relations* that generated a given group of refugees (Arendt 1951; Malkki 1995; Ong 2003; Peteet 2005).

cases. Since 2013, ASAM has worked as UNHCR's implementing partner, registering refugees and settling them in satellite cities. Any failure to register concurrently with both authorities jeopardizes a refugee's claim and can result in detainment and deportation by Turkish authorities. In Ankara, the first day at ASAM consists of a short ›pre-registration interview,‹ in which asylum applicants are assigned to one of the satellite cities, which are determined by the governorates. Although there are no formal grounds on which the governorates determine the list of satellite cities, one remarkable feature in determining satellite cities and distributing refugees among them is to settle refugees in small cities in the interior of the country. We were told at ASAM that settling refugees in the interior of the country rather than its coastal areas might be a way to prevent them from migrating ›illegally‹ to Europe. It should be added that, since most of the migration and refugee organizations are located in big cities like Istanbul and Ankara, settling refugees in small cities cuts also them off from support mechanisms and social networks.

After being assigned to their cities, refugees must register with the respective local DGMM; the DGMM has therefore becomes the ultimate Turkish authority in coordinating and monitoring all activities of the refugees in satellite cities.<sup>9</sup> Once relocated, refugees have to sign in regularly at the DGMM and cannot leave their city without travel permits issued by the DGMM. The main purpose of travel permits and regular check-ins is to regulate and control refugees' movements. Our previous fieldwork experiences with different refugee groups reveal that the issuance of travel permits and sign-in procedures are extremely arbitrary and unpredictable, since they differ not just from one city to another but also from refugee to refugee.

The settlement of refugees in satellite cities is just one form of compulsory dispersal among many others used across the world, such as containing them in detention or deportation centers and refugee camps. Whether in the form of an isolated camp, a detention facility, or a satellite city, such dispersal policies serve to separate asylum seekers from support mechanisms and social networks, leaving them to survive on their own; and more importantly, they serve to control every aspect of refugees' daily lives (Agier 2011; Hynes 2011; Zilberg 2011). Although Turkey does not confine refugees in camps or detention centers, the strict control of refugees' freedom of movement in satellite cities through compulsory sign-ins and travel permits blurs the boundary between the camp and the city.

The second — and the main — part of the dual asylum system in Turkey is the status determination process. Both the DGMM and UNHCR conduct their own refugee

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9 | Coordinating and monitoring all activities in the satellite cities was under the authority of the Foreigners' Police prior to the LFIP.

status determination (RSD) interviews, aiming to understand the reasons of asylum and assess the ›credibility‹ and ›authenticity‹ of the applicant. Even though both institutions recognize the right to asylum, the DGMM only grants non-European applicants ›conditional refugee‹ status, and thus the right to temporarily reside in Turkey, while the UNHCR grants them ›refugee‹ status, and thus the right to seek resettlement in a third country.<sup>10</sup> Waiting times for the UNHCR's RSD process vary depending on UNHCR's human resources as well as the categorization of refugees according to their recognized vulnerabilities. In line with international guidelines, the UNHCR expedites the RSD process for ›vulnerable and sensitive cases.‹ Among them are children who are unaccompanied or separated from their parents or primary caregivers, persons with serious medical and psychological needs, single parents, and survivors of human trafficking, torture, and sexually based and gender-based violence. While vulnerable asylum applicants are usually granted refugee status in ›the first instance interview,‹ for those who fall outside of vulnerability categories, RSD processes often last for years, during which time their claims are evaluated with increasing scrutiny. Our long-term engagement with refugees living in multiple satellite cities shows us that usually cases are not followed up on a regular basis and refugees lack transparent and reliable knowledge about their cases.

Asylum seekers who are finally granted refugee status by the UNHCR face yet another lengthy and ambiguous process, namely the ›resettlement process,‹ which often spans over a year or more. The waiting period for resettlement greatly varies among different refugee groups, again, according to their vulnerabilities. To give one example that illustrates differential resettlement policies, the UNHCR expedites LGBTI refugees' resettlement to a third country (one to three years), whereas it has indefinitely suspended Afghan refugees' asylum claims.<sup>11</sup> The unpredictability and ambiguity of the resettlement process comes also from the fact that the third countries are under no legal obligation to accept asylum applicants for resettlement and are free to apply their own criteria for selection. Once an applicant is deemed eligible for asylum, the UNHCR refers his/her file to the embassies of the resettlement countries. To qualify for the third country's asylum requirements, refugees must undergo additional interviews and medical examinations by the third countries. Therefore, as Biner aptly points out, »the applicant once again finds him or herself in the position of

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**10 |** It should be noted here that positive RSD outcome rates are remarkably low. For instance, between 1990 and 2010 there were almost 77,400 asylum applications and just over 39,000 of them were recognized as refugees (for more details, see Kirişçi 2012).

**11 |** Although it is beyond the scope of this article, how particular refugee groups have become ›vulnerable and prioritized‹ have yet to be addressed.

an in/eligible subject and often tries to rearrange his or her personal and professional profile to suit those of the proposed resettlement countries» (2009: 31). Indeed, as we were informed by the UNHCR and different ASAM branch offices, in the exact same words, »resettlement is not a right.« Therefore, even after being granted asylum, refugees might not be eligible for resettlement into a third country.

Once refugees complete all these complicated processes and eventually gain the right to resettlement, they must obtain a so-called »exit permit« from the Turkish authorities, allowing refugees to exit Turkey for a third country for the purpose of resettlement. To be eligible for an »exit permit,« the applicant must be recognized as a »refugee« by the UNHCR and as a »conditional refugee« by the DGMM. Furthermore, he/she must complete all sign-ins with the DGMM in their satellite cities. Indeed, during our previous research trips, we met several refugees whose plane tickets were postponed due to missing signatures and who had to wait as many additional weeks as required to complete their missing sign-ins. Additionally, asylum lawyers mentioned that DGMM's recent caseload leads to delays in the issuance of »exit permits,« even for those who completed all required sign-ins, suspending the determination of their travel date.

Having analyzed the timeframe before the implementation of the LFIP and the DGMM, Kristen Biehl argued that »protracted uncertainty,« characterized by indefinite waiting, limited knowledge, and unpredictable legal status, is a primary characteristic of Turkey's asylum regime, governing the everyday lives of refugees and shaping their future orientations (2015: 69). We contend that Biehl's argument continues to mark Turkey's asylum landscape despite its recent restructuring, since the above-described asylum processes are best characterized by their lengthy, arduous nature on the one hand, and their unpredictability and ambiguity on the other. The main reason for the continuous uncertainty is that the new legislation does not lift the »geographical limitation« that Turkey brought to the 1951 Convention (Soykan 2017: 69). Thus, the new regime continues to embrace the dual asylum procedures, in which non-European refugees' asylum claims continue to fall under the mandate of the UNHCR and its domestic implementing partner, ASAM; Turkey's new migration/asylum authority, the DGMM; and third countries' domestic migration/asylum laws. In this fragmented arrangement of the transnational asylum regime, refugees in Turkey still occupy uncertain spaces between national and international bodies of law, continuing to navigate both the variety of asylum authorities and the sophisticated techniques meant to evaluate their asylum claims.

It should be noted here that although it has been more than three years since the LFIP was passed, Turkey's migration/asylum regime has not yet been completely reconfigured, as the government's attempts to establish a standardized and central-

ized migration/asylum regime is ongoing. Our interlocutors at ASAM, along with asylum lawyers, all agreed on the necessity of a standardized and centralized migration/asylum regime in Turkey. Indeed, they argued that particularly the registration of refugees should be done by state authorities for an important reason: the Turkish government, the UNHCR, and ASAM's data on asylum seekers in Turkey do not always match, and this statistical confusion creates grave problems during the issuance of ›exit permits.‹ Furthermore, asylum lawyers we interviewed pointed out that there have been numerous asylum cases that were recognized by the UNHCR but had been rejected by the DGMM — leaving refugees stranded in Turkey for an undetermined time, with no clearly defined legal status and without proper rights and protections.

Our interlocutors believed that registration and RSD procedures headed by a single agency would put an end to these discrepancies between different asylum authorities. However, they were also deeply concerned that the DGMM would be unlikely to share its data with UNHCR and ASAM in an attempt to establish itself as the single national authority in managing displaced populations. Second, they mentioned that the DGMM has also sought to conduct RSD interviews itself, reducing UNHCR's scope of authority solely to the resettlement of refugees to third countries. ASAM staff and asylum lawyers found this problematic since, they argued, the DGMM suffers from technical incompetence, as it does not have qualified personnel. They drew attention to the fact that the DGMM recruits its employees based on the test scores they get in the Public Personnel Selection Examination. As a result, the majority of DGMM employees are young and incompetent civil servants, who have neither work experience nor knowledge in matters of migration and asylum, and who, most of the time, have language barriers. Asylum lawyers worried that the DGMM personnel would be likely to conduct unfair and ineffective RSD interviews, as they do not have expertise on the country of origin necessary to evaluate the five grounds of persecution — race, religion, nationality, membership in a particular social group, and political opinion — listed in the 1951 Convention.

In addition to lack of expertise, ASAM staff and asylum lawyers alike emphasized that DGMM personnel is not appropriately sensitive to the ›vulnerable refugee groups.‹ Although the UNHCR has held information and sensitivity trainings at the DGMM branch offices to explain its own guidelines for working with vulnerable refugees, it is not clear whether the DGMM will continue to implement UNHCR's guidelines or it will bring its own criteria to interpret ›vulnerability.‹ Of critical importance here is that the civil servants at the DGMM are likely to rely on their own everyday reasoning, affective reactions, practical concerns, and moral and political positions in RSD processes to decide who qualifies as an ›authentic‹ refugee, a ›vulnerable‹ case, or a ›victim‹ of violence to determine eligibility for asylum and aid

and support services. Second, since neither the Turkish constitution nor the LFIP legally recognizes gender identity and sexual orientation, another important question is whether and how the DGMM will conduct the RSD interviews with LGBTI refugees. Nonetheless, our interlocutors from ASAM believed that, if and once the DGMM becomes the sole authority, because the UNHCR will continue to resettle refugees to the third countries, it is likely that the UNHCR will still retain a certain amount of control over the RSD process, at least for ›vulnerable and sensitive cases.«

The sole fact that all this insider information about the possible future of Turkey's migration/asylum regime relies on guesses, speculations, and rumors speaks to how the ongoing restructuring has indeed introduced novel ambiguities and uncertainties to the asylum procedures, not only for refugees but for the actors surrounding the asylum procedure themselves. An anecdote from our visit to ASAM headquarters is illustrative of this growing uncertainty: we were shown the hallway designated for RSD interviews. The layout of the interview rooms was in line with UNHCR's guidelines; the rooms were small and well protected with security cameras and panic buttons, and they were separated from each other to ensure that asylum seekers could communicate with ASAM staff in confidentiality. Our guide remarked that the DGMM plans to move into the ASAM's headquarters: »We don't know how we will all fit here when they come,« she said jokingly; »We don't know if they want to use some of these rooms for registration or for interviewing refugees. We don't even know what ASAM's role will be then.«

The lack of information and clarity about one's roles, duties, and responsibilities is not limited to the relation between the DGMM and ASAM; rather, our research reveals that it characterizes the entirety of the recent migration/asylum regime in Turkey. The new legislation holds responsible numerous state actors to provide refugees with more effective and better protection and access to healthcare, education, shelter, and legal assistance. Among them are Ministry of Health, Ministry of Education, Ministry of Family and Social Policies, and the Bar Association. However, ASAM staff and asylum lawyers alike noted that, although the LFIP passed three years ago, none of these actors have yet a clear idea of what their responsibilities and duties are in the field of migration/asylum. One lawyer pointed out that the government neither informed these actors about their new responsibilities, nor conducted any preliminary preparation for how to coordinate them or how to supervise if and how they implement the law. Another lawyer argued that the new law was enacted with the mentality of »make it up as you go« (*kervan yolda düzülür*), giving rise to improvisation, unpredictability, and irregularity. ASAM coordinators remarked, quite discontentedly, that in addition to its official roles, ASAM has had to play unofficial roles too in order to make this uncoordinated and fragmented asylum regime work.

First, ASAM must bridge these multiple actors by facilitating an all-encompassing coordination between them and by informing them about each other's operations. Second, ASAM must remind them of their duties and responsibilities as defined by the LFIP. The labor that ASAM's staff pours into this kind of bridging and informing work is striking; they seem to spend more time making phone calls to these actors to »push them to do their work,« rather than directly working on refugees' cases.

All our interlocutors were in favor of a more systematized regime, for they found the number of actors, their lack of expertise and experience, the lack of coordination between them, and the unpredictability of the roles they play (or fail to play) highly problematic. Taken together, this fragmented and ambiguous structure creates confusion, which, in turn, misdirects and/or misinforms refugees, sometimes even amounts to jeopardizing their asylum cases and hindering their access to rights and protections.

## **PROTECTING THE STATE(S) FROM REFUGEES**

We passed through barbed-wired, fortress-like walls and took the entrance designated for staff and visitors at ASAM's headquarters in Ankara. Refugees who come to ASAM for registration take the other entrance gate on a parallel street, easily recognizable by the long queues, and sometimes by the demonstrations held by refugees, in front of it. Our guide offered us the ›package tour,‹ given to all visitors ranging from researchers to EU Human Rights Commissioners, walking us through all departments. As we climbed down stairs to the registration unit, we suddenly found ourselves in a spacious basement that lacked windows and was much colder than the other parts of the building. Here, refugees lined up on seats, waiting for lodging their first registration with ASAM.

The multiple guarded doors and restricted gates we passed through, as well as the private security guards standing at every corner in the designated reception and waiting area for refugees, were perplexing: it seemed that the recent attempts to bring Turkey's migration/asylum regime in line with international human rights standards were taking place in a context in which refugees were subject to increasing policing and surveillance. Indeed, Turkey's new migration/asylum regime seems to prove true to Didier Bigo's critique that while states often pay lip service to recognizing their commitments in the field of international protection and human rights, they continue to manage asylum and migration matters primarily through policing refugees and migrants (2009: 584). In line with Bigo's analysis of the securitization of Europe's migration and asylum policies, in the context of Turkey too, it is important to

acknowledge the tension between the new law predicated on the protection of foreigners, on the one hand, and security-driven policing and surveillance that continue to control refugees' bodies and movements, on the other.

Obviously, our discussion on policing and surveillance of refugees is not only informed by the heightened and visually striking security measures we encountered in ASAM's basement. It is deeply rooted in the overall structural problems that mark the institutionalization of the DGMM. It is noteworthy that although the police are no longer in charge of asylum and migration matters, the act of policing refugees' movements itself has remained intact. Accordingly, it is the DGMM that now manages the registration of refugees and their regular sign-ins, as well as the issuance of permits they need to leave their respective satellite cities. This indicates that the attempts at civilianizing Turkey's migration/asylum regime do not necessarily put an end to the policing and securitization of asylum matters.

It would be highly misleading to assume that civilianization of migration/asylum regime would automatically bring better treatment of migrants and refugees. However, establishing a civilian migration/asylum institution is indisputably an important step in ensuring refugees' right to protection, since, first and foremost, it ceases to treat refugees and migrants as criminals. Yet, ASAM staff and lawyers drew attention to the continuing influence of the police in Turkey's new migration/asylum regime that claims to be civilian. First, since DGMM officials are not knowledgeable and experienced about migration/asylum management in Turkey, police officers from the Foreigners' Police have been temporarily assigned to the DGMM to offer training and consultancy to the new employees. One lawyer remarked that although police officers have lower ranks than DGMM officials (who started their positions as >experts<), they nonetheless act like chiefs and mentors, transferring former asylum practices to DGMM officials »as if [they are] passing on a tradition to the next generation.« However, these training and consultancy sessions have not been and are not supervised, and thus their quality remains entirely subject to individual police officers' knowledge and experience, as well as their personal and political stance on asylum issues.

Second, the asylum lawyers mentioned a worrisome development: some refugees are being assigned numerical codes, which are transmitted to the DGMM's database from the Directorate General of Security. Asylum lawyers did not know when, why, and by whom these codes were assigned, what they stand for, and what their purposes are; they came to learn about them only by coincidence while following up on several detention and deportation cases at the DGMM. They believed that these codes must have been determined through collaboration between Turkey's National Intelligence Organization, the Directorate General of Security, the DGMM, and the intelligence



services in the refugees' countries of origin. As lawyers have remarked, the main problem here is that these arbitrarily and surreptitiously assigned codes categorize certain refugees — even infants — as »security threats,« flagging them as »terror suspects,« and, thus, justifying their unlawful detention and deportation.

Indeed, one important change the new law brings for ensuring refugees' right to protection is to define and regulate the duration and conditions of detention, which were not clearly defined prior to the LFIP.<sup>12</sup> Recognizing the principle of *non-refoulement*<sup>13</sup> in the new law marks an important turn towards the protection of foreigners against the possible infringement of human rights violations. However, the LFIP includes legally ambiguous definitions in the parts that outline the conditions for deportation. For example, it states that those who »pose a threat to public order or public security or public health« (Article, 54/2) will be subject to deportation, but it does so without specifying who, and according to what criteria, will decide what counts as such threat. These empty and vague phrasings give enormous discretionary powers to the administrative units, which can detain or deport anyone (even those who have been granted international protection, by first canceling their statuses) (Gören-dağ 2016). Furthermore, judicial supervision over these decision-making processes is completely nullified by the LFIP. Judicial mechanisms only come into play during the appeal after the administrative units decide to detain or deport an individual.

It is noteworthy that the Foreigners' Police governed Turkey's migration/asylum regime for decades on the basis of administrative discretion and without proper institutional capacities or judicial supervision. It seems that although the new law replaced the Foreigners' Police with the DGMM, the DGMM's continuing collaboration with the Directorate General of Security indeed engendered a »mutant structure, civilian in itself, but at the service of the police force,« as one lawyer sarcastically commented. Furthermore, ASAM staff claimed that civil servants at the DGMM are »paid for implementing the international refugee protection law, and yet they think their job is to protect the Turkish state from refugees.« Therefore, the common conclusion at ASAM was that although the new system enlarged the scope of refugees' right to protection, the DGMM's alarming discretionary practices of detention and deportation in tandem with the lack of judicial supervision often violate this right.

Critical security scholars have long showed the mutually reinforcing relationship between detention and deportation of refugees and sovereignty — be it national, regional, or transnational (Albahari 2015; Bigo 2009; De Genova/Peutz 2010). Fur-

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12 | For more details, see Soykan 2017.

13 | Article 4 guarantees the protection of refugees from being expelled to places where their lives are in danger.

thermore, Albahari rightly argues that deterring, detaining, or deporting migrants and refugees without the need to document or justify such practices »stands as a measure and a constituent of sovereign power« (2015: 134). In the same vein, we contend that the arbitrarily assigned security codes, ambiguously codified deportation policies, and the lack of judicial supervision suggest that the new migration/asylum regime continues to be concerned more with consolidating Turkey's sovereignty than ensuring the protection of refugees.

In addition, the new migration/asylum regime also serves to fulfill EU Member States' desire to »externalize migration control tools and restrictive asylum policies to neighboring countries in order to raise the borders of the EU against irregular migration« (Soykan 2017: 73). Through its relationship to the EU, Turkey has become a buffer state that is responsible for protecting EU's external borders by keeping refugees — particularly Syrians — within its own borders. According to the EU-Turkey deal signed in 2016, Turkey agreed to guarantee that refugees would be registered, kept within its borders, and given access to public services. As of June 2017, Turkey has completed a three-meter high and 650-kilometer long wall on its border with Syria, and President Erdoğan has announced that similar walls would be constructed along the Iranian and Iraqi borders (Rudaw 2017). On the other hand, the EU side agreed to contribute to strengthening the Turkish Coast Guard and its capacity to prevent refugees from crossing the border to Europe. Furthermore, the EU also committed to dispatch a FRONTEX liaison officer to Turkey to enhance the exchange of information and experience (Ruhrmann/FitzGerald 2016: 13).

EU's and Turkey's security agendas, novel border control policies and technologies, and increased deterrence, detention, and deportation practices reveal that the new migration/asylum regime in Turkey is emerging, quite paradoxically, not in line with international human rights standards, but in tandem with national, regional, and international security concerns. Needless to say, this severely undermines the new legislation's potential to improve the rights and protections provided to refugees and migrants. Furthermore, these measures taken to increase the securitization of borders force refugees to attempt even more dangerous journeys, instead of protecting them.

## **ASYLUM MANAGEMENT IN THE STATE OF EMERGENCY**

On 15 July 2016, select elements of Turkey's military attempted a *coup* against the country's elected Justice and Development Party (AKP) government. Five days after the foiled *coup* attempt, on 20 July, the government imposed a state of emergency to

crack down on a network supposedly linked to Fethullah Gülen<sup>14</sup>, who was accused of orchestrating the military *coup*. The state of emergency, still in effect as we write this article, allows the government to bypass the parliament when drafting new laws and issuing emergency decrees. The emergency decrees written so far have resulted in the restriction of rights and freedoms, the arrest of over 40,000 people, 100,000 civil servants getting fired, and the shutdown of hundreds of media outlets and associations that allegedly have ties to terror organizations. While President Erdoğan emphasized that the state of emergency's sole purpose was »to remove swiftly all the elements of the terrorist organization involved in the *coup* attempt« (Yeğinsu 2016) the government seems to use the emergency rule to also criminalize, silence, and eradicate other opponents, including pro-Kurdish, Alevi, LGBTI, feminist, and leftist politicians, academics, journalists, and activists.

The targeting of civil society by the AKP government, particularly the shutdown of civil society organizations, has cut off asylum authorities like the UNHCR and ASAM from their prior civil society support and collaborations. For instance, two NGOs that were shut down by a November 2016 decree — the Children's Agenda Association (*Gündem Çocuk Derneği*), which protects and advocates for children's rights and the Van Women's Association (*VAKAD*), a local feminist organization aiming to eradicate discrimination and violence against women — were collaborators with ASAM, working to find practical solutions for children and women refugees. ASAM staff noted that in the absence of a well-established migration/asylum regime that would provide refugees with the necessary social, psychological, and financial support, such collaborations with rights-based civil society organizations have been one of the few available means to solve refugees' problems. By the same token, the shutdown of NGOs in the wake of the military *coup* attempt has made it difficult, if not impossible, for ASAM to provide refugees with various forms of help and the support they need. On the other hand, it should also be noted that ASAM has always closely collaborated with various state institutions and organizations, including the DGMM. After the enactment of the new asylum law, the DGMM and ASAM have run several joint capacity building and training workshops, and as we write this article, they have signed a »Cooperation Protocol,«<sup>15</sup> which is aimed to strengthen their relations and facilitate their collaborative works. It could be argued that its close relations and cooperation with state institutions have enabled ASAM to continue its

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14 | Gülen is the founder of the »Hizmet« (Service) movement — a religious and social movement that has spawned think-tanks, businesses, and schools across the globe.

15 | For more details, see [goc.gov.tr](http://goc.gov.tr).

operations in the aftermath of the failed *coup* attempt, although losing its civil society partners have interrupted those operations to a great extent.

Given the lack of a coherent and standardized asylum regime with strictly defined roles and responsibilities, ASAM staff and lawyers used to primarily rely on their personal relationships and semi-institutional partnerships with particular individuals in units of the Foreigners' Police, the DGMM, governorates, and municipalities in satellite cities. However, many civil servants and police officers, with whom our interlocutors previously worked, were dismissed from their positions during the post-*coup* state of emergency. Losing these key personal contacts has significantly slowed down ASAM's and lawyers' works. ASAM coordinators argued that, because of the surveillance atmosphere created by the post-*coup* emergency rule, civil servants in key national migration/asylum institutions »have become afraid of their own shadows.« Since civil servants are afraid of and hesitant to take any individual initiatives and make decisions, certain legal and administrative practices have slowed down, if not completely stopped. Issuing identity cards for refugees is one of these practices that have been disrupted during the state of emergency. This, as ASAM staff have pointed out, has created a significant non-registration problem, which, in turn, has prevented refugees from accessing their already limited rights and benefits.

Domestic NGOs and public institutions, however, are not the only ones adversely affected by emergency rule. The AKP government has emphasized from the beginning that the *coup* attempt was not executed just domestically, but rather orchestrated by »the foreign powers.« As our interlocutors at ASAM stated, in tandem with the use of »the foreign powers« rhetoric, a widening web of suspicion towards international organizations has started to dominate the migration/asylum regime in Turkey. The first observable impact is the marginalization of international non-governmental organizations (INGOs). Since January 2017, the Turkish government has ended the activities of four INGOs operating in Turkey on issues concerning refugees on the grounds of »national security,« including the US-based Mercy Corps and Business Software Alliance Incorporation, the Italy-based Coordination of the Organizations for Voluntary Service, and the UK-based International NGO Safety Organization. The government has further scrutinized domestic NGOs' collaborations with foreigners, such as restrictions on employing foreigners and making international money transfers (Stockholm Center for Freedom 2017). As a result, ASAM staff reported, like the loss of domestic partners and collaborators, emergency rule has made it difficult for ASAM and the UNHCR to continue their collaborations with INGOs.

The state of emergency has also further heightened the securitization of migration and asylum matters. With *Decree Law No. 676*, in October 2016, the government expanded the scope for deportation. Accordingly, anyone who has applied for in-

ternational protection in Turkey, including even those who have received refugee, conditional refugee, or temporary protection status already, can be deported if they are a »leader, member or supporter of a terrorist organization, or of a benefit-oriented criminal organization,« or »related to terrorist organizations defined by international institutions and organizations« (Görendağ 2016). Moreover, even if the person in question lodges an appeal against a deportation decision, the deportation will be executed without having to wait for a trial.

We argued in the previous section that although the new asylum law aims to safeguard refugees' right to protection, the DGMM's discretionary power in detaining and deporting refugees and the lack of judicial supervision indeed serve to protect Turkey's national interests, consolidating the state's sovereignty, while severely undermining refugees' right to protection. The frequent invocation of the »national security« rhetoric under the state of emergency has exacerbated and justified these often-unlawful practices. Within this context, similar to other dissent elements of society in Turkey, migrants, asylum seekers, refugees and national and international bodies fighting for their rights have also been marginalized, criminalized, and ultimately silenced.

## CONCLUSION

In this paper, we examined Turkey's recent attempts to establish a standardized and civilian migration/asylum regime, by exploring both the potentials and the limits of the new law, the LFIP, and the new migration/asylum authority, the DGMM. The LFIP did not lift the »geographical limitation« that Turkey had brought to the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol (Soykan 2017: 69). Thus, the current regime continues to embrace the dual asylum procedures, in which non-European refugees' asylum claims continue to fall under the mandate of the UNHCR and its domestic implementing partner, ASAM, as well as with Turkish authorities, and third countries. In this complex and fragmented terrain, refugees in Turkey must continue to navigate a variety of asylum authorities, sophisticated techniques meant to evaluate their asylum claims, and numerous legal ambiguities ingrained in all stages of the asylum seeking process. Second, we argued that Turkey's ongoing attempts to restructure its migration/asylum regime have indeed littered the migration/asylum landscape with novel uncertainties and ambiguities. In the absence of properly defined roles and responsibilities, qualified and experienced personnel, and effective networks of coordination and information among

different actors surrounding the asylum process, Turkey's current migration/asylum management is marked by unpredictability, improvisation, and irregularity.

Furthermore, we suggested that while the new system replaced the Foreigners' Police with a new civilian institution, the DGMM, in an attempt to ensure refugees' right to protection, it has not put an end to the act of policing as such. We showed how, on the contrary, the new asylum law (the LFIP) and the new migration agency (the DGMM) treat foreigners as an administrative problem that should be dealt with through administrative measures, on the one hand, and as a security problem that should be controlled through harsh security measures, on the other hand. A careful analysis of the LFIP's implementation reveals that while the LFIP is meant to overhaul and reform Turkey's migration/asylum regime, current asylum management presents a striking continuity with the previous regime in that it prioritizes securitizing asylum matters over ensuring refugees' rights to education, health care, full economic, social, and political participation, and freedom from violence. We argued that, on the one hand, the DGMM's discretionary detention and deportation practices and strict border controls aim to consolidate the Turkish state's sovereignty by serving Turkey's national security interests; on the other hand, they aim to fulfill EU Member States' desire to externalize migration to neighboring countries and securitize its borders.

Finally, we examined how the ongoing state of emergency in Turkey has accentuated the ›national security‹ rhetoric and, in turn, both exacerbated and justified the often unlawful and violent practices of detention and deportation. It is important to emphasize that while the government has aimed to standardize and systematize asylum laws and procedures, emergency rule has created quite paradoxical consequences; the widening atmosphere of fear, surveillance, and suspicion, the marginalization and shutdown of existing important actors in the migration/asylum regime, and the imposition of radical changes in the governing structures have all exacerbated the existing unpredictability, ambiguity, and arbitrariness of Turkey's migration/asylum regime.

The enactment of a new asylum law and the establishment of a civilian asylum organization are undoubtedly important steps in standardizing Turkey's asylum procedures, bringing them in line with human rights standards, and safeguarding refugees' right to protection. However, it seems that refugees in Turkey continue to be caught between national and international bodies of law, pursuing their asylum claims under multiple authorities' highly arbitrary and scrutinized terms. Cut off from access to transparent and reliable knowledge about their asylum cases, refugees often establish alternative support and solidarity networks to inform each other about changing asylum laws and procedures, and prepare each other for RSD and resettlement interviews. Nevertheless, no matter how skilled they may be in navigating the law, the

variety of asylum authorities and the ambiguity built into the foundation of the entire migration/asylum regime make asylum laws and procedures elusive to refugees, ultimately obscuring their access to rights and protection.

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# Playing Border Politics with Urban Syrian Refugees

## Legal Ambiguities, Insecurities, and Humanitarian Assistance in Turkey

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**Abstract:** The attempted military coup in Turkey on July 15, 2016 was also a time of rioting in Ankara's Önder neighborhood, with many Syrian businesses vandalized. Attacks against Syrians have also occurred periodically in other Turkish cities. With over three million Syrians living in Turkey, such attacks are rare, and yet their occurrences are an example of the insecurities facing Syrians as a result of national, regional, and international border politics. This paper discusses the insecurities facing Syrians in urban centers in Turkey as a consequence of the ambiguous subject position that has been forced upon them as a result of border politics at the national level through Turkey's temporary protection regime, and solidified at the regional level through the EU-Turkey deal. We argue that such border politics aim to strip 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.

**Keywords:** Syrian refugees, citizenship, humanitarian assistance, border politics, temporary protection

Under Turkey's temporary protection regime, Syrians in Turkey are not recognized as refugees under international refugee law. Instead, they are afforded the legal right to temporarily reside within Turkey. This situation forces many Syrians into low-paying work in the informal economy, while living with limited rights to health, food, and education. Given such insecurities, some Syrians choose to undertake dangerous journeys crossing into Europe, where they attempt to claim rights to international protection as internationally recognized refugees. Rather than acknowledging the insecurities caused by Turkey's temporary protection regime, the EU-Turkey deal solidifies this new norm of turning refugees from political subjects into objects of humanitarian assistance. The deal trades in lives; it has enabled some selected Syrian (and other) refugees to move, but leaves most to live in Turkey, facing insecurities under temporary protection.

At the local level, this constitution of Syrian refugees as objects of humanitarian assistance rather than political subjects has played out in a form of ›ping-pong‹ politics. The Turkish government has at times addressed Syrians as political subjects, promising them citizenship or the right to legally work. Yet at other times, it revokes such promises, offering limited aid and devising policies that restrict Syrians' mobility. The result is an ambiguity surrounding Syrian refugees in Turkey, which manifests itself in local, reactionary responses, including violent attacks on Syrians. This paper analyzes the impact of border politics on Syrians in Turkey in terms of the insecurities they face. Our analysis draws on fieldwork and interviews conducted in the summer of 2015 in Istanbul, Kilis, and Gaziantep, and in the summer of 2016 in Istanbul, Gaziantep, and Ankara, with Syrian refugees and representatives of Syrian and Turkish humanitarian and relief organizations. We used a multi-methods approach, consisting of 55 semi-structured interviews, as well as informal conversations, field observations, and critical discourse and policy analysis. Our interviews with Syrian refugees centered around questions about their living conditions, the challenges they faced, their temporary protection status, and possibilities for more permanent status — either as refugees in Europe or as citizens in Turkey or elsewhere in Europe. We focus in this paper on the effects of government policies and politics on Syrians in Turkey, rather than their precarious living conditions, which we have analyzed elsewhere (Baban/Ilcan/Rygiel 2017; Ilcan/Rygiel/Baban forthcoming). However, the ethnographic skills of interviewing and probing, as well as being attentive to cultural sensitivities and power dynamics in the refugee context, were imperative to our engagement with refugees whom we view, following others (Ataç/Rygiel/Stierl 2016; Biehl 2015; Oliveri 2012), as active subjects rather than victims. Our interviews with Turkish humanitarian and relief organizations covered similar questions, but also looked at the types of services provided to Syrians. Our analysis also draws on additional sources, including civil society and media reports, and governmental, policy, and program documents.

## **RECONSTITUTING REFUGEES: FROM POLITICAL AGENTS TO OBJECTS OF HUMANITARIAN ASSISTANCE**

Refugee scholars, including James C. Hathaway and Thomas Gammeltoft-Hansen (2015), Liza Schuster (2011), and Audrey Macklin (2005), have all made the persuasive argument that the turn towards border politics and increased securitization of migration over the past several decades has transformed the international refugee regime from one of protection towards what Hathaway and Gammeltoft-Hansen (2015) refer

to as a »non-entrée regime.« As both authors note, wealthier countries have »embraced the politics of non-entrée, comprising efforts to keep refugees away from their territories but without formally resiling from treaty obligations« (ibid.: 235). Practices of non-entrée, such as visas, carrier sanctions, international zones, and bilateral readmission agreements — and here we would add the EU Turkey Joint Action Plan, commonly referred to as the »EU-Turkey deal«<sup>1</sup> — work to prevent refugees from accessing territory, in this case of the EU, which is necessary to make asylum claims. Schuster observes that restrictive border controls, in effect, make it nearly impossible for many of those in need to lodge asylum claims, thereby »turning refugees into »illegal migrants«« (2011: 1392). Moreover, as Macklin (2005: 365) points out, it is not just that the »cumulative impact of the various measures designed to deter asylum seekers is to drive them deeper into the hands of smugglers and the world of clandestine, illegal and dangerous modes of travel.« Rather, the consequences of this reality lead to »the erosion of the idea that people who seek asylum may actually be refugees« (ibid.). As Macklin explains:

»[R]efugees are increasingly being erased from our discourse, and further [...] this erasure performs a crucial precatory step towards legitimating actual laws and practices that attempt to make them vanish from reality. While such policies can never entirely succeed in preventing entry, they may reduce numbers, and then can and do consign a growing proportion of entrants to the illegal category. As the number of illegals increases so does the public clamor for more restrictionist measures, which further augments the illegal populations. Refugees do not cease to enter, but they decreasingly enter as refugees.« (Ibid.: 369–370)

Arguments like the above point out that border controls fail in preventing people from entering. Rather, their »success« lies in changing the status of people upon entering, often placing them in more vulnerable positions and with fewer rights than would be afforded to them under international law as recognized refugees.

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<sup>1</sup> | We follow the common practice of many academics and NGOs of referring to this as »the EU-Turkey deal.« Yet the deal is more accurately a »statement.« The legally binding nature of the deal is a subject of debate among scholars since »[a]pparently, the EU's procedure for negotiating and concluding treaties with third countries, laid down in Art. 218 TFEU, has not been followed« (Den Heijer/Spijkerboer 2016). On the other hand, »[b]oth the text and context of the EU-Turkey Statement support the view that it is a treaty« (ibid.). For details on the deal see European Commission (2015, 2016). For an analysis of the deal, also see Heck/Hess in this issue.

In the case of Turkey, Syrians living under desperate conditions of poverty and instability may decide to leave for Europe, but are often forced to do so through illegal means. As outlined in the Law on Foreigners and International Protection (LFIP), Turkey rarely provides exit visas to Syrians (Republic of Turkey 2013). As of January 2017, if a Syrian under temporary protection travels from Turkey to another country, their protection will be canceled. Moreover, if a Syrian wishes »to exit Turkey permanently,« they »need to obtain an exit permit from the Directorate General of Migration Management through the Provincial Directorate of Migration Management« of the city in which they are registered (UNHCR 2017a; Republic of Turkey 2013). Faced with difficulties reaching Europe, many Syrians live with temporary protection status in Turkey rather than as refugees with the international rights afforded (at least in theory) to them. More than this, though, while temporary protection affords limited rights to Syrians in Turkey, it frames these merely as temporary measures of humanitarian assistance.

Like the erasure of the idea of the refugee, brought about through »consign[ing] a growing proportion of entrants to the illegal category« (Macklin 2005: 365), we argue here that there is a second way this erasure is occurring: this is through the failure to address Syrians as refugees in favor of assisting Syrians through temporary protection and humanitarian assistance. Based on interviews with Syrians living in Turkey, and with those working in the field providing humanitarian assistance, our research shows that the very idea of ›the refugee‹ as a political figure with a right to have rights is being replaced with the notion of the refugee as an object of humanitarian assistance. Providing such aid to Syrians is not a problem in and of itself. They desperately need it. Rather, our concern is with the easy acceptance within the international community of the idea of assisting Syrian refugees via short-term humanitarian relief rather than as internationally recognized persons with a right to protection (in addition to other rights — see Hathaway 2005). The approach taken by the Turkish government in handling Syrians using temporary protection rather than refugee status, as we discuss below, is one that restricts Syrians' ability to claim status and rights as refugees. This set of rights includes meaningful protection. It also, importantly, includes a pathway towards a new life, whether through third-country resettlement in which return is impossible, as in the case of Syria, or a pathway to becoming a citizen of that new country.

Humanitarian assistance has been criticized for relying on and constituting the refugee as a helpless victim rather than a political actor. Refugee scholars Liisa Malkki (1996) and Heather Johnson (2011) have documented, for example, how humanitarian assistance »depoliticize[s] the refugee category,« creating in its place an »ahistorical universal humanitarian subject« (Malkki 1996: 378). This subject be-

comes one imbued with an »institutional, international expectation of a kind of *helplessness* as a refugee characteristic« (ibid.: 388). Paraphrasing Stein (1981: 327), Malkki notes: »refugees are helped because they are helpless« (ibid.). From this perspective, portrayed as victims, Syrians may need temporary protection and humanitarian assistance, but not rights. Building on Malkki, Johnson (2011: 1027) observes that »victimization removes political agency from the figure of the refugee by establishing a condition of political voicelessness,« but also that it »firmly locates the refugee ›problem‹ in the developing world« (Ibid.: 1028). Reflecting on the Syrian refugee crisis, Syrian refugees become victims to whom European countries may provide humanitarian relief, but which absolves them from responsibility and finding political solutions to what is viewed as being not their ›problem.‹ It enables European countries to remain signatories to the 1951 Refugee Convention, claiming to provide refugee protection and rights, while in reality ensuring that only a few actually arrive in Europe as legal refugees with rights. The EU-Turkey deal is a prime illustration of how this occurs, as illustrated in greater detail below.

As we show, the constitution of Syrian refugees as humanitarian objects rather than political subjects ultimately leaves Syrians in positions of much greater insecurity; first, through the changing whims of Turkish government policies, and second, through legal ambiguities created by the framework of temporary protection and the arbitrary bureaucratic processes that make access to social security provisions difficult.

## **CITIZENSHIP? NOT SO FAST: CREATING INSECURITY THROUGH POLICY ARBITRARINESS**

The coup attempt of July 15, 2016 marked a further point of insecurity in the lives of Syrian refugees in Turkey. That same night in Ankara, a large mob attacked and looted businesses belonging to Syrian refugees in Ankara's Önder neighborhood, where more than 40,000 Syrians live. Prior to the attacks, a well-orchestrated and coordinated campaign was disseminated using Twitter, inviting people at a specific time and place to take revenge on Syrians (Estukyan 2016). According to a report prepared immediately following the attacks by MAZLUMDER, a human rights organization (2016), the police and other local authorities were aware of the threats; many Syrians stated that at the time of the attacks, police cars were patrolling the area but did not stop the looters. During our visit to the area, we observed several hundred stores with shattered windows. Syrians whom we interviewed stated that tensions had been growing in the neighborhood over recent months. They had received mes-

sages just days before the attacks through social media and neighbors, warning them not to go out at night because of a possible attack. One Syrian mother described the night as follows:

»They hit our neighbors with stones, they broke the glass [...], and my son got sick because he was so terrified. [...] The whole neighborhood turned off the lights and hid. They broke [the windows] of all Syrian shops. Any Syrian they saw, they wanted to kill; that's what they said. They sent text messages [saying] to hide in your homes, stay at home and don't leave, there's a terrorist gang going to do this and, actually, that Saturday at 8:30 pm, 60 to 70 men were there.« (Interview, Ankara 26.07.2016).

This was not the first violent incident against Syrians; similar acts had occurred in Gaziantep, Izmir, Konya, and Istanbul on various occasions (MAZLUMDER 2016; for Gaziantep, see Şenoğuz in this issue). This recent attack, however, emerged following President Tayyip Erdoğan's announcement that it was time to give citizenship to Syrian refugees, noting that the Ministry of the Interior was working on this initiative (Arslan 2016). Immediately after this announcement, the issue of granting citizenship to Syrian refugees became a topic of heated public debate, resulting in a public outcry against the initiative. For many Turkish citizens, the President's announcement came as a surprise. Without any previous public discussion of the idea, the President's announcement largely backfired and fueled an already growing climate of public hostility towards Syrians. According to the International Crisis Group (2016: 12), anti-refugee sentiment has increased in Turkey over the past few years. The report notes:

»Surveys repeatedly find a widely-held view that refugees are a burden. In 2013 nearly 60 per cent of the population thought immigration negatively impacted tourism, labour and the economy broadly. A seminal 2014 study underscored these findings as well as the cultural distance and other insurmountable barriers to integration host communities perceived. Over 80 per cent of respondents opposed citizenship; roughly 70 per cent wanted more restrictive policies, even sending Syrians home.« (ICG 2016: 12)

Given this situation, it is not surprising that this simmering hostility quickly transformed into open hostility towards Syrians as seen in the attacks in Ankara. One Syrian refugee summarized the situation as follows:

»Before President Erdoğan came up with this announcement, we had great relationships with Turks. Now everybody turned against us. These days, when I take a taxi, I try to hide that I am a Syrian. As soon as they find out that I am a Syrian, they show great hostility. This was not the case before. Erdoğan made us more vulnerable than we were before. Why did he do this?« (Interview with a Syrian refugee, Istanbul, 14.06.2016)

The hostility and violence towards Syrian refugees, fueled by the President's announcement, is a perfect example of the type of insecurity facing Syrians in Turkey, regardless of the different cities and conditions in which they live. Their day-to-day lives are governed by and subject to the government's constantly changing rulings, whether through legal changes, government circulars, or bureaucratic procedures. As one representative of a well-established NGO summarized, »one of the things we have been hearing is that there is a complete lack of clarity, especially for Syrians, to find out what legal processes are changing. So for them... [there] is a great deal of difficulty in terms of navigating the bureaucratic procedure« (Istanbul, 16.07.2016). Kristen Biehl (2015: 58–59) has argued that »protracted uncertainty,« associated with »indefinite waiting, imperfect knowledge, and the volatility of legal status« is a defining characteristic of being an asylum seeker in Turkey and one that »invades asylum seekers' everyday lives« with a »powerful governing effect, serving to contain, demobilize, and criminalize them through the production and normalization of uncertainty.« Temporary protection status for Syrians does nothing to alleviate this norm, but instead institutionalizes uncertainty and the status of being in limbo waiting to return to Syria while making a temporary life in Turkey.

The pathway towards citizenship for Syrian refugees should begin with official recognition of their right to make a refugee claim, followed by a clear process outlining how they might obtain refugee status, accompanied by rights mandated under international protection. Upon receiving refugee status, refugee-accepting countries normally outline a further pathway for refugees to obtain permanent residency and, in many cases, citizenship. Rather than illustrating such a clearly defined legal pathway and process towards citizenship, President Erdoğan's announcement was, instead, largely influenced by the political circumstances of the day. However, once it became clear that there was widespread hostility to the idea of granting citizenship to Syrians, spilling over to social media through rapidly expanding Twitter campaigns, the government quickly changed its tune (Arslan 2016). Rather than granting citizenship to all Syrians, the government announced that only highly skilled and qualified Syrians would be granted it, and that the total number of Syrians who would eventually



receive citizenship would be around 300,000 individuals; with their families also receiving citizenship, the total number may well exceed a million or 1.5 million Syrians (Sabah Newspaper 2016).

As the above discussion illustrates, the Turkish government's announcement of the idea of granting Syrian refugees citizenship was determined less by a policy decision to create a pathway for those living under temporary protection to become permanent residents, and more by short-term political calculations and the influence of regional border politics played out through the EU-Turkey deal. Policies at both the EU level and in Turkey might indeed be driven by competing interests in attracting and keeping those Syrians who are highly skilled or professional classes of Syrians. Ultimately, however, with no clear policy direction, the reality is a great deal of ambiguity in what the potential future holds for Syrians in Turkey. Moreover, the ›ping-pong‹ politics on the issue of citizenship places Syrians in more precarious positions, as it feeds into generating public hostility rather than sending a clear message that Syrians are to be integrated into Turkish society. Furthermore, as the attacks in Ankara show, it is Syrians who ultimately become the target of further violence due to such policy ambiguity.

## **TURKEY'S TEMPORARY PROTECTION REGIME: CREATING INSECURITY THROUGH LEGAL AMBIGUITY**

The type of arbitrary statements and policy decisions pertaining to the citizenship question, which is influenced by the political priorities of the day, is but one example of how Syrians with temporary protection become subject to the whims of the government and thus more vulnerable as a result. In the absence of any clearly defined legal process granting and protecting Syrians rights in Turkey, Syrians are made more vulnerable to various forms of precarity, whether in employment, education, or housing (Ilcan/Rygiel/Baban forthcoming).

Since the beginning of the civil war in Syria, when Syrians began arriving in large numbers in Turkey, the Turkish government has changed its legal approach to Syrian refugees several times. First, the government defined new arrivals as ›guests,‹ a designation that bears no standing under international law and within the international refugee protection regime. Turkey does not grant refugee status to individuals seeking asylum coming from non-European countries. Although Turkey is a signatory to the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, Turkey has maintained a geographic limitation following Article 1b of the Convention (Zeldin 2016). This limitation restricts refugee status to »persons who

have become refugees as a result of events occurring in Europe» (UNHCR 2017b). Thus, in Turkey, eligibility for refugee status is limited to individuals coming from European countries.<sup>2</sup> This is despite the fact that the majority of asylum seekers originate from non-European countries. As İçduygu (2015: 7) notes, »[c]onsidering its geographical proximity to conflict-ridden states, Turkey's geographical limitation disqualifies a vast number of asylum seekers and refugees seeking permanent protection from the Turkish state.« In order for non-European asylum seekers to be recognized as refugees, they must undergo a refugee status determination (RSD) process through the United Nations High Commissioner for Refugees (UNHCR) in Turkey. This RSD process (commonly referred to as a ›parallel procedure‹) occurs alongside Turkish asylum procedures. Under the 1994 Asylum Regulation, all asylum seekers must also register with the Foreigner's Police and with local authorities. In the case of Syrians, although the Turkish government's first response was to recognize Syrians merely as guests, the numbers of Syrians in Turkey rapidly increased. With too many to be processed through the UNHCR RSD process, the Turkish government issued a new circular in March 2012, defining the status of Syrians in Turkey as being one of ›temporary protection.‹ In April 2013, it passed the Law on Foreigners and International Protection (LFIP) (see Republic of Turkey 2013).

The LFIP legislation recognized the principle of *non-refoulement* and institutionalized the status of ›subsidiary protection‹ (or ›secondary protection of conditional refugee status‹), creating a General Directorate on Migration Management under the Ministry of the Interior to centralize asylum procedures (Tolay 2014: 3). On October 22, 2014, the Turkish government passed further legislation in line with Article 91 of the LFIP, entitled the Regulation on Temporary Protection, which, while not specifically referencing Syrians, applies to those forced to leave their countries in search of protection and arriving *en masse* (Zeldin 2016; see also Republic of Turkey 2014; for further discussion of this, see Baban/Ilcın/Rygiel 2017). While the temporary protection regime grants Syrians certain rights and provides protection in terms of a legal framework of international protection, it falls significantly short of the protections that would be granted to Syrians under the international refugee regime. The temporary protection framework allows for a greater degree of arbitrariness in terms of residency, employment, and access to social services. In fact, this arbitrariness leading to instability and vulnerability is one of the most important reasons why Syrians choose to undertake the perilous journey to Europe. In interviews, Syrians shared their beliefs that they would be better off claiming refugee status in Europe, a status

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2 | Turkey signed the Convention on August 24, 1951, and ratified it on March 30, 1962 (see UNTC 2016b); Turkey acceded to the Protocol on July 31, 1968 (see UNTC 2016a).

that would enable them to have a more stable future in Europe rather than a precarious life in limbo in Turkey, with little knowledge of whether this might ever translate into the possibility of achieving long-term residency there (Interview with Syrian lawyer, Gaziantep, 22.06.2015). In this respect, by keeping Syrians in Turkey and preventing them from reaching the EU where they might claim refugee status, the EU-Turkey deal (discussed in detail in the final section) makes one of the very few avenues for improving their lives much more difficult.

Through our field research in various cities across Turkey, we have tracked some of the vulnerabilities emerging as a result of temporary protection. As European governments and the international community increasingly accept temporary protection as a solution to dealing with Syrian refugees, the vulnerabilities accompanying this status also come to be *de facto* accepted. The EU-Turkey deal builds on the temporary protection of Syrians rather than challenging it. As noted below, many perceive greater mobility restrictions on Syrians (whether they are new restrictions, or simply previously existing restrictions newly enforced) to have coincided with the deal. What is certain is that the deal makes it much more difficult for Syrians to leave Turkey, irregularly, to reach Europe with the hope of making an individual refugee claim there.

The lack of stability in terms of claiming residency, obtaining employment rights, and accessing social services starts with the registration process. According to the temporary protection regime, every Syrian who enters Turkey is required to register and receive an identity card (*kimlik*) in order to be eligible for temporary protection. Upon receiving the *kimlik*, Syrian refugees can access certain social services. While under temporary protection, they are included within the existing social safety network to varying degrees. For example, they have access to education and basic health care available to Turkish citizens, including visits to doctors, necessary surgery, and 80% coverage of all drug costs (Kutlu 2015). Yet, having to personally pay even 20% of drug costs is almost impossible for many Syrians who live in abject poverty (Interview with Syrian refugee family, Istanbul, 17.06.2015). Moreover, the Turkish healthcare system is a hybrid system where public and private service providers offer different levels of service and are paid for through a combination of government sources and private insurers. In addition, each hospital has a different agreement with these insurers that covers and delivers different sets of services. This complicated system is difficult for Syrians to understand, as the services are often delivered by different agencies, at different government levels, and with very little coordination between agencies to help newcomers understand and access these services.

Yet, even before Syrians can access these limited social services, they must navigate the ever-changing, arbitrary registration process required to access them. Since

the start of our field research in June 2015, the registration process and the identity cards have changed several times, thus leaving Syrian refugees in limbo without status and rights. For instance, the initial stages of registration were chaotic. Different government offices, in different districts, applied contradictory criteria in order to register Syrians. According to Amnesty International, in some cities single men were denied registration while in other cities they faced little difficulty. Similarly, in some cities, the speed of registration was fairly quick, while in other locations refugees faced extremely long delays such that, by the end of 2014, only approximately 50% of refugees were registered (Amnesty International 2014: 20–23). The Association of Turkish Medical Practitioners (TTB 2014) also observed similar problems with the registration process. Different government officials and agencies applied different registration processes and requested different documentation (*ibid.*). In some cases, refugees were asked to first register with the police and then with the Turkish government's Disaster and Emergency Management Agency (AFAD),<sup>3</sup> while in other cases local district administrators (*Muhtar*) registered refugees, and despite the fact that it was stated by government officials that registration was to be free of charge, in some cities refugees were asked to pay between 170 to 200 TRY (48 to 57 USD, 41 to 48 EUR) as a registration fee (*ibid.*: 31–35). Various reports by NGOs working with Syrian refugees have reported similar observations about chaotic registration processes before and after the 2014 Temporary Protection Regulation, resulting in a great deal of confusion about what rights Syrians can claim in Turkey (HRW 2015; IGAM 2013; USAK 2013).

Finally, after this initial chaos surrounding the registration process, the government declared in the summer of 2015 that Syrian refugees would be given new identity cards. This resulted in a further delay in providing Syrians with registration, leaving them without access even to limited social services. When we returned to Turkey in the summer of 2016, the rules related to the registration process and the identity cards had yet again changed, further adding to Syrians' state of uncertainty. In this case, the registration process and the identity cards had created serious restrictions on mobility for some Syrian refugees. According to the rules, Syrian refugees would be entitled to social services in the city where they are registered. If they decided to move to another city for employment or family reasons, they would have to repeat the registration process, which could take months, leaving them without any access to social services. In 2016, the government changed the rules again to require Syrian refugees to obtain new identity cards similar to those provided to Turkish citizens, with differ-

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3 | AFAD is the government agency responsible for the administration of issues related to all refugees in Turkey.

ent numbers indicating their foreigner status and requiring them to obtain permission in order to travel from one city to the other. As one humanitarian assistance worker explained, »If it is written ›Istanbul‹ in my protection I.D., I should first approach PDMM<sup>4</sup> in Istanbul, then PDMM should let me travel to Izmir if I want to change my residence city to Izmir actually. Then, when I [...] go to Izmir, I should first approach PDMM in Izmir and change my residence city in my temporary protection I.D.« (Istanbul, 16.07.2016). However, we also heard from Syrian refugees of cases where they were asked to get permission to travel to another city simply for travel purposes. One Syrian refugee with an established business in Istanbul and familiar with navigating the system explained the recent changes as follows: »I am running a business, but I cannot go to other cities to conduct business because in some cases the bus companies will not sell tickets unless I have permission from the authorities. How can I run a business if I need a permission each time I need to travel somewhere else?« (Interview with business owner, Istanbul, 13.07.2016).

This example of restrictive mobility may not be legal policy but rather, as one humanitarian agency worker explained, merely an »individual arbitrary application of the rules« (Istanbul, 16.07.2016). As noted earlier, in addition to registering with the Foreigner's Police and local authorities, non-Europeans must also register with the UNHCR office, upon which they are sent either to detention centers or to »satellite cities« (Article 6) (Soykan 2010: 13; on the Turkish asylum system also see Sarı/Dinçer in this issue). Satellite cities are 51 designated smaller cities lying outside the major cities of Istanbul, Izmir, and Ankara, and asylum seekers are »required to regularly report to local police for the duration of their residence in the city« and »may leave the city temporarily with written permission from the local police« (ibid.). Under the temporary protection system, Syrians are not supposed to be subject to the mobility restrictions of the satellite city system. Yet, as this humanitarian agency worker explained, it seems that after the EU-Turkey deal, the satellite city system is being applied by some authorities to Syrians and in non-satellite cities like Istanbul, Ankara, and Izmir since »[a]uthorities don't want Syrians to always move around because there is no obligation to sign [a document] for Syrians, they can travel wherever they want« (Interview, Istanbul, 14.07.2016).

Moreover, in the summer of 2016, the Turkish government stopped registering new arrivals altogether, thus leaving them in an even more vulnerable state, without the ability to even claim the limited social services available to other Syrian refugees who

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**4** | PDMM refers to Provincial Directorate of Migration Management and is the provincial representative of the Directorate General for Migration Management (Refugee Rights Turkey 2016).

had arrived and registered prior to this time period. Furthermore, again in 2016, the Turkish government began requiring visas from Syrian refugees coming from third countries, thereby effectively making it impossible for Syrians to re-enter Turkey or relocate to Turkey from third countries such as Lebanon or Jordan. Unaware of such policy changes, Syrians who had left for other countries to see relatives during the holiday period at this time were suddenly unable to return due to these new visa requirements, finding themselves stranded and in some cases separated from their families (Interview with business owner, Istanbul, 13.07.2016; HRW 2016).

Despite the fact that many of these changes are specified in the LFIP, during our interviews, several Syrian refugees and relief agencies perceived these changes to be introduced after the signing of the EU-Turkey deal, believing them to be aimed at curtailing the mobility of Syrians so that they could not move easily to get to coastal regions in order to cross the Aegean Sea and travel to Europe. As one relief agency worker explained their understanding of such changes:

»We cannot keep track of changes sometimes; so how can Syrian refugees who may not even have access to the internet stay on top what they need to do to have access to social services or travel? This is a serious challenge for them. We believe that travel restrictions are influenced by the new deal with the EU and they are in place to prevent Syrians to get to the coast easily.« (Interview with a relief agency, Istanbul, 13.07.2016)

Here, again, regional border politics play out in national policy and administrative decisions, with Syrians in Turkey bearing the brunt of the impact of these changes through the increased insecurity experienced in their daily lives.

Rather than addressing Syrians as refugees or as people who might obtain permanent residency and possible citizenship in Turkey, Syrians instead are governed through temporary protection and humanitarian assistance. As the discussion above has shown, such assistance is often distributed in confusing, conflicting, and arbitrary ways through a range of different organizations and governmental levels, with the result being that Syrians often lack the assistance they need for basic services and daily living. Moreover, as objects of humanitarian assistance, rather than refugees, Syrians are not viewed as political subjects who have the right to make claims to rights but rather as victims, who are in Turkey as guests who should be thankful for the *ad hoc* charity they receive.

## **THE EU-TURKEY DEAL: CREATING INSECURITY THROUGH REGIONAL BORDER POLITICS**

Rather than acknowledging the insecurities associated with Turkey's temporary protection regime, as discussed above, with EU countries honoring their commitment under international refugee law to provide protection to Syrians as refugees, the EU-Turkey deal solidifies a new norm of turning refugees from political subjects into objects of humanitarian assistance, forcing most to remain in Turkey, where they face greater insecurities living under temporary protection. Following Didier Fassin (2011), we view humanitarian assistance as a mode of governing that concerns victims of war, disaster, poverty, exile, and famines. It involves individuals, states, and international organizations, and its sites of action range from refugee camps to clinics for the poor, to the social administration of policies and programs allegedly designed to protect vulnerable populations.

The International Organization for Migration reported that as of October 28, 2016, 332,046 migrants entered Europe by sea in 2016, with the vast majority arriving in Greece and Italy, and some 689,000 arrived during the same period in 2015 (IOM 2016). In both years, numerous people died crossing the Aegean and Mediterranean seas (Wauters/Cogolati 2016: 4) in search of safety and protection. Many of these migrants consisted of refugees from Syria who entered the EU through Turkey, often through the Greek islands of Kos, Chios, Lesbos, and Samos. Upon their arrival to the Greek islands, they began seeking asylum within the EU (Ataç 2016). However, the refugee route of Syria-Turkey-Greece, in addition to the overall rise in refugee arrivals in 2015, became a concern to both the EU and Turkey. The EU emphasized that it was incapable of monitoring its borders in the Aegean, when more than 150,000 non-registered entries to Greece occurred in September 2015 (*ibid.*; see also Kirişçi 2016). To reclaim control over the borders and over the movements of irregular migrants, the EU and Turkey implemented a new arrangement for those asylum seekers and would-be refugees traveling from Turkey to Greece.

On March 18, 2016, the EU Member States signed an agreement with Turkey to curtail migration to the EU, including into Greece. A report by the European Commission (2016: 2) notes the success of the deal in lowering the numbers of irregular arrivals to Greece from Turkey from »865,425 arrivals during the eight months before the EU Turkey Statement« to »22,838 arrivals during the eight months thereafter.« The deal places an emphasis on supporting Syrians living under temporary protection

in Turkey through financial support,<sup>5</sup> humanitarian assistance and closer cooperation with Turkish authorities, particularly in preventing irregular migration (European Commission 2015). The deal also involves trading one migrant for another, or a ›one in, one out‹ deal, in which one refugee in Europe would be sent to Turkey, and one refugee who is already in Turkey would then be resettled in Europe (European Commission 2016).<sup>6</sup> The deal aims to prevent irregular migrants from traveling across the Aegean from Turkey to the Greek islands by permitting Greece to return to Turkey all irregular migrants arriving after March 20, 2016. In exchange, the deal claims to offer ›migrants an alternative to putting their lives at risk‹ (European Commission 2016), as EU Member States would increase resettlement of Syrian refugees residing in Turkey, lift visa requirements for Turkish citizens and provide financial support for Turkey's Syrian refugee population. Human Rights Watch has emphasized that the EU would also work with Turkey ›to create a ›safe zone‹ in Syria in which to contain the displaced and to which refugees could be returned from Turkey‹ (HRW 2016: 7). However, rather than providing safe passages into the EU and increasing refugee resettlement for asylum seekers and refugees arriving from Turkey and other front-line states, the EU-Turkey deal limits arrivals to the EU, deters asylum claims, controls refugee mobility, and conveys the message that Syrian refugees are exchangeable. Such conditions relate to the way the deal solidifies a new norm for treating refugees, one that involves viewing refugees not as political subjects with rights under the Refugee Convention, but rather as helpless victims through the use of discourses of compassion, suffering, and humanitarian assistance (see Fassin 2011: 2). This kind of victimization permits the erasure of the Syrian refugee as a political subject with rights. It bears similarity to the kind of discursive disappearance of the refugee that Macklin demonstrates takes place under various ›legitimizing actual laws and practices‹ that are designed to constrain the movement of asylum seekers (Macklin 2005: 369).

At the outset, the deal embraced the ›politics of non-entrée‹ (Hathaway/Gammeltoft-Hansen 2015), which lent support to viewing Syrians (and others) not only as a potential security threat to the EU and its borders (see Vaughan-Williams 2015 on EU border security and migration management) but also simply as passive victims requir-

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5 | 2.2 billion of the promised three billion euros has been distributed to the Facility for Refugees in Turkey (European Commission 2016: 2).

6 | Under the deal, governments agree ›to return all new irregular migrants crossing from Turkey into the Greek islands with the costs covered by the EU‹ and ›to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the EU Member States, within the framework of the existing commitments‹ (European Council 2016).



ing help. Enmeshed in regional border politics, the deal is premised on an exchange agreement that involves trading in lives, which enables only some migrants and selected Syrian refugees to access EU territory and forces many (Syrians and others) to move to or stay in Turkey to seek help (European Commission 2015, 2016). On the one hand, those permitted to access EU territory through the deal can experience tremendous hardship. For example, according to Human Rights Watch (HRW 2016), »over 15,000 are living in squalid, unsafe camps on the islands awaiting decisions on their asylum application. Overall an estimated 60,000 migrants and asylum seekers are stranded in Greece« (HRW 2016: 8). On the other hand, most Syrians who are unable to access EU territory face insecure and challenging living conditions, since they are denied formal refugee protection status but are provided access to humanitarian assistance in Turkey for which, it is understood, they should be obliged to accept.

Under the deal, Syrians (and others) are compelled to relocate from Greece to Turkey and live under the insecurities of the country's national policies<sup>7</sup> and humanitarian assistance practices. Upon their arrival in Turkey, Syrians can access the country's humanitarian assistance services which operate in fluid, messy, and arbitrary ways, and include faith-based organizations; local community and national NGOs that provide health care, skills training, and rights-based education; and, international aid organizations, such as the UNHCR, that offer legal support and protection services. Based on our field observations, many humanitarian assistance organizations are more commonly set up to view Syrian refugees as passive victims — the quintessential »suffering subject« (Robbins 2013), and to deliver short-term relief. This can be depoliticizing if it forces Syrians in Turkey to become responsible for their own survival rather than having a system of support in place such that Syrians might also be in a position to challenge their temporary protection status and focus on the long-term aspects of their lives.

Through our interviews, many Syrian refugees expressed having limited access to humanitarian assistance to meet their basic human needs. Some emphasized concerns about accessing certain kinds of humanitarian assistance for their families. For example, a mother in Istanbul stressed that she and her family must navigate the complex network of charities and NGOs, which provide piecemeal aid services and, often, in uncoordinated ways. Since they do not speak Turkish, they bypassed the Turkish humanitarian assistance organizations altogether and visited several Syrian aid or-

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7 | Upon their return to Turkey, Syrian refugees often confront delays in the registration process that grants them an identity card to be eligible for temporary protection. The delays not only interrupt the implementation of protection measures, but they also subject many Syrians to extreme forms of poverty and exploitation (see HRW 2016: 17).

ganizations that in the end were unable to help because, as she was told, they had reached their assistance capacity. In echoing concerns over the relationship between humanitarian assistance and Syrians' insecure living conditions, another interviewee remarked: »Syrian refugees have [...] surrendered and entered the tunnel of waiting for humanitarian relief. This is a very dangerous transformation. After more than four years in the crisis, Syrian refugees are accepting to be beggars in the streets« (Lawyer, Gaziantep, 22.06.2015). In the broader political context, even if humanitarian assistance was reliable and easily accessible, Turkish state authorities can shift, reduce, and control the nature of this assistance; such interventions occur under the guise of national security and the current state of emergency agendas which can render the work of humanitarian actors challenging, and can lead to a reduction of the humanitarian assistance which Syrians had previously received.

Humanitarian assistance practices put Syrians in positions where they need to negotiate for meager levels of assistance under the conditions of a deal that grants them fewer rights than would be afforded to them under international law as recognized refugees. Consequently, Syrians face ominous insecurities upon their return to Turkey from Greece and, unfortunately, similar outcomes have manifested themselves elsewhere, since humanitarian assistance has long been employed to explain and rationalize a broad scope of international, regional, and national policies and practices. Such policies and practices range from »the treatment of poverty [...] to the justification of public actions, political causes and even wars« (Fassin 2011; see also Barnett/Weiss 2008), potentially permitting any political agenda to become connected to issues of humanitarianism.

The EU-Turkey deal entails the use of legal principles that contribute to quashing the idea of Syrians as recognized refugees. There are two legal principles that can and have been used by Greece to return asylum seekers to Turkey without examining the merits of their asylum claims. The first principle is the »first country of asylum,« under which asylum seekers can be returned to a country if they already have accessible and sufficient protection there, which also includes protection from *refoulement*, as defined in Article 35 of the EU Asylum Procedures Directive (APD) (see also UNHCR 2016). In UNHCR's view, »sufficient protection« requires that the protection in the first country of asylum is effective and available in law and practice, which includes adequate standards of living, working rights, health care, and education (UNHCR 2016). The second principle is that of the »safe third country,« under which asylum seekers can be returned to a country where they could have requested and received refugee status, as defined in Article 38 of the APD (HRW 2016 5; UNHCR 2016). The understanding of »safe« means more than being safe from war or persecution. A »safe third country« must offer the individual applicant the chance to

request and receive refugee status in line with the 1951 Convention and international human rights standards, including protection from *refoulement*.

While Syrians (and others) traveling from Turkey to Greece have been and continue to be returned to Turkey under the provisions of the deal, they are being returned to a country where there is evidence of push-backs and deportations,<sup>8</sup> mostly of Syrians (Amnesty International 2016; Wauters/Cogolati 2016; Kirişçi 2016), and a long record of *refoulement* practices (HRW 2016a). The latter contradicts the criteria to be considered a »first country of asylum.« Furthermore, *refoulement* practices do not speak to Syrians as political actors who can demand their rights for protection, but instead they render them as having no voice or role in their forcible return to Syria, where they can be subjected to persecution. In other words, these practices establish a condition of »political voicelessness« (Johnson 2011: 1027) for Syrians. In response to these legal principles, scholars, refugee activists, and human rights and international organizations have raised questions about Turkey being a first country of asylum and a safe third country for Syrian refugees. For example, Kemal Kirişçi, Director of the Turkey Project at the Brookings Institution, notes that while the EU considers Turkey a safe country of asylum, serious concerns have been raised about the role of Turkey's democracy and its rule of law in the context of the country's contemporary political milieu (Kirişçi 2016: 83). Similarly, in our interview with the Secretary General of Amnesty International Canada, Alex Neve pointed out that Amnesty International has repeatedly highlighted the distinct ways that refugee rights have been inadequately protected in Turkey. In the context of the EU-Turkey deal, he claims that »Turkey is not a safe place for all Syrian refugees and therefore [...] the right of Syrian refugees to seek safety elsewhere is totally understandable.[...] It's something that needs to be respected.« In his words, the deal »decides that the refugee who has embarked on a journey is suddenly somehow now not a person with rights but a commodity that now can be swapped back into Turkey while we bring out another refugee.« For him, the deal »violates international law because of the notion that the refugee, who is being forced back to Turkey, is being forced back to a country which we do not believe can be considered safe« (Interview with Alex Neve, Amnesty International Canada, Waterloo, Canada, 06.13.2016).

The EU-Turkey deal does not provide meaningful protection and security to would-be refugees such as Syrians who are escaping massive conflict and internal displacement in their search for protection. It creates insecurities for Syrians (and others)

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8 | In April 2016, Amnesty International reported large-scale deportations of Syrians in Hatay Province. Those deported were mainly unregistered refugees or refugees apprehended without their identification documents (Amnesty International 2016; HRW 2016).

by limiting arrivals to the EU, deterring asylum claims, and trading in lives. Such conditions relate to the way the deal solidifies a new norm for regarding refugees that treats them as victims of occurrences whose suffering is addressed through humanitarian assistance rather than through international refugee law stipulating refugee rights. The EU-Turkey deal is clear about its intent for asylum seekers and would-be refugees: that their safety and protection can be ignored, hindered, and outsourced.

## CONCLUSION

In contributing to the critical migration and border scholarship literature (e.g., Hathway/Gammeltoft-Hansen 2015; Johnson 2011; Macklin 2005; Malkki 1996; Schuster 2011), this paper advances the argument that Syrian refugees are enmeshed in a kind of border politics that strips them of their political subjectivity and ability to claim rights under the international refugee protection regime. This situation, we contend, is accomplished by reconstituting Syrians as objects of humanitarian assistance rather than political agents with rights. Through our engagement in a multi-methods approach of interviews, field observations, and critical discourse and policy analysis, we have demonstrated how this reconstitution produces a life of insecurities for urban Syrian refugees in Turkey, which occurs at local, national, and regional levels. At the local level, the Turkish government handles Syrians by, on the one hand, promising them citizenship or working rights, and, on the other hand, by restricting their movements through policies. This form of ›ping-pong‹ politics on the issue of citizenship results in the emergence of local, reactionary responses, including violent incidents, widespread hostilities, and anti-refugee sentiments. At the national level, we have demonstrated that Syrians experience insecurities through Turkey's temporary protection regime, a regime that puts in place a legally ambiguous way to manage the status of Syrian refugees. Under this regime, Syrians are not recognized as refugees according to international refugee law, but are given the legal right to reside within the country. Having temporary protection status, however, provides them with a greater degree of arbitrariness in terms of residency, legal employment, and access to social services. At the regional level, the insecurities that Syrians experience through Turkey's temporary protection regime are solidified through the EU-Turkey deal, an agreement EU Member States signed with Turkey to curtail migration to the EU, including flows to Greece. While embracing the ideals of humanitarianism, the deal nevertheless trades in lives by permitting some people and selected Syrian refugees to move but leaves most would-be refugees to live in Turkey, facing insecurities through both the temporary protection regime and humanitarian assistance. Moreover, the

deal's supporting legal principles have contributed to quashing the notion of Syrians as recognized refugees.

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## **Interview**





# History matters. Distinct Responses of the Middle Eastern States to Refugee Movements

An Interview with Dawn Chatty

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ILKER ATAÇ, CAVIDAN SOYKAN

**Abstract:** Dawn Chatty claims that today the world is far away from ensuring a fundamental right to all that was once guaranteed by the Universal Declaration of Human Rights: the right to seek asylum. Refugee Studies as a multi-disciplinary project and specifically anthropology as a discipline can tell us an insider's view of those migrants' journeys and their exile in other societies. According to her, although refugees are stripped of their agency and depicted as needy by the humanitarian aid regime, there is a growing scholarship on their plight and of their problems. Since Syrians' hope of being able to return to their country has rather been dashed, Chatty argues that a type of temporary protection would be the best solution to provide basic social and economic rights to Syrians. This type of protection should guarantee the right to work and basic education for Syrian youth as well.

**Keywords:** refugee studies, anthropology, Middle East, Syrian refugees, temporary protection

»When one understands the outsider, and the ›Other,‹ they no longer seem strange.« (Dawn Chatty)

Ilker Ataç (Vienna) and Cavidan Soykan (Izmir) spoke with Dawn Chatty for *movements* via e-mail in June and July 2017. Dawn Chatty is Emeritus Professor in Anthropology and Forced Migration and former Director of the Refugee Studies Centre, University of Oxford, United Kingdom. Her research interests include refugee youth in protracted refugee crises, conservation and development, pastoral society, and forced settlement. She is the author of *Displacement and Dispossession in the Modern Middle East*, Cambridge University Press, 2010, *From Camel to Truck*, White Horse Press, 2013, and *Syria: The Making and Unmaking of a Refugee State*, Hurst Publishers, forthcoming in October 2017.

*Ilker Ataç & Cavidan Soykan: We are witnessing the biggest human displacement in the world since the Second World War. As you say, the emergence of Refugee*

*Studies as a multi-disciplinary project was a late response to the devastating issue of human displacement associated with the war, European fascism, and decolonisation. Refugees were rarely a matter of scientific interest until the 1950s, when the iconic work of Arendt's The Origins of Totalitarianism was published. We are talking of another ›refugee crisis‹ today and the failure of European states in responding to it. Where do you see Refugee Studies as a scientific project in light of today's mass displacement that is mostly from Syria?*

Dawn Chatty: The mass displacements we are seeing on the shores of the northern Mediterranean are not new. Nor are they a crisis. But they do reflect a grave situation that the European states are not prepared to deal with. After WWII, the world's leaders came together to draft declarations and resolutions for the United Nations to address the horrors of the previous half century: mass evictions, displacement and statelessness, genocides, and the Holocaust. The Universal Declaration of Human Rights, adopted by the United Nations in 1948, set out, among other elements, in Articles 13 and 14, the right to leave and to return to one's country and the right to seek asylum from persecution in another country. Yet today, we have made the very act of seeking that protection illegal. Refugee Studies has a large role to play in educating not only the academe but the general public in the international human rights and refugee rights we have all signed up to as well as in understanding the significance of the journey into exile, the migration networks, and the general contribution that refugees and other forced migrants make to their places of sanctuary as well as for those left behind.

*You are trained as an anthropologist, and your work in the field of forced migration carries the perspective of this discipline. Compared to other disciplines that work on forced migration and refugees, how does Refugee Studies benefit from anthropology? What are/what can be the main contributions of anthropology to the study of today's urban refugees in Turkey?*

Anthropology offers an emic perspective: it offers an insider's view of human society and explains our differences and similarities. Anthropology, engaged anthropology, offers opportunities for the public to develop a greater understanding of other peoples, cultures, and societies. When one understands the outsider, and the ›Other,‹ they no longer seem strange. It is the beginning of acceptance and reduces discrimination as well as ethnic violence.

*There has been a lot of discussion on the failure of international refugee law in providing protection to Syrian refugees. Thousands of people lost their lives in search of a safe place in the Mediterranean within the past decade. What do you think about the basic premises of Refugee Studies today both in terms of its moral imperative and its scientific interest in refugee experience? Do you think scholars working on Syrian forced migration could convey/respond to refugees' needs and voices, or does the project of ›political humanitarianism‹ govern the field right now?*

Scholars working with displaced Syrians in Turkey, Lebanon, and Jordan are producing scientific papers which show that first the Syrians are making significant contributions to the countries — often in the informal economy. But a lack of understanding of their predicament has meant that social discrimination has emerged in each of these countries. Scholars have also revealed the shortcomings of the humanitarian aid regime in its insistence on a template for providing assistance; a template which strips Syrians of agency and reduces them to vulnerable and needy people. More scholarship is emerging which shows that, notwithstanding the enormous pressure that these countries face, local civil society is emerging and working with the displaced to improve their situation and help prepare them for returning one day through effective education programmes and active engagement in building a civil society.

Political humanitarianism, European policy of containment in the region, is unsustainable in the long term. Europe needs migrants — skilled and unskilled — and Syrians realize that they cannot return home anytime soon. A compromise will emerge soon which recognizes that third country resettlement is not generally in the interest of either the displaced Syrians or the states of Europe. Instead, a form of temporary protection, of complementary or subsidiary protection, will start to be negotiated, allowing more Syrians access to Europe's labor market. Here, basic economics or economic humanitarianism will prevail, where countries needing certain skills will be matched up with Syrians (and other refugees) who have those skills on a temporary — not permanent — basis.

*You argue that refugee crises in past centuries shaped contemporary refugee movements and regimes in the Middle East. On the one hand, you emphasize the importance of social relations and transborder movements, which go back to the late period of the Ottoman Empire. On the other hand, we can see that each country bordering Syria has responded differently to this complex emergency. Can you clarify your argument that ›History matters‹ for explaining the responses by Lebanon, Turkey, and Jordan towards refugees from Syria?*

First of all, each country has originally received the displaced Syrians who are most closely related to its own citizens on the other side of the border. Take for example Turkey, the first wave of Syrians was from Aleppo and Idlib provinces, and they sought sanctuary and safety in the Hatay Province of Turkey. Many had close social (kinship) and economic ties in Hatay and were treated as temporary guests (*misafir*), just like those who were there in the 1938–9 period of time, when the Hatay provinces were transferred from French mandated Syria to Turkey. So the social links were strong. Furthermore, places like Gaziantep were largely developed from a provincial town to an important city with Syrian investment from Aleppo businessmen. So, the relations were already there to accept these not so strange ›strangers‹ and provide them with sanctuary. In Lebanon it is the same. Greater Lebanon was created by the French mandatory authorities from Mt Lebanon (a special Ottoman self-governing region in the late 1800s) and added to it the Syrian city of Tripoli as well as the agricultural lands of the Syrian Bekaa. So, people were already related to each other and had strong social and economic ties. It is thus no surprise that so many Syrians from Homs came to Lebanon for safety. Once in Lebanon, they were treated as guest workers. Before 2011, there were times when Lebanon had as many as 400,000 Syrian workers in the agricultural and construction industry. These close economic ties as well as social ties meant that Syrians were not turned back when they sought safety from the violence in Syria. Jordan saw the same. The first Syrians to flee to Jordan were from Dara'a, a town near the Jordanian border where many tribal links exist with the tribal community of Dara'a. Thus, in all three cases, we can see that the partition of the Ottoman Greater Syria (or Bilad al-Sham) resulted in many families, communities, and tribes seeing their rootedness and territory suddenly divided into and across several new nation-states. The recent historical memory of earlier times still holds.

*When you refer to the term tribe here, are you making a reference to a specific social group? Do you mean ethnic communities in this case or do you imply that this group of people belongs to a minority? Because the term tribe has colonial connotations, and, once, there was a long discussion on its usage in the field.*

It is an issue I have long dealt with, as it is very common in contemporary anthropology to avoid the term ›tribe‹ especially in African anthropology where the colonial impact was particularly savage. However, in the Middle East — specifically the Arabian Peninsula — there was really only the neo-colonial impact after World War I and the fall of the Ottoman Empire. The term tribe, here, is not an imported European colonial construct, but rather a local and regional one. The tribes — Bedouin —

call themselves ashira and asha'iri (tribe/tribal) or qabila and qaba'li, and this social construction refers to the segmentary lineage groups that make up the ashira/qabila. Thus, when I mentioned the tribes of Northern Arabia and the close kinship ties/tribal ties across Der'a and Ramtha and northern Jordan, I am looking at locally constructed social grouping.

Not all people in Syria are tribal, seeing themselves as belonging to specific kin groups and lineages, but many are and most go by the term of bedouin. There are many ethno-religious social groups in Syria, too, such as the Armenians, the Assyrians, and even the Isma'ilis. You can also count the Druze in this category. But I would say the Kurds are an ethnic group (with numerous religious affiliations) and they too are organized tribally — think the Barzani and the Talabani. So too are the Circassians of Syria. Thus, Syria is made up of many ethno-religious social groups, tribes, ethnic nations, and other social groups and communities.

*In 2011, Turkey declared an open door policy towards refugees from Syria. Nevertheless, it is difficult to call Turkey a ›refugee-friendly country.‹ Syrian refugees usually receive temporary protection status with limited economic and social rights, and these rights are not based on the Geneva Refugee Convention. Besides, Syrians work in precarious jobs with high exploitation and precarious standards. The question of Syrian refugees also divides the Turkish society, which regularly shows itself in attacks on Syrians. Moreover, the open border policy seems to come to an end and a high wall is constructed along the Turkish-Syrian border. How do you contextualize these developments in the broader context of the Middle East and Turkey-EU relations?*

First of all, Turkey has signed the 1951 Convention and the 1967 Protocol. Only it has limited it — made a reservation — to only consider Europeans for refugee status. So, Turkey has provided refugee status for people from the Balkans, especially Bulgarians in recent conflicts. Maybe as part of the earlier pre-accession talks, Turkey has also adopted domestic asylum law. It is the only country in the Middle East to do so. This asylum law tries to regularize the status and conditions of displaced Syrians in Turkey. It has provided far superior temporary accommodation in temporary camps for nearly 250,000 Syrians — something Lebanon has not done, and the Jordanian government has done badly. Most Syrians in Turkey are permitted entry, given ID cards that grant them free health care and also access to education. For the first three to four years, that education was in Arabic in the Temporary Education Centres (TECs). But now that the crisis continues, Turkey is beginning to insist that education must be in Turkish. It has also permitted the issuing of work permits. But here, there

is little that can be done. Most Syrians work in the informal economy. It is tolerated, and most employers do not want to see Syrians have work permits as then it means the employers have to pay higher salaries and also government benefits. The point I want to make is that employment is the key to successful temporary protection/temporary integration. When a Syrian can support his or her family, he/she knows they are safe then until it is possible to return to their country. If they cannot work, or if they might be arrested for working (as happens in Jordan, if one works without a work permit), then safety is compromised and insecurity continues.

Is it surprising that after six years of hosting nearly three million Syrians, there are, at the local level, real signs of social discrimination and concern over local jobs and other social issues? These need to be addressed by the government, to persuade Turkish people that Syrians are not taking their jobs, or causing them to be unemployed, that their own jobs are not under threat, and that their wages, in the informal economy, are not being depressed by the presence of Syrians. The Agreement to halt the flow of Syrians to the EU is not a solid ›contract.‹ I don't believe that Turkey has been paid what it demanded, and I am not sure whether visa free travel will be granted from the EU. So, I think we are going to see many more changes. Building a wall to keep out desperate people doesn't work. It doesn't work along the US/Mexico border, and it would not work across the Syria/Turkey border. The frontier is too long; the threat of violence behind it is too strong to stop people looking for safety — where they may live without fear of death on a daily basis.

*You argue that temporary protection, rather than resettlement, is the main aspiration of those who flee Syria. However, the war in Syria seems to have no end in the near future. In this context of changing temporalities, what should be the priorities of the host countries of Syrian refugees: should they see them as future citizens or as temporary ›guests‹? Do you think there should be differences in these policies between countries such as Lebanon, Turkey, and Jordan on the one hand, and, on the other hand, countries like Germany, Austria, Sweden, and the United Kingdom? Moreover, do you think that new transnational migration patterns will emerge as a consequence of the Syrian civil war?*

Temporary protection is perhaps the most rewarding and useful form of ›international‹ protection that someone escaping war can aspire to. The Syrian conflict has seen this form of protection emerge as the most sought after for very good reasons. Syrians fleeing into Lebanon, Jordan, and Turkey, have been very reluctant to ›register‹ officially with the UN agencies as refugees. They have instead sought out arrangements where they could work, where their families were safe, and where they

could access health and education possibilities for their children. In other words, they were searching for ways to sit out the armed conflict and were ready to return. Many Syrians understood that if the government did not fall, if there was no regime change, their only hope of being able to return to Syria after the conflict would be if they were not seen as ›traitors‹ by the Asad regime. In other words, if they either were not officially out of the country for any other reason than to work. A good example is a case that has been repeated many times over of a professional Syrian couple and their children who arrived in France in 2013. They wanted only permission to work (they were doctors trained in France). They intended to remain in France — but not to become French citizens — until the fighting in Syria ended. They wanted to work and send their children to school. But the French government wanted them to apply for asylum as refugees. There was a stalemate: the Syrian couple did not want to be refugees, they just wanted temporary protection and permission to work to support themselves. They knew that if they became formal refugees in France, they would be unlikely to return to Syria if the Asad government did not fall. Now, in 2017, it looks very unlikely that President Asad and his regime will collapse, and so those who did go abroad for work know they will be able to return. But those who have claimed asylum abroad may never be able to return while he remains in power.

Of course, there are those not as highly skilled who have been unable to support themselves and have registered with UN agencies for third country resettlement. Only a small percentage will receive it; the remaining will be left in limbo for a very long time. Already Lebanon and Jordan want to send Syrians back to Syria, but the Asad government is not interested in receiving them back. Rumours abounded in 2015–16 that the UNESCWA team working on the post conflict Syria were only looking at a population of 17 million — minus the five million that had fled abroad. In Turkey, we know that Syrian refugees have become political pawns and that some of the more skilled and better educated may be offered citizenship. Whether this will be permanent or temporary citizenship remains to be seen. Certainly, temporary ›citizenship‹ for this new form of refuge and asylum is a distinct possibility in future conflicts.

*According to UNICEF, six million Syrian children are directly affected from the conflict, and more than half of the refugees outside of Syria are children. Nearly half of the registered Syrian refugees in Turkey are under the age of eighteen. You have pointed out that Syrian refugee children have access to education in Turkey. However, only one third of the school age children are enrolled in public schools. The enrolment rate remains quite low despite all the efforts of NGOs, UNICEF, and the government. On the other hand, some Syrian parents might prefer their children to*



*have an education in Arabic with the fear that they otherwise might forget their native language. You are known by your workings on refugee youth. What could be the reasons of this low enrolment rate in Turkey based on your research? And how do you think this problem of learning one's native language and access to education be compromised in the long-term?*

Yes, nearly 50% of Syrians who have taken refuge outside of Syria are under the age of 18 and in some places more than 60% of these are not enrolled in education (e.g. Lebanon). There are many reasons for this. In some cases, the families need the older children to work in the informal economy to help the families eat and pay rent. In other cases, it is the lack of sound education facilities with curriculum of meaning. In Jordan, for example, second shift schools for Syrians were set up for three hours in the afternoons. But they could not teach to a level that would give most of the students a fair run at the national end of year exams (the Tawjihi). If the school becomes more like a baby-sitting service, then it is not surprising that students drop out. In Turkey, the situation is more complex. At the beginning of the crisis, the Turkish government permitted Temporary Education Centres (TECs) to open, which taught in Arabic and used a modified Syrian state curriculum. This was very popular, and many NGOs supported this. It gave Syrians hope that their children could be educated and at some point slip back into the Syrian run system at the end of fighting. But as we move deeply into the sixth year of the conflict, many are asking themselves whether they shouldn't learn Turkish, too. A bi-lingual curriculum is ideal in such a case. But unfortunately the Turkish government seems to have decided that enough time has been given to Arabic instruction and is now insisting that Syrians must study the Turkish language and curriculum. That is understandable politically. But socially, a bi-national curriculum would be preferred, certainly by Syrians. It gives them a chance to temporarily be ›citizens‹ of Turkey, but also the option to return to Syria one day when the fighting stops — being still fluent in Arabic but also in Turkish, too.

*You have a new book coming out titled Syria: The Making and Unmaking of a Refugee State this October. Could you please tell us how the idea of this book was shaped and realized?*

As Syrians began to flee the country looking for safety elsewhere, I was struck by the irony of a state that had offered sanctuary for so many millions of people from the middle of the 19<sup>th</sup> century to the present time and that was now producing forced migrants seeking sanctuary among neighboring states. I had already interviewed the

oldest living members of Circassians, Chechnyans, Armenians, and Kurds who had found safety and sanctuary in Greater Syria from the middle of the 1850s to the 1920s. And I thought that if I also looked at the Palestinians and most recently the Iraqis who found refuge in Syria, I would have the basis for a book which revealed the unique character of the Syrian people, shaped very much by their recent history. Then, by also interviewing displaced Syrians in Turkey, Lebanon, and Jordan, I would be able to show other aspects of forced migration, accommodation, integration, and hospitality which is so very much present in the Middle East region and has shaped the response to the Syrian humanitarian crisis.

*You place the Syrian forced migration into a larger context of widespread migrations that shaped the region within the past 150 years in your new book. Could you please tell us more about your arguments in the book, specifically with regard to the remaking of Syria?*

The argument I try to make is that the legacy of the Ottoman millet (ethno-religious communities) was such as to disperse belonging among a network of similar co-religionists. So, throughout the region, Greek Orthodox, Jews, Catholics, Protestants saw themselves as tied to their own religious hierarchy but not necessarily specific territory. So members of these ethno-religious communities tended to live side by side with others (strangers), not necessarily their co-religionists. This co-habitation produced a local conviviality, a cosmopolitanism, which made receiving other people — forced migrants from other armed conflicts — natural. These same events also supported the social institution of Karam (hospitality, generosity) or the duty to be hospitable. These same notions, which are also found regionally, help explain why nearly five million Syrians are being largely successfully accommodated and hosted in the neighboring states of Turkey, Lebanon, and Jordan.



## **Interventions**



# Migration as a Site of Political Struggle

## An Evaluation of the Istanbul Migrant Solidarity Network

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FIRAT GENÇ

**Abstract:** In order to introduce a discussion on the possibilities and limits of the migrant struggle in Turkey, this article examines a particular grassroots organization — the Migrant Solidarity Network — that was formed to confront the cycle of uncertainty and precariousness that defines the migrant experience. By contextualizing its emergence, trajectory and ultimately dissolution in the shifting framework of the migration regime as well as in alterations of the radical left scene in Turkey in the 2000s, this article traces structural and contingent dynamics that characterize a terrain of political contestation wherein paternalistic, technocratic, and solidarity perspectives are in fierce antagonism.

**Keywords:** migrant activism, migration regime, charity, Syrian refugees, Turkey

Today, the dynamism of international migration has become the topic of a protracted, international struggle involving many actors on different scales and, therefore, different institutionalisms. The regulations, practices, and tools regarding migration can only be understood in terms of this ongoing struggle. For instance, as de Genova (2016) argues in regards to the discussion around the recent European ›refugee crisis,‹ »[b]orders are not inert, fixed or coherent ›things.‹ Rather [...] borders are better seen as socio-political *relations*. What is at stake in these relations, which are indeed relations of *struggle*, is the rendering of borders into seemingly fixed and stable thing-like realities with a semblance of objectivity, durability and intrinsic power.« The instruments developed by states and international institutions, their practices and discourses, aim to ›naturalize‹ a set of phenomena that cannot be assumed and which therefore have a social-political character. Yet, this effort to naturalize is a subject of struggle in itself, and migrants themselves are the prevailing side of it (Frieze/Mezzadra 2010; Ataç et al. 2015).

When we take migration as a site of struggle and we take migrants as the subject of this struggle, we come one step closer to understanding both the actions of those migrants in their daily lives as well as the meaning, within the context of present-day relations of power and exploitation, of the emergence of political-social movements around the concept of migration. In today's world, characterized by a multitude of

(economic, ecological, and democratic) crises, migration occupies the intersection of number of axes of conflict that traverse the global political topography from one end to the other.

Departing from this particular point of view, in this article I aim to introduce a discussion on the possibilities and limits of the migrant struggle in Turkey, a country that has recently become one of the main sites of global migration. It should go without saying that such a discussion has more than one aspect. Because of this, at this juncture, I limit myself to evaluating a particular organizing experience. I focus on the Migrant Solidarity Network (MSN), a group that has aimed to stand in solidarity with the increasing numbers of migrants, by regarding migration as a site of political conflict. This must inevitably be a retrospective evaluation, since the MSN, after emerging in the fall of 2009, was only three years in existence. Also, just when the arrival of Syrians changed the migratory dynamics of Turkey, its regular activity ended. Therefore, I not only examine the conditions that led to the formation of the MSN, the group's structure, discourse and practice, and the social needs it responded to, but I also try to understand the reasons for its inability to adapt to new conditions. As one of its members who witnessed the period from its inception to its dissolution, I attempt to place the MSN experience within the context of a newly emerging migrant struggle in Turkey and interpret its lasting organizational forms, discourses, and practices as products of a transitional period.

## **BACKGROUND**

In the 2000s, Turkey, a country that was to have one of the highest populations of refugees following the arrival of Syrians in 2011, witnessed the maturing of migratory dynamics that had started in the 1980s. During this period, the quantity and pattern of migration, and relatedly the migration regime and ultimately the migrant experience itself became fundamentally complex. The factors that led to the birth of the MSN, and shaped it, are directly related to this complexity.

Migration to the country during the 20<sup>th</sup> century was mostly based on the movement of groups of Turkish origin living in nation-states formed out of the dissolution of the Ottoman Empire. Since this kind of migration allowed the Turkification of the newly formed nation-state of Turkey, it was accepted as state policy. Since those arriving (from Balkan countries such as Bosnia, Kosovo, and Bulgaria, for instance) were seen as ›acceptable migrants‹ from the point of view of religion and ethnicity, they were incorporated into a relatively tolerant migration regime (Danış/Parla 2009). After the 1980s, both the identity of those migrating to Turkey as well as the pattern

of migration changed in an unprecedented manner (Erder 2000; Kirişci 2000). First of all, in accordance with past laws that only defined ethnic Turks in Turkey as »immigrants,« those arriving in this latest phase of migration were not immigrants but »foreigners« (Parla 2011: 74). A process of citizenship for those coming from war-torn countries such as Iraq or Afghanistan, or from ex-Soviet states like Armenia, Moldova, or Georgia, or those coming from countries in Sub-Saharan Africa had not been prepared politically or legally, as had been with the previous migrants. Second of all, the motivation of those who were migrating was changing, which meant that the pattern of migration was changing as well. Even if in reality there has been a constant flux between these categories, this new migrant population consisted of those who were coming to Turkey to work, who were applying for international asylum, or who were only going to stay temporarily on their way to Europe. And so, a group emerged who found themselves, starting with their legal status, imprisoned in uncertainty (Danış/Soysüren 2014: 19). The majority of this group consisted of undocumented migrants that were officially categorized as »illegal,« »unregistered,« or »irregular.« The official estimates on the ratio of »irregular« immigrants among the whole migrant population indicate that Turkey progressively evolved into both an immigration and a transit country in the 2000s (İçduygu 2015).

But what sets the 2000s apart is not only that the amount of migration to Turkey had increased, it is also that the state, in trying to effectively manage and regulate population flows to the country, started to institutionalize, albeit sometimes slowly and inconsistently, a new migration regime. In reality, the formation of an »effective« migration regime in terms of functioning only occurred after 2010 within the context of the shake-up caused by the Syrian refugees (Akalin 2016). However, one could claim that even prior to this turn of events, and more so due to the imperatives of the continuing relationship with the EU, the Turkish state had realized the changing position and role the country had taken within the global movement of migrants. The legal accords and regulations, the increasing number of detention centers, the signed agreements of readmissions, and the harsher border protections have all come about within this context. According to the security-focused »fortress Europe« paradigm dominant in EU institutions, the externalization of the European border regime to include neighboring countries necessitated a more rigid migration regime in Turkey (Hess 2010). Nevertheless, this is not just a top-down relationship; the main factor determining the character of Turkey's new migration regime has been the tense and mutually pragmatic relationship with the EU (Genç/Heck/Hess, forthcoming).

The most direct effect that the strengthening of the migration regime had on the lives of migrants was that they were imprisoned into a constantly repeating state of uncertainty (Biehl 2015). The migrant, whether in the relationship entered into with



official institutions or within various public arenas, is in a constant cycle of precarity (Eder/Özkul 2016; Baban/Ilcan/Rygiel 2017).

## FORMATION OF THE MSN

On September 20, 2009, a small uprising took place at the immigrant detention center in Kumkapı, Istanbul. More than a hundred migrants protested against the harsh conditions inside, the obstacles to legal assistance, and the administrative supervision measures, which led to unknown detention periods. In these days Iranian migrants held at a different center on the border with Bulgaria went on a hunger strike. A similar uprising had taken place a year before, also in Kumkapı, and almost a thousand migrants tried to make their voices heard to the outside world. A cry was arising from the detention centers, yet it did not reach beyond a small number of civil society organizations.

Despite the structural transformations in the 2000s in terms of the quantity/pattern of migration and the migration regime in Turkey, the left had been inattentive to the needs and demands of migrants at that time. One might justify such inattentiveness by referring to the radical left's decreased organizational capacity — which indeed got worse than in the years following the 1980 coup d'état — or to challenging topics that it had to tackle with — e.g. the spiraling effects of the state violence against the Kurdish political opposition and the sheer political and economic repression that the organized working class felt due to the neoliberal offense. Notwithstanding the severity of the political climate of the period, however, I believe deep-seated ideological tendencies of the leftist scene in Turkey have to be taken into account as well to grasp the roots of this indifference. Since major strands of the radical left have traditionally developed an inward-looking orientation and not regarded internationalism as a genuine matter of political-strategic principle, issues relating to migration could not have been translated into terms of labor exploitation and political/economic domination and were hence neglected to a great extent or regarded at best as a matter of legal procedure to be left to NGO's.

Against this backdrop, as a group of activists who had met for the first time on September 17, we issued a solidarity call following the uprising and organized a protest for September 26. The statement which was read at the protest stated that »everyone has the unconditional and unregulated freedom of movement and the freedom to live wherever they want, and whether adult or child, nobody should be detained for using these rights and freedoms.« A call was issued to close the detention centers and to start mobilizing to end the migrant repression, imprisonment, and deportation.

The first meetings and solidarity events came out of a summer campaign, *Direnİstanbul* (*Resİstanbul*), leading up to the protests of the IMF-WB summit set to happen in October 2009. But the positive reception the call received allowed the initiative to continue after the summit, and the group named itself the MSN in February of 2010.

Our goal identified during the first discussions was to construct a solidarity network confronting the cycle of uncertainty, futurelessness, and precariousness that defined the migrant experience. It is possible to untangle the two basic political arguments inherent in this perspective.

First, despite their differences in terms of legal categories, we assumed that migrants, due to their connection through migration, were subjects of the same struggle — as underlined in one of our main slogans, »Nobody escapes without reason!« (*Kimse nedensiz kaçmaz!*). The state institutions, international organizations, and mainstream civil society organizations who regulate the area of migration are inclined to translate the analytical distinctions between various migrant categories into political distinctions. The aim of this rhetorical maneuver is to criminalize and control the movement of migration and the migrants themselves, and consequently it allows the appearance of dichotomies widely accepted by the public. Thus, the »deserving« refugee is placed in a position as opposed to the »bogus« migrant looking to exploit the asylum system, or similarly, the political refugee escaping persecution is placed in a privileged position as opposed to the economic migrant searching for narrow-minded material benefits (Fassin 2016). Conversely, we argued that in practice these distinctions were senseless, and that the common struggle of migrants was vital in order to undercut institutional interventions into the sphere of migration.

Second, we asserted that since citizens and migrants are subjugated to common relationships of exploitation and power, although in different spheres of social life, then the struggle they set out on should also be a common one. We thus formulated a second slogan that points to the common fate of migrants and citizens: We are all migrants; we are here, we will stay here, we will live! (*Hepimiz göçmeniz; buradayız, kalacağız, yaşayacağız!*). Undoubtedly, the different legal statuses between migrants and citizens determine the forms of exploitation and domination. Therefore, the two categories can never be reduced to one another. While not ignoring this reality, we argued that the division between citizen and non-citizen could only be overcome by a partnership in struggle. With this perspective in mind, we issued a call to build a common struggle against labor exploitation, patriarchal and heteronormative domination, and ecological destruction.

## STRUCTURE OF THE MSN

In its basis, the MSN was the organizing of a network. In principle, decisions and the direction were determined in weekly meetings open to all. The necessary steps for advancing the decisions were taken by the various working groups of the network (groups that aimed to organize among lawyers, medical staff, and teachers, for instance), while discussions and evaluations that were larger in scope took place in forums with a more general call. Additionally, in terms of the participants of the network, I can argue that throughout the four years of the MSN's activity there was a great deal of continuity. This continuity allowed the different circles within the network, which normally only interacted loosely, to simmer and with time form a common political vision.

Moreover, one must acknowledge a new political generation that shaped the profile of the activists, their repertoire of action, the representations and narratives they created. The majority of those who attended the meetings of the MSN were individuals who became politicized in the 2000s in Istanbul. We, while feeding off of different spaces of struggle such as student movements, environmental struggles, urban movements, or the feminist movement, also saw ourselves as a part of the anti-globalization movement that was born in the late 1990s. The anti-war movement of the first half of the 2000s, social forums, summit protests, the movement of the squares that emerged from the anger created by the 2008 global economic crisis, and the Arab uprisings from 2011 all influenced our political biographies. This common generational consciousness was one of the factors that facilitated the understanding of the migrant struggle as being a part of the anti-capitalist struggle. In contrast to the traditional lines within the radical left that I previously pointed to, we conceived changing dynamics of migration on both a national and global scale in their implicit relation to the contradictions of contemporary capitalism. Especially by being familiar with the migrant struggle in Europe, we had ideological and political tendencies that allowed us to see the migrant struggle as not only an issue of discrimination but as a zone of conflict inherent to the daily functioning of capitalism (Genç 2011). Moreover, such an inclination has allowed us to go beyond organizational and political limits of NGO-based migration work. Many of us, having being involved in such organizations that had proliferated in the 2000s parallel to Turkey-EU negotiations, had progressively become conscious of the fact that many of the NGOs would perform a kind of intermediary role between the Turkish state or international institutions and migrants.

## A DUAL STRATEGIC DIRECTION

In retrospect, it can be said that from the fall of 2009 until the Gezi Resistance in May of 2013 (when the regular meetings of the MSN had ended) the MSN acted along two principal aims.

### Migration as a Political Terrain of Struggle

The first of the main tasks facing us was to make migration a topic of public discussion. In fact, migration — up until the arrival of Syrian refugees that I discuss below in detail — was not something discussed beyond certain professional spaces. If migration was to be constructed as a political terrain of struggle, such an intervention was crucial in a society where racism, xenophobia, and discrimination were part and parcel of the dominant political and social culture, and where these perspectives went unchallenged also among those in the leftist opposition.

This is the context that the first MSN campaign, which started in February 2010 and continued until the summer months, came to light. The campaign, centered around detention centers, aimed to expose the arbitrary security practices targeting migrants and to make the problems faced by migrants with the changing migration management visible to a wider public. During this period, and especially when looking at the events taking place in front of the Kumkapı detention center<sup>1</sup> or in interviews given to the press, we see that the discourse developed by the MSN emphasized the unacceptability of state intervention against people's movements.

It is clear that this attitude leans on a normative proposition. At the center of this discourse, as summarized by the »No Borders« motto, is the demand to abolish all borders forever and to open the way for the transnational movement of migrants without conditions. As a matter of fact, the reactions to two events that took place during this period carry the traces of this line of thinking.

The first occurred during the period when our ›guesthouse‹ campaign had just begun. On March 16, 2010, as a response to the legislatures of some European states beginning to discuss resolutions concerning the Armenian Genocide, Prime Minister Erdoğan declared that tens of thousands of undocumented Armenian workers in Turkey could be deported. The statement said that the presence of non-citizen Armenians was ›being managed‹ but could be put to an end if deemed necessary (Alkan 2010). This statement, which was a clear indication that migrant populations could

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1 | Ironically, until recently, detention centers were described as ›guesthouses‹ (*misafirhane*) by the Turkish state institutions.

be used as ›pawns‹ within the complicated dynamics of international politics, did lead to, though limited, rejection among the public.

A much clearer sign that migrants were being used as ›pawns‹ in international politics emerged during the last months of 2010. A bargaining point since the beginning of discussions concerning Turkey's full membership to the EU, the Readmission Agreement, requiring the return back to Turkey of migrants caught in EU countries and who were shown to have entered from there, was back in the spotlight. However, the agreement was being discussed in the mainstream media in terms of the visa exemptions that would be provided to Turkish citizens. Following this, the MSN started a petition campaign:

»We believe that everyone has the right to free movement and the freedom to live where they want and that nobody can be detained for exercising these rights and freedoms or be held in a constant state of deportation. Regardless of whether or not we will benefit from the benefits presented, we are against this discriminatory practice and say ›No to the visa bribe!‹«

Yet, I must emphasize that the normative claim shaping this statement was overly abstract and was felt as a well-intentioned fantasy in the face of the prevalent acceptance of the immutability of borders. Because of this, although our intervention gained visibility within certain leftist opposition spaces, it was mostly seen as a principled *moral* stance. From the point of how the discourse was perceived, what was able to in part remedy the tension between the political and the ethical space was a case that we had been actively following, that of Festus Okey. An undocumented Nigerian migrant, Okey was killed by a police officer at a police station in Beyoğlu in 2007. Even though it was clear that Okey was killed while being detained, the judicial process after the incident showed yet again that impunity is the norm when it comes to police violence.

In order to show that when it came to police violence, the mentality controlling the security and judicial bureaucracies became even darker for migrants, we launched an extensive series of events. This campaign not only allowed the case of Okey to become a solemn symbol of the state violence migrants feel, but also allowed the discourse of the MSN to become more concrete and its practice more encompassing. Maybe for the first time the presence of migrants living in Turkey, their problems and demands, were recognized to a degree by a larger segment of the public. The campaign assumed a certain visibility, even in mainstream media outlets. Moreover, the case has caused a symbolic shift within the broader leftist space in terms of political perception of migrants. While in the 2000s migrants' problems were mostly

ignored or regarded at best as a matter of legal technicality to be dealt with by experts or NGOs specialized in the field, the campaign that brought together a wide array of actors on the left — e.g. political parties and initiatives, professional organizations, university circles, teacher unions, and grassroots groups — opened up a space to tackle international migration as a political issue. In short, the campaign expanded the boundaries of the migrant struggle in Turkey to a certain extent, and demonstrated what solidarity movements in this sphere could accomplish.

### **Migrants and Self-Organization**

Throughout the MSN's campaigns, we mostly used classical methods of social movements, such as press releases, street action, interviews, visits to institutions, radio programs, breakfast meetings, solidarity nights, film screenings, and panels. But such an orientation leads to dead ends. First of all, even if these methods create sensitivity and awareness among the public, in many cases it is unable to reach the subjects of the struggle — the migrants themselves. The structural constraints, which determine the conditions of daily life for migrants, prevent such calls (aimed at citizens) from reaching them. Since the public space is defined by a set of power relations, those who are at the edges of these relationships are structurally prevented from moving towards the center. Secondly, an effort to raise awareness among non-migrants always carries the risk of recreating the relationship of domination between migrants and citizens. Even in moments where much more oppressive reactions such as xenophobia, discrimination, and racism are overcome, due to the tendencies of the already present and powerful political cultures, the relationship between migrant and citizen is often formed on the basis of charity. Today, the presence of Syrian refugees has made it extremely clear that in situations where a position of solidarity is not able to displace one of charity, the migrant will be dependent on the ›grace, patience, and tolerance‹ of the citizen.

We were aware of these limitations from the onset. This is why we saw the creation of tools for the self-organization of migrants as an essential part of constructing a solidarity movement. We tried to contact the small number of migrant associations or groups without official status, such as the Union of Young Migrants in Turkey (UJRT), an initiative started by a group of Congolese and Afghan youngsters who organized at a center for unaccompanied minor refugees. In addition, in order for the voices of migrants to reach those outside of their community in an unmediated manner, we tried to spearhead the creation of communication tools such as newspapers and websites. But such initiatives often ended up incomplete.

As opposed to these first attempts, what became more long-lasting, and is still functioning today, is the MSN Kitchen, which was formed to fill this critical space. Launched in March of 2012, it aimed to create a spatial node that would establish and spread the type of solidarity relation I describe above. What we envisioned was that the presence of a physical space that would be shaped through the participation of migrants and would create connections between disparate migrant groups, as well as with members of the MSN and the residents of the neighborhood. Because of this, even though the neighborhood of Kumkapı — where the migrant population is higher — was initially identified as the best location, the neighborhood of Tarlabası-Beyoğlu was ultimately chosen. At that time, Tarlabası was a neighborhood where a large number of Sub-Saharan Africans in particular were residing. This population was sharing the same space as the Kurds, who were the principal population in this central neighborhood and who had also arrived as victims of forced migration. On the other hand, another important driver behind this choice in location was the accelerating rate of urban transformation projects in Tarlabası. We conceived the Kitchen as both a building of strength, with a social center formed by migrants themselves, as well as a space of interaction where different struggles would interact and have a propagative quality.

The Kitchen was an experiment where the monetary relations of daily life were practically abolished, interpersonal relations were formed on the basis of solidarity, and the voluntary reciprocity between migrants and non-migrants was a central theme. Through free Turkish, Kurdish, and English classes, meetings to discuss working conditions, or consultations with lawyers to provide legal consultations, the aim was for migrants to become the founders and active participants of this experiment. The Kitchen, in terms of its aims, mechanisms, and principles, was a point of inspiration to similar experiences that would arise as part of the Gezi Resistance.

In hindsight, I cannot say that this way in which it was conceived was fully put into action. Even though, through activities such as language courses, the Kitchen has continued past the functional period of the MSN, it has not created a space of interaction for the migrant community of the neighborhood to the degree that had been desired. That the migrant population grew over time with the addition of an extensive population of Syrians did not change the situation for the better either. Here it is possible to mention some of the subjective factors, such as practical/material operational problems, or the slow erosion of the MSN's sustainability. Yet, as related to the discussion above, I must add more »structural« factors, which are harder to overcome, to this picture. Consequently, even though we diligently struggled, we as Kitchen activists were unable to create the tools that would break the way the networks that formed over years operated in the Kurdish neighborhood; these networks

found the activists themselves to be ›foreign,‹ and they excluded migrants, especially those arriving from Africa, keeping them at the periphery. Even more important, the tension between solidarity and charity was also unable to be broken in the experience of the Kitchen. Under conditions where effective and egalitarian social policies were not present to meet the urgent daily needs of migrants, the gap between the expectations of migrants and the solidarity perspective put forth by us continued to widen. In the end, the migrant population of the neighborhood, struggling with overwhelming material conditions and observing how charity networks provided much faster immediate solutions to their everyday problems, found such a discourse of solidarity too abstract.

The resolution of this tension, often discussed through the false dichotomy between micro relationships of support vs. macro political proposals, was a topic of constant discussion for the MSN. This is why, in expanding our communication network, we tried to establish a long-lasting relationship with certain trade sectors we prioritized. Our goal here was to partially provide for the daily needs of migrant groups we were in contact with, while at the same time expand the struggles concerning rights to those particular sectors to include migrants. The solidarity perspective had to break out of an abstract principle, which would ultimately disappoint migrants, and instead had to become reified in ways that would affect their lives. On the other hand, our goal was to refrain from attempting to provide services that should be the purview of state anyway, and instead to emphasize the responsibilities the state had towards migrants. From this double framework, we attempted to create regular relationships of cooperation with individuals in health, law, and education and with unions and professional associations organized in these sectors. But factors, such as the massive scope of the problems faced by migrants as well as the low number of lawyers specializing in international migration, prevented these efforts from continuing past a certain point.

### **Deadlocks and Syrian Refugees**

The viciousness of the political climate following the Gezi Resistance was an important factor in ending how the MSN had functioned up until then. Since many of us were also taking roles in other areas of struggle, the regular meetings, which ensured the continuity of the network, fell by the wayside. But the real factor that brought the end of the MSN experience, was the contradictions within our discourse and practice that were made clear by the structural conditions brought forward by the arrival of Syrian refugees.

Syrian refugees took the period of transformation Turkey had been going through in the 2000s to a new level, both in numbers and in terms of lived experience. The



flow of migrants, which began in April of 2011, reached tens of thousands within months and three million by 2016, not only brought the concept of refugees suddenly into the public eye, but also created new problems that have been insurmountable with the present public policy directions, institutional mechanisms, and physical infrastructure. Under these circumstances, the experiences of those living in refugee camps or in the southern cities, as well as the hundreds of thousands of those who came to Istanbul of course, had to become part of the MSN's agenda. Thus, since January of 2011, our main topics of discussion in the network were access to health care, education, and work for those in the camps and the cities, the meaning and validity of the government's declared »open door« policy, and the legal status of Syrians.

During this phase, we could not construct a thorough discourse allowing for discussions around the problems of Syrian refugees from a perspective of solidarity, and could not create an effective action agenda. The reasons behind this impasse are multilayered. First of all, the character of the political and military developments in Syria, and topics such as the political, ethnic, or religious affiliations of those who were arriving, led to discussion which revealed clear differences within the Turkish left. In resonance with its prevailing inward-looking and anti-internationalist tendencies that I previously touched upon, the overwhelming majority of the radical left — in a similar fashion with the Kemalist/republican mainstream left — regarded the events in Syria as a planned step towards the further destabilization of the Middle East in accordance with an offensive taken by the imperialist powers. Against this backdrop, a second and more important fault line emerged within the MSN. Some of us regarded the initial popular mobilizations in Syria as a moment of the recent Arab uprisings and asked the network to take an open supportive position, while others opposed such a position that they believed would locate the issue of migration within the context of existing broader fault lines and harm the immediate interests of migrants. In other words, the primary line of division within the network was among those that tended to conceive migration as a crucial moment of broader political dynamics and ones that apted for delinking migration from other lines of political contestation. In fact, both parties agreed upon the fact that Syrian refugees had tremendous problems and right-violations in Turkey and that they had to be supported to gain further rights in terms of refugee law. Yet, we could not reach a common understanding regarding the nature of migration as a terrain of political struggle, and this prevented us to take more active stance in our daily interactions with Syrian refugees.

As a result, the inner discussions within the network both created a certain inertia regarding the routine activities of the network and paved way to discontent among the regular activists.

In the face of such a deadlock, the position taken by the MSN, which had held consensual decision-making to be a main principle, was to approach the issue of Syrian refugees outside of these political discussions as much as possible, and to take as the bare minimum a position that would bring to light the hardships faced by migrants in their daily lives. However, this attitude led us to yet another dead end. Above all, the arrival and presence of Syrian refugees made the effort to make their problems and demands visible in that initial phase of the network meaningless. The extent and tragedy of what was transpiring had already created both a positive and negative type of visibility in the public eye. In this new context, we needed to overcome the paternalistic and pragmatic rhetoric of the AKP concerning Syrians. Moreover, we had to take steps to overturn the discourse and positions against migrants that were also highly prevalent in anti-government circles. At that time, the common perception of both the Kemalist/republican parliamentary opposition and the non-parliamentary socialist left to a certain extent was to perceive Syrian refugees as Islamist militants against the Syrian regime and/or a tool to be deployed by the AKP government to change the demographics of some regions in Turkey.

Even if it was impossible to replace the charity mechanisms developed by civil society organizations with strong organizational capacities and close ties to the state, what needed to happen to move forward in order to overcome the paternalism was to put forward a practice which could demonstrate that an empowering solidarity perspective — an immature example of which I discussed above in the case of the Kitchen — was possible and sustainable. Yet, we did not have the material means or networks of affinity to make its central principles of solidarity and self-organization a reality.

To move forward in the second direction of combating anti-refugee sentiments, a solid political discourse had to be formulated which had as much clarity and resiliency as the dominant political discourses surrounding the issue of Syria and Syrians. However, the bare minimum consensus identified to move beyond the deadlock of the MSN was not conducive for such a discourse to arise from. Even further, the normative claim we expressed with the slogans »No borders« or »No one escapes without reason« was not translatable to a detailed and understandable political proposition in a context where borders were being opened by the state for certain interests and expectations. As such, the structural transformation brought about by the arrival of Syrian refugees made the tensions inherent to political and discursive line of the initial phase of the MSN unbearable. In the absence of a revival that allowed us to overcome these contradictions, the MSN experience, at least as we had come to know it, ended.

## IN PLACE OF A CONCLUSION

The type of analysis I have conducted here will only make sense by understanding the opportunities and limits of initiatives that were formed in the aftermath of the MSN. In fact, the completion of the transitional period I have discussed has not only provided the conditions that ended the MSN experience, but has also created other initiatives for creating common lives in solidarity with migrants. Even if the MSN-Istanbul is not as active today as it used to be,<sup>2</sup> there are new initiatives which have appeared — for instance, *Halkların Köprüsü* in Izmir, *Mülteciyim Hemşerim* in Istanbul, *MSN-Ankara* in Ankara, and *Kırkayak* in Gaziantep, among others. Just as the MSN Kitchen is continuing on its path, there are other formations attempting to provide solutions to problems ranging from daily nutrition and clothing needs, to shelter and education of migrants living in the periphery neighborhoods of major cities. The marches launched by the thousands of migrants in the summer of 2015 have led to the birth of new solidarity initiatives.

Turkey today is without a question a country of migration. The presence of millions of migrants has launched dynamics impossible to roll back. New social and political spaces of clashes, some that are apparent already, and some that are only appearing on the horizon, are growing in the midst of these dynamics. Yet, the future is not only open to new clashes but also to new potentials, encounters, and diversifications. While struggling to break free from the grueling circumstances, which have led them to embark on a journey full of unknowns, migrants are also transforming the places of their arrival. Solidarity movements that are able to embrace these clashes, limits, and opportunities will give direction to these transformations.

*A longer version of this article will appear in Taşğın/Tekin/Ahi (forthcoming). I own a debt of gratitude to Ayşe Akalın, Kristen Biehl, Meral Candan, Begüm Özden Fırat, Ezgi Güner, Ali Tonak and Zeyno Pekünlü for reading and sharing their suggestions on this version of the text. I would also like to thank the editors of movements for their wise feedback.*

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2 | There have been various attempts in the last three years to reenergize the MSN-Istanbul, yet they have proved inconclusive in contrast to the initiatives I list here.

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# The Emergence of the Enterprising Refugee Discourse and Differential Inclusion in Turkey's Changing Migration Politics

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DUYGU GÜRSEL

**Abstract:** Tracing the reactions to the high numbers of enterprises established by Syrian refugees in Turkey, this paper claims that there is an emerging discourse of (differential) inclusion, which does not depict Syrian refugees as victims and guests, but rather as enterprising subjectivities. In order to do this, it first introduces a critical theoretical discussion on the ambivalent figure of the migrant entrepreneur. Adapting the approach of autonomy of migration, the emerging discourse on the enterprising refugee is discussed in relation to historical references to the experiences and struggles of former migrants and their recuperation in a neoliberal framework. This paper then presents the initial forms of inclusion of this figure into information and expert systems. Finally, it argues that recent changes in migration politics with a focus on the ›economic potential‹ is institutionalizing this form of differential inclusion.

**Keywords:** migrant entrepreneur, differential inclusion, autonomy of migration, migration politics in Turkey, Syrian refugees

»After the Soviet Union collapsed, many people came with cash money from countries of poverty to Turkey. They brought products, which they had bought in Laleli and Aksaray in their suitcases to their countries and sold there. During this time, we did not prevent this trade. Even to let it flourish further, we eased the custom regulations and tried to regulate this trade at least partially. Now many of them have become important entrepreneurs in Russia. And the small business owners in Turkey who sold them products became exporters. So, I see this process happening also for Syrians. I think we should open the ways for Syrian entrepreneurs.« (Kürsat Tüzmen, former finance minister interpreting the increasing numbers of Syrian entrepreneurs, in Doğan 2015)<sup>1</sup>

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1 | Translated by author.

Since 2011, Syrian refugees have established more than six thousand enterprises in Turkey and their investment has reached over three hundred million dollars (Building Markets 2017). They make up almost half of the firms with foreign capital in 2016, far exceeding Germany, Iraq, Iran, and Azerbaijan.<sup>2</sup> One in every 40 enterprises established in Turkey is now Syrian, which is more frequent in southeastern cities; one in every six companies in Gaziantep and one in every three companies in Kilis are now established by Syrians (Sak 2015). Besides the official numbers, there are also many informal small enterprises, which are mostly the target of racist attacks (Şimşek 2015; Migrant Solidarity Network/Ankara 2016).<sup>3</sup> According to earlier estimations (Ceylan 2015), the total number of Syrian businesses, including informal enterprises or those registered under a Turkish partner,<sup>4</sup> has exceeded ten thousand and has probably increased in the last two years.

The reactions to these numbers indicate an emerging political discourse that interpellates Syrian refugees as enterprising subjectivities going beyond the dominant political discourse depicting Syrian refugees as victims and guests. This has also been presented as transformation from ›Turkey hosting the Syrians‹ to ›Syrians earning their livelihoods‹ with a new focus on their qualifications, networks, and entrepreneurial tradition (Kaymaz/Kadkoy 2016).

Research in the field of migration studies mostly discuss the relation of migrants to the labor market in Turkey by highlighting their role as a worker and not as an entrepreneur (Akalin 2007; Akpınar 2010; İçduygu 2006; Danis 2016; Lordoğlu 2005; Toksöz/Erdoğdu/Kaşka 2012). The studies mostly focus on migrant workers in the in-

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2 | According to the data of The Union of Chambers and Commodity (TOBB), Syrians established 81 firms in 2011, 165 in 2012, 489 in 2013, 1257 in 2014, 1599 in 2015, and 1764 in 2016. Construction and real estate are the first choices, which are followed by restaurant business, consulting services, travel agencies, wholesale, and retail (Aksam 2016).

3 | In the night of the military coup attempt of summer 2016, a group organized through social media attacked the shops of Syrians in the Önder neighborhood in Ankara. They were calling for revenge of a Turkish young man who was allegedly injured in a fight in the neighborhood. They were calling out for Syrian shops to be attacked. Almost 100 shops run by Syrians were attacked and had damages during the whole night whereas none of the Turkish shops got damaged. According to the report of the Migrant Solidarity Network/Ankara, while some neighbors marked houses and shops belonging to Syrians or hung the sign ›this is a Turkish shop, don't throw stones‹ to protect themselves, some other neighbors showed solidarity with Syrian shop owners and tried to protect them from attacks (Migration Solidarity Network/Ankara 2016).

4 | This is a common strategy among refugees who can not get a work permission (Deniz/Ekinci/Hülür 2016).

formal sector; as caregivers in households, textile workers in sweatshops, as seasonal workers on the field. One common element is regarding them as victims; as victims of borders, the capitalist system, of racism, and sexism. Another is their invisibility;<sup>5</sup> they work in private households, in cellar sweatshops, in the fields far from the urban city center. In other words, the focus has been mostly on how they are being regulated, controlled, exploited, and excluded. However, a focus on the technologies of inclusion and how the knowledge and expert systems are formed to generate or foster self-governing, self-optimized, self-enterprising refugees remain missing.

First, this paper introduces a critical theoretical discussion on migrant entrepreneurship. Following this introduction, the emerging discourse on the enterprising refugee is discussed in relation to historical references to the experiences of former migrants and their recuperation. This paper then presents the initial forms of inclusion of this figure into information and expert systems. Finally, it argues that changing migration politics with a focus on the ›economic potential‹ institutionalizes differential inclusion.

## THE MIGRANT ENTREPRENEUR AND DIFFERENTIAL INCLUSION

The migrant entrepreneur, whose emergence coincides with the postfordist transformation, represents a figure in which the migrant status does not refer to a repressive exclusion, but rather to productive inclusion practices. The construction of their ›ethnicity‹ that prevents them from ›integrating‹ turns into an economic resource, a surplus value, which should be activated in the neoliberal market. Their ›entrepreneurial potential‹ is addressed by the neoliberal state via support programs for self-employment in order to activate this potential (Gutiérrez Rodríguez 2003: 174–175). Successful role models are introduced and celebrated as desired subjects.

This form of inclusion involves »various degrees of subordination, rule, discrimination, racism, disenfranchisement, exploitation and segmentation« as the concept of differential inclusion helps us acknowledge (Casas-Cortes et. al 2014: 25). Contrary to the assumption that neoliberalism flattens different forms of labor regime and rights, transnational striated spaces have emerged, which combine different forms of

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5 | Erder (2016) argues that until the arrival of Syrian refugees, migrants in Turkey remained invisible for the public gaze, finding jobs in the informal economy (ibid.: 124). Of course, the high numbers of Syrian refugees also play a role for the increasing visibility of migrants/refugees in the public.



labor regimes and hierarchized forms of citizenship. These lateral spaces are not only governed through modes of regulatory control, based on autonomy, flexibility, and creativity, but also through ›older‹ »carceral modes of discipline« (Ong 2006).

However, it would be mistaken to analyze this transformation as just a result of neoliberal forces. Rather, it takes place in an immanent field of tension between inclusion and exclusion. The struggles of migration involving lines of flight, every-day practices, and self-organization also belong to this field and transform it. The approach of autonomy of migration offers a method that brings these struggles into the foreground keeping the tension between the flight from exploitation and oppression and its recuperation (Bojadžijev/Liebelt 2014: 341). Challenging the classical theories of migration, it discusses migration as a constitutive force that can not be reduced to economy and politics (Papadopolous/Stephenson/Tsianos 2008), but moves transversal to these (Tsianos/Karakayali 2012: 20). The figure of the enterprising migrant that fosters new relations, manages to transform urban space, and is at the same time becoming integrated in the neoliberal framework through technologies of subjectivity, finds itself in this field of tension. There are two reasons why this approach would be fruitful to discuss this figure. First, it reveals the ambivalent character of the migrant entrepreneur who resists and challenges neoliberalism, but at the same time reproduces and pluralizes it from below.<sup>6</sup> Second, it provides an alternative understanding of history which is necessary to unfold the role of struggles of migration in the formation of »selective, hierarchical and spatially and temporarily heterogeneous nature of migration management characterized by differential inclusion« (Bojadžijev/Mezzadra 2015).

This paper delivers a discourse analysis on the emergence of the figure of the entrepreneur refugee. In order to do this, it traces reactions to statistics on enterprises established by Syrian refugees in Turkey, which, as this paper claims, has generated a dispositif of differential inclusion. The analysis contextualizes this newly forming inclusion discourse by relating it to the politics and history of migration in Turkey.

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6 | Gago (2015) discusses this ambivalent character of migrant economies in Latin America; among other activities, of marginalized groups that used to be considered insignificant and unwanted and then started to become integrated in capitalist valorization.

## THE EMERGING DISCOURSE ON THE ENTERPRISING REFUGEE

Although Syrian small-medium enterprises (SMEs) emerging in the urban economies have already gained visibility, Syrian refugee entrepreneurs first received attention in terms of economic contribution after Turkey's Union of Chambers and Commodity Exchanges (TOBB) announced with their statistics that they became the largest group of foreign entrepreneurs registered in 2014. In the following year, the statistics on Syrian export rates, which reached the lowest state due to war and ongoing crisis between Turkey and Syria, surprisingly showed an increase. Gaziantep also replaced Istanbul in terms of highest export rating city (Koru/Kadkoy 2017:121).<sup>7</sup> This has mostly been explained by the increase of Syrian entrepreneurs in the southeastern region who »bring with them the know-how and familiarity of their home market« (ibid.).

Güven Sak, founding director of TEPAV-The Economic Policy Research Foundation of Turkey, a TOBB affiliated think tank interpreting the surprising statistics on the Syrian refugee entrepreneurship, draws a parallel to the history of internal migration:

»The relationship of Turkey with Syrian immigrants is like its relation with the rural-to-urban migrants. Turkey has always said that those who migrate from rural areas to cities disrupt the cities. It always considered them a disturbance term. It said they broke the laws. It supposedly managed the rural-to-urban migration with urban development amnesties. Rather than adjusting its regulations according to real life, it sort of sought to adjust real life to its own regulations. It failed. But Turkey experienced rapid growth thanks to rural-to-urban migrants. We have come to this point by relocating millions from the country to urban centers.« (Sak 2015)

Whereas the early comers climbed the social ladder, they did this at the expense (the exploitation) of the newcomers; the migrants are »taking turns in poverty« in these informal economies as a study suggests (Isik/Pinarcioglu 2001). On the other hand, the presence of informal economy provided economic survival for irregular migrants in the absence of integration policies. Daniş (2005) gives the example of

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7 | »Before the war, Istanbul was the export leader to Syria, with 616 million dollars in 2011. Now, it is Gaziantep with 426 million dollars in 2016. Hatay exports 214 million dollars.« (ibid.).

Afghan migrants creating informal employment opportunities in the leather trade for the newcomers who cannot access the regular labor market. She argues that this has been »a source of possibility and in an odd sense protection to international migrants« (ibid.: 88). Informal economy, which emerged in the process of urbanization and economic survival activities of internal migrants, is reproduced with the transnational networks of newcomers, creating precarization and exploitation but at the same time protection from and resistance to these.

Kürsat Tüzmen, former finance minister, who developed the ›Trading with neighbors‹ strategy of the Justice and Development Party governments in 2002 and 2007, welcomes the rising numbers of Syrian entrepreneurs and export rates (Doğan 2015). He explains that the ›trade with neighbors‹ strategy was initiated by the trade of people from the southeastern region with their relatives in Aleppo, Humus, and Damascus, and adds that the Syrian refugees who are coming to Turkey also have relatives left in Syria. Reinforcing the mythos of Lebanon and Syria as merchant nations, he racializes their trade tradition: »They have trade in their genes« (ibid.). He gives the example of the ›successful‹ »shuttle trade« in the 1990s in Laleli (a district in Istanbul) and regards it as role model.

The Laleli shuttle trade provides an interesting case and can be discussed as an early form of migrant entrepreneurship in Turkey. In a period of liberalization of trade and finance starting in the 1980s, three different migrant groups »who have been marginalized from formal wage employment and entrepreneurship« met in the district Laleli and transformed this space into a transnational market space, fostering new relations and networks (Yükseker 2004: 53). Laleli district has come to be known as ›little Russia‹ in Istanbul or been called »Tower of Babel,« in which actually different groups of migrants live and work (Danis 2005). The most visible migrant group were (mostly) women from the former Soviet Union, who were circular migrants performing shuttle trade. Together with the Turks from Bulgaria who had migrated to Turkey, and the displacement of Kurds from Eastern Turkey, who later became small shop owners, they created an informal transnational business district as »the new vibrant picture of Turkey's famous entrepreneurial spirit« (Eder/Öz 2008).<sup>8</sup>

The emergence of this transnational community marks Turkey's transformation from a country of emigration to immigration which can also be traced by money; rev-

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**8** | Bulgarian Turks had the advantage of speaking Slavic language and were experienced in informal trade, whereas the Kurds coming from border cities had the experience of informal border trade. Also, the shuttle traders from Russia were already experienced before the collapse of the Soviet Union to create informal trade networks in order to get the rare consumption goods. Laleli has created a transnational community (Eder/Öz 2008).

enue from the ›suitcase trade‹ proved to be higher than the total income of remittances starting from the mid-1990s on.<sup>9</sup> Due to Syrian refugees, the circular character of the Laleli phenomenon as a transnational market space has settled and even proliferated, diffusing to other districts, and overcoming the monopoly of Istanbul as a global city. These developments have steered the attention towards small and medium sized cities in the southeastern region.

These historical references to experiences of internal migrants and the transnational space of Laleli show how the figure of the enterprising migrant is actually not solely designed by neoliberal forces, but that it rather emerged in the process of transformation of social structures through the struggles of migration. Demonstrating that the spaces of migrant economies are historically contested is important in two ways to understand the emerging discourse on the enterprising refugee. First, it reveals the struggles of migrants behind the new forms of inclusion promoting Syrian refugee entrepreneurs, celebrating their self-organized economic activities. Second, it unfolds the process of extraction<sup>10</sup> of these migrant economies which were initially either unwanted, unrecognized, or ignored and that are now becoming included in capitalist valorization. Both examples of discourses referring to migrant economies acknowledge their economic contribution and call for regulations and support programs. The interpellation of these economic survival strategies in the political discourses aims to turn them into a potential resource of refugees which can be activated in a neoliberal framework.

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**9** | Although it started to decrease in the late 2000s because of the restriction of the flexible visa regime and as part of the policy measures against irregular migration (Icduygu 2009: 24), it may have increased again due to Syrian refugees.

**10** | Extraction started to be discussed recently as more than an economic activity. Entering the language of critical theory; the meaning of extraction is expanded to understand the new forms of exploitation in contemporary finance capitalism which functions through extracting value from social cooperation (Sassen 2014; Mezzadra/Neilson 2017; Gago 2015).

## THE NEOLIBERAL ENGINEERING OF THE ENTERPRISING REFUGEE

The Think 20 (T20)<sup>11</sup> proposals of Turkey in the policy area of ›forced migration‹ presented by TEPAV introduce the economic potential of enterprising refugees and how this should be activated (TEPAV 2017):

»When refugee entrepreneurs are displaced, they do not always have the opportunity to transfer their capital from one country to another. However, refugee entrepreneurs bring with them their web of relations, a culture of doing business and sector-specific expertise. As such, refugee entrepreneurship has the potential to facilitate private sector development, not only through employment generation, but also through the diversification of existing production and trade capabilities.« (ibid.)

According to this proposal, refugee entrepreneurs could be supported by G20 countries in two ways: One is to launch startup visa programs for refugees; the other one is the mobilization of the private sector and multinational companies for the establishment of Made by Refugee Zones. These could then bring procurement contracts for the SMEs of refugees (or refugee partnered SMEs) in the refugee hosting countries. For Turkey, it would be a ›Made in Turkey by Syrians‹-program by creating a unique certificate of origin, securing bulk orders from large retailers such as Ikea and Walmart (Sak 2016). The special economic zones have been criticized as new forms and spaces of exploitation with ›exceptional‹ labor contracts and rights, governed by overlapping forms of regulatory and disciplinary controls (Ong 2006). Although there is no concrete project of Made by Refugee Zones in Turkey initiated by G20 countries yet, the proposal of supporting refugee entrepreneurs is happening through the mediation of international organizations and NGOS.

The programs to support the entrepreneurship of refugees already started right after the ›Regulation on Work Permits of Foreigners under Temporary Protection‹ (15 January 2016), initiated by international organizations, NGOs, and NPOs. In summer 2016, ILO-Turkey together with the Syrian Friendship Association organized a workshop under the title »Labour Market Problems Faced by Syrian Workers, Employers and Entrepreneurs and Suggestions for Solution« (ILO 2016a). The increase in numbers of enterprises with Syrian partners was drawn attention to in the opening speech of the director of ILO Ankara. He emphasized that the »facilitation of investments

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**11** | Think 20 consists of global think tanks and high level experts analyzing the ongoing G20 discussions and presents their conclusions as policy options to G20 working groups.

and business initiatives by Syrians will contribute to the employment, foreign trade, and economic growth« (ibid.). ILO also offered entrepreneurship trainings, besides vocational, technical, and skills development, to Syrian refugees through their project »Improving Livelihoods and Decent Work Opportunities for Syrian Refugees and Host Communities« (ILO 2016b). IOM launched a program in early 2017, distributing professional toolkits to 300 Syrian refugees selected for the initial pilot project who are starting up small businesses in Turkey (IOM 2017). They also provided entrepreneurship trainings for Syrian refugee students in Gaziantep in cooperation with innocampus (Innocampus 2015). İmece is another project organized by UNHCR and Habitat, which is an NGO in the field of sustainable development, for Syrian entrepreneurs or entrepreneur candidates (80%) who »want[s] to contribute to the growth of Turkey with their skills and economic resources for a common future« and for Turkish entrepreneurs (20%) (İmece 2016). A non-profit organization with close ties to the leading private sector called the Young Guru Academy and that aims at raising »leaders with social responsibilities,« organized the project »Not for Syrians, We work with Syrians.« As a result of field research conducted by young Syrian YGA volunteers who were mentored by leading figures from the private sector, including a scientist and a writer, *WeTalk* technology is being developed which translates written and oral messages from Turkish to Arabic (Milliyet 2017). There are also research projects gathering information on refugee enterprises for the purpose of policy recommendations (İncesulu 2017). A recent research project by an NPO suggests that Syrian refugees spur entrepreneurship and job creation in Turkey (Building Markets 2017). The success stories are circulated in the media and in conferences. Promoting refugee entrepreneurship takes the neoliberal discourse on the upward mobility of migrant entrepreneurs a step further: precarity, which would describe the situation of many Syrian refugees in Turkey, turns into a resource that has to be channeled economically. Honig (2001) argues that the guideline (or slogan) »if they can do it, anyone can do it« underlining this form of promotion and reveals the fact that it not only functions as a way to govern migrants, but also the whole society. The inclusion of the economic survival activities of Syrian refugees in the knowledge and expert systems of the migration regime via the mediation of NGOs constitutes a part of governing refugees to take care for themselves; a mode of governing that holds the potential to expand into the whole society.

## CHANGING MIGRATION POLITICS

In addition to the discourse on the enterprising refugee, there is also a parallel discourse emphasizing the skills and qualifications of refugees. Erdoğan's call for naturalization, which he first announced during a fast breaking organization for Syrian refugees in Kilis a few months after the EU-Turkey migration deal, does not cover all Syrian refugees. He deliberately draws attention to highly qualified refugees, such as doctors and architects, with a focus on common values, which explicitly refers to Sunni Syrian refugees (NTV 2016). In the speeches in which he calls for naturalizing Syrian refugees, he underlines the rising costs of humanitarian aid for refugees, which has reached 25 billion dollars and offers citizenship as a solution to this ›cost problem‹ (ibid.). The striking aspect of this argument is that citizenship is offered in order to minimize the state's ›burden,‹ responsibility, and costs of humanitarian aid.

In contrast to the initial open door policy, to the pro-refugee political discourse of the government, and the call for naturalization, there is no sufficient plan, regulation, or legal framework to facilitate participation of Syrian refugees — especially regarding the labor market, education, health services, or housing. This issue has been labeled as pseudo integration (Icduygu/Millet 2016) and criticized by pointing out the emerging securitization and preventive measures (Toğral Koca 2016) of ›generosity‹-based politics (Özden 2016).

However, due to the de facto participation of Syrian refugees and pressure from the EU, the government has started to take certain legal steps. In January 2016, after five years of the arrival of Syrian refugees, the Regulation on Work Permits for Foreigners under Temporary Protection has been passed.<sup>12</sup> There are certain conditions to apply for a work permit: One should be registered for the status ›under temporary protection‹ for more than six months, apply for a position that is in the city where the applicant is registered, not be paid less than minimum wage, and one should not surpass ten percent of the number of Turkish citizen employees. The seasonal work-

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**12** | According to the statistics of the Ministry of Labor and Social Security, 14,063 work permits for Syrians have been granted in 2016, which is three times more than the previous year, but still makes only approximately 0.5 of the Syrian population in Turkey (The statistics are acquired by using the Statistical Management Information System of the Ministry of Labor and Social Security). In spite of the newly introduced work permit, the majority of the Syrian refugees are working in the informal sector. According to estimations as of 2015, at least 300,000 Syrians work in Turkey — which makes ten percent of the Syrian refugees in Turkey (Erdogan/Ünver 2015: 45) and one third of the working Syrians are paid less than minimum wage without the social benefits (Pinar/Sivrekli/Demir 2015: 25).

ers in agriculture and stockbreeding are exempted from the work permit. In addition to this, and to attract highly qualified migrants, an International Labour Force Law was passed in July 2016. Here, the guidelines of international labor politics are introduced: the education level, occupational experience of the applicant, contribution to science and technology, the impact of the planned activity or investment in Turkey to the economy and employment, and the capital share is to be evaluated if the applicant is a foreign company partner.

These changes in migration politics demonstrates the institutionalization of differential inclusion creating »different degrees of precarity, vulnerability and freedom by granting and closing access to resources and rights according to economic, individualizing, and racist rationales« (Casas Cortes et al. 2014: 25). The figure of the refugee entrepreneur, unfolded in the history of struggles of migration and captured in knowledge and expert systems of the migration regime — as this paper claims — plays an ambivalent role in the discursive formation of differential inclusion; on the one hand by creating spaces of resistance and protection opening a way for inclusion and, on the other hand, by creating new forms of exploitation and precarity that go along with further stratification and hierarchization.

## CONCLUSION

The changing migration politics in Turkey show that the right to access the labor market, which used to be very difficult, is proliferating, though fragmented in a form of differential inclusion. Temporary work permits for Syrian refugees who are under temporary protection, exemptions to seasonal workers among them, a selective policy for highly qualified people and entrepreneurs are introduced according to the needs of labor management. As I discussed it with the emergence of the discourse on the enterprising refugee, there are also struggles of migration behind this form of differential inclusion. However, new neoliberal forms of knowledge and expert systems capturing these experiences to generate self-governing, self-optimized, self-enterprising refugees are emerging through the mediation of international organizations, NGOs, and NPOs. Whereas the Syrian refugee entrepreneurs (and the ones with qualifications) are being celebrated/welcome in the emerging discourse and selectively included in the neoliberal framework, the cheap labor of refugees remains rather silent in this developing dispositif.

In spite of the formation of striated spaces with the dispositif of the refugee entrepreneur, there are also emerging smooth spaces, such as »Kadın Kadına Mülteci Mutfağı.« Women refugees cook home-made marmalade and sell it with the solidar-



ity of supporters (Besler 2017). They not only make a living without a boss, but also make connections with other women and create transnational solidarity networks. Further research could explore whether this form of refugee enterprise that generates solidarity instead of exclusion and exploitation remains marginal or whether there are more fractions to the neoliberal migration politics.

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# The Return of the National?

## Migration, Borders and Nationalism

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BERND KASPAREK, MAREN KIRCHHOFF, JOHANNA NEUHAUSER,  
HELGE SCHWIERTZ

**Abstract:** The discussion approaches current forms of nationalism and racism in Europe in regard to the political dynamic after the so-called refugee crisis in 2015. It is structured around guiding questions about the relationship between restrictive asylum policies, racist discourses and mobilizations as well as the increasing invocation of national identity. Thereby, the debate especially focuses on Germany, where anti-migrant parties and movements have become stronger during the last five years. This contemporary conjuncture is analyzed in relation to economic and racist structures of the last decades as well as in the light of theoretical reflections on Balibar's concept of the ›national social state‹ and on global inequality. In the current anti-migrant mobilizations, gender plays a central role, linked also to colonial narratives of Western Europe as the origin of civilizing superiority. Furthermore, the discussion deals with ways of subverting and going beyond the national by reflecting on struggles against deportations and on a Europe from below.

**Keywords:** nationalism, racism, anti-migrant movements, gender and migration, borders and deportations, global inequality, Europe from below

In the summer of 2015, hundreds of thousands people reached the Schengen territory and claimed their right to mobility. These cross-border movements, which were highly visible in public, led to a brief opening of national borders for migrants who have usually been kept away from the EU and a previously unknown level of commitment to refugees. However, we have also witnessed a massive return of ›the national‹ in Europe and beyond. From 2013 onwards, right-wing movements and parties in Germany have become stronger, and several restrictions of basic asylum rights have been enforced without major counter-protests. Ever since the beginning of 2016, anti-migrant discourses have become omnipresent in the German media public as well. These anti-migrant discourses prepare the ground for restrictions of international mobility that were unthinkable prior to the so-called ›refugee crisis.‹ These developments are not limited to Germany: the rise to power of Trump and Orban, or the Brexit are all phenomena indicating a re-nationalization in Europe and beyond. Accordingly, current debates about migration and nationalism have not been limited

to the national scale, but have also focused on their relation to the European Union and the Global South. Taking these developments into consideration, the following discussion on the connections between nationalism and racism initially took place in May 2017, at the most recent conference of the Network for Critical Migration and Border Regime Studies (kritnet) in Osnabrück, Germany. Thoughts and discussions expressed at the conference have been put into writing for this *movements* issue. The aim was to continue and deepen the ongoing debates in the context of critical migration research: What is the relationship between restrictive asylum policies, the strengthening of racist discourses and movements, and the increasing invocation of national identity? How can the current developments be confronted with a (pro-)migrant perspective and position? By incorporating gender into the analysis of current migration discourses and relating central migration policies such as deportations to the structures of globalized capitalism, it was intended to open an even more complex debate.

In order to provide an impetus for discussions at the kritnet conference and beyond, Bernd Kasperek, Maren Kirchhoff, Johanna Neuhauser, and Helge Schwiertz discussed these issues from different perspectives under the heading ›the return of the national.‹ Bernd Kasperek has been working on the transformations and crisis of the European border regime for more than ten years, focusing especially on the Frontex border agency and the Southeast European region. He recently co-edited a volume on the ›summer of migration‹ (Hess et al. 2016) as well as a *movements* issue on racism (Espahangizi et al. 2016). Maren Kirchhoff has worked on a research project on protests against deportations in recent years (Kirchhoff 2017) and continues to explore the topic. She is also interested in the possibilities of solidarity in the context of European crisis policy. Johanna Neuhauser has recently dealt with the connection between gender, migration, and policies of migration (Neuhauser et al. 2016). In her research, she pays particular attention to global inequalities and the inclusion of perspectives from the Global South into migration research. Helge Schwiertz combines empirical studies about migratory struggles in Germany and the US with theoretical reflections of radical democracy and citizenship. Regarding the events culminating in the so-called ›refugee crisis‹ of 2015, he has analyzed the relationships of anti-migrant policies and mobilizations, as well as the potential of various counterhegemonic projects (Schwiertz/Ratfisch 2016, 2017).

**Maren Kirchhoff (MK):** Helge, how do you explain the recent strengthening of nationalist and racist positions in Europe and beyond?

**Helge Schwiertz (HS):** German society has of course not become racist all of a sudden. However, the public articulation and mobilization of racism have been severely increasing in recent years. Current conjunctures of racism and nationalism in Germany are therefore strongly related to a problematization of migration. Ever since 2014, this has become obvious through at least three interrelated developments: First, new right-wing groups and organizations have emerged, for whom it is a key issue to frame migration as an existential threat for the nation. The political party *Alternative for Germany* (*Alternative für Deutschland*, AfD) as well as the movement *Pegida* (Patriotic Europeans against the Islamization of the Occident, *Patriotische Europäer Gegen die Islamisierung des Abendlandes*) are the most visible actors of this new conjuncture. Second, mobilizations and attacks against refugees have escalated at the same time. In the year 2016 alone, there were more than 3,500 attacks against refugees and refugee accommodations — which comes down to an average of ten racist acts of violence per day (WAZ 2017). Third, the German Bundestag has passed four anti-migration reforms since 2014, which substantially restrict the rights of refugees. In their common problematization of migration, these three developments can be seen, I would argue, as part of a comprehensive anti-migrant movement.<sup>1</sup>

When looking at the strengthened nationalism and pogroms after the German reunification in the 1990s, parallels to the contemporary anti-migrant movement are striking. Nevertheless, we have to take a closer look and ask: What is the specific constellation of different developments in the current situation of the 2010s?

In contrast to the 1990s, a relatively open media discourse developed well into the second half of 2015. The reemergence of intra-European borders and the dying in the Mediterranean were criticized, the so-called ›Welcome Culture‹ (*Willkommenskultur*) of the civil society in Germany and other countries was celebrated, and even the antiracist slogan ›Refugees Welcome‹ became part of the hegemonic discourse for a short moment. However, since at least the beginning of 2016, an anti-migrant discourse has played out in the media as well, with support from protagonists of all political parties. Right-wing movements have pushed this shift in discourse, and, at the same time, they have profited from it.

Pegida and AfD were severely weakened with decreasing numbers in demonstration turnouts and opinion polls during the first half of 2015. However, with the racist discourse focusing on the so-called ›refugee crisis,‹ they were able to strengthen again. The ›refugee crisis‹ has emerged as an opportunity structure that has en-

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<sup>1</sup> I draw on analyses developed together with Philipp Ratfisch (Schwiertz/Ratfisch 2016, 2017).

abled right-wing mobilizations to become more effective as an anti-migrant movement. Now, the open question remains: how will the framing of migration in public discourses develop and what effects will this have on right-wing mobilizations and organizations? Today's less prominent anti-migrant discourse could be related to a stagnation of the AfD and other right-wing mobilizations in 2017. However, a new boom in the anti-migrant discourse could rematerialize quickly.

Bernd, I have referred to the much-debated comparisons with the racist violence and the strengthened nationalism in Germany during the 1990s. Where do you see continuities and differences compared to the 1990s? In the *movements* issue that you co-edited (Espahangizi et al. 2016), you describe various conjunctures of racism: how do they relate to transformations of the nation form?

**Bernd Kasperek (BK):** Indeed, looking at Germany, and of course unsurprisingly, we currently find ourselves in a different political conjuncture than in the 1990s. The political discourse back then was dominated by the reunification of Germany, the ensuing nationalist delirium, and the collapse of the Eastern Bloc, which led to a major realignment of the global political landscape. Differently than in the 1990s, there is no heightened interest in a racist mobilization in Germany by the parties in government. Back then, the counter-factual dogma of Germany not being a country of immigration predominated, and the call for the creation of so-called ›nationally liberated zones‹ by the neo-Nazi movements was a mere echo of the more official political belief that the migrants of the era of Fordist migration (›*Gastarbeiter*‹) would eventually return to their countries of origin. Today, Germany does understand itself as a country of immigration, and the creation of a ›Welcome Culture‹ is an official aim. Despite a new and reinforced practice of deportation and despite the harsh new realities of the German asylum system, this is not mere cynicism or lip service. The fact that migration is happening and will happen has prevailed, but the price is a more brutal and Europeanized migration and border regime, with the strongest consequences observable at the external borders of Europe.

At the same time, an analysis of the »conjunctures of racism« (Demirović/Bojadžijev 2002; translation by the authors) must not be equated with analytically essentializing racism by reducing it to a state genealogy between nationalism and colonialism. This would mean discounting and ignoring the complexities of the different racisms, the dynamics in their structures, discourses and practices, and (last but not least) the importance of antiracist struggles and the social movements around migration. For Germany, this means taking into account the profound societal transformations of the last few decades. The perseverance of the social movements of migration has not

only led to a pluralization of societies, and an implicit and lived everyday practice of multiple belongings. We can even go further: the struggles connected to these transformations have left visible traces in the political, cultural, and social landscape of Germany and its institutions. In conjunction with other social relations, such as class and gender, boundaries are constantly contested, shifted, and warped.

These developments, as sketched out above, are of course (nationally) specific to the history and present of the German migration regime, the German manifestations of racism and the current role Germany occupies within the European border regime. But its abstract tendencies can similarly be detected in other countries, such as Austria and Switzerland, or any other immigration country worldwide.

If we look at the shift of the public discourse towards an anti-migrant agenda since the end of 2015, it becomes clear that Pegida, AfD, and others do not only mobilize socially rooted racisms, as Helge explained, but they also rely on gender relations. Johanna, together with others from *kritnet*, you have worked on this issue in joint publications and conferences. Can you briefly consider which role gender plays in the current ›return of the national‹?

**Johanna Neuhauser (JN):** By now, much has been said about the New Year's Eve in Cologne in 2015/2016 and the construction of the ›danger of male refugees traveling alone.‹ Like other feminist scholars, we have criticized the instrumentalization of gender for an anti-migrant agenda (Neuhauser/Hess/Schwenken 2016; Hess/Neuhauser/Thomas 2016). In the discourse, the frequent statement that there are predominantly men coming to Europe is linked to the topos of the invisibility of female refugees. It is easy to see that the discourse is strongly gendered, and the so-called ›refugee crisis‹ is portrayed as male. This representation is based on well-known narratives of the patriarchal Islam and the passive refugee woman. Post-colonial perspectives reveal that arguments for the protection of women of the South are embedded in the construction of »Cultural Others« (Spivak 2008; Castro/Dhawan 2009), in this case of North African Muslim men. The resulting dichotomy of civilized/uncivilized has always served the construction of borders and, as it is visible in the current discourse, especially of national border security. This use of gender for nationalist purposes is not new, but follows a long tradition of the narrative of Western Europe as the origin of modernity, progress, and civilizing superiority.

However, the great attention placed on gender in relation to migration also has more ambivalent effects, as, for example, the increased sensitivity to the need for women-specific protection and support programs show. Violence prevention measures or refugee shelters for women only are crucial elements of the political agenda



(e.g. BMFSFJ/UNICEF 2016). From a feminist point of view, this sensitivity must be judged positively, since it increases the scope for action of women's rights organizations. However, if we take a closer look at the programs, major deficits become visible and — as feminist initiatives have criticized — the implementation of measures lags behind the political promises (e.g. medica mondiale 2017). In addition, the tightening of asylum laws goes into the opposite direction, specifically towards a massive deterioration of the situation of women who have fled along the officially closed ›Balkan Route‹ since the beginning of 2016 (UNHCR/UNFPA/WRC 2016). In particular, the tightening of the requirements for family reunion prevents the entry of women and children, whose invisibility and oppression is discursively deplored at the same time.

We have spoken a lot about the increasing anti-migrant mobilizations. Bernd, in the anthology ›The Long Summer of Migration‹ (Hess et al. 2016), you are not so much interested in dominant discourses and politics as in the social movements and organizations of the migrants themselves. When we look at the current developments from a perspective of migration: what is the relationship between the rise of nationalism and the migratory movements in the recent years?

**BK:** The connection between the current rise of nationalism and the movements of migration is complicated. We should under no circumstances assume a strict causal link between increased migration and increased nationalism. For one, we should not underestimate the mechanism of scapegoating migration, which is a constant thing in national politics. If we talk about the new rise of nationalism, we have to take the relevant scales into account. If we refer to the old, post-Westphalian nationalism that emerged over the last few centuries and came to dominate global history in the 20th century, nationalism was both a scaling up of the relevant political entity, as for example the case with Germany, France, Italy, and Spain, as well as a scaling down from the larger empires, such as the Ottoman Empire in the case of Greece, and even Turkey itself, or India with respect to the British Empire. Today, it seems to me that the rise of nationalism in countries of the EU implies only a scaling down, a withdrawing from supranational entities, as witnessed in Brexit, or at least in reacquiring political powers from Brussels by national capitals. However, the larger entities to withdraw from are not empires, but more diffuse international orders, which are strongly connected with the advance of neoliberalism and especially neoliberal globalization: regimes of free trade, of climate regulation, of international legal regimes.

And this diffuse scaling up of the international order has aligned itself mainly with an ideology of the free market, not with global democracy or global political and social rights. And what is evident at least since the global financial crisis in 2008: the promise of prosperity and wealth for everybody has not been delivered, much rather the opposite. Even in the global centers, the former middle classes have lost; or more importantly: there is no promise of a brighter future anymore. So the desire that is fueling the rise of nationalism is a double desire, one of restoring political control, perhaps even democracy to a well-known scale, i.e. the nation-state, as well as one of returning to the class compromise of the Fordist era. If we add these components, i.e. all the insignia of Benedict Anderson's (1983) »imagined communities« and the ever-present and ever-implicit racism and sexism of the Fordist order, we arrive at the particular nastiness and ugliness that we witness in the neo-nationalist movements these days.

And, to answer the second part, what is the relation with the movements of migration? Of course, migration challenges the national social order, but not in the way of the racist argument, i.e. that it increases the competition within the national container. But rather that it dissolves the convenient abstraction of the national container, shielding its occupants from the global social and economic order on which its prosperity is based, and which makes it a desirable destination for migration in the first place. We have to emphasize, again, that migration is not the root of the problems diagnosed above, such as the continuing demise of the remaining institutions of the Fordist welfare state, the widening gap between the rich and the poor, or the increased importance of global supply chains, which have transformed European labor markets.

When we talk about nationalism and the ›return of the national,‹ we refer to the nation as a politically and theoretically heavily charged concept. Which theoretical approaches to the concepts of ›nation‹ and ›nationalism‹ do you, Helge, think are particularly appropriate to capture the ›return of the national‹ in relation to migration?

**HS:** For understanding this relation, many analyses refer to Étienne Balibar. I think with him we can also find an answer to a question that is decisive for our subject: how can we explain the current successes of nationalist movements without one-sidedly reducing them to either racism or neoliberal politics?

To approach Balibar's concept of the nation, I would like to take a short detour. Politicians in Germany have been saying it again and again: that in regards to migration, one should take the ›anxieties and concerns‹ of citizens seriously. This rhetoric obviously turns a blind eye to the widespread racism of the perceptions and paranoia in the population when it comes to migration. And above all, it disregards the fears

of all those marked as migrants, who have to deal with racist situations every day. It is nevertheless worthwhile to take the so-called ›anxieties and concerns‹ of German citizens seriously for analytical purposes — to investigate how they are embedded in social structures. And this is where the concept of the nation comes into play.

The nation form provides a sense of affinity and relative privilege to all those who are counted in. On the one side of its bordering processes, this is enforced by marking non-members, partially excluding and subordinating them. On the other side, and closely connected to this, subjects pass according to a partly vague, partly precisely regulated national norm of belonging, which is essentially informed by racism. To some extent, this formation of »the social« that Balibar (2014: 155) describes as a »national-social state« can compensate for discrimination due to other structures of domination, such as class or gender. Thereby, those who belong to the nation enjoy symbolic as well as material privileges that moderate their subordination in the social hierarchy.

Throughout the established common sense and mainstream discourses in Germany, this security of the national subject and its privileges are now perceived to be in danger. Migration is thereby constructed and perceived as a major threat. Following the national logic in Germany, the ›citizens of fear and anger‹ (›Angst- und Wutbürger‹) are not fighting for a good life, but for being better off than others — for a hierarchical order, where they are subordinated, but nevertheless in a position above others. This is connected to what Bernd has called the ›double desire‹ of restoring the political and economic order of the Fordist era.

However, people rarely relate their fears of being excluded and losing privileges to the prevailing structures of the dominant society — which is an ever-remaining task for the left. Mediated by discriminatory discourses, those fears are instead turned into a concrete hatred of the ›other.‹ This hatred is directed against all those pretended to be a threat, but also against those who are perceived as responsible for it. In the words of Pegida: ›die da oben‹ (›the people on top‹), ›das Merkel‹ (chancellor Angela Merkel, with a neutral grammatical gender added in place of a female one) and the ›Lügenpresse‹ (›lying press‹). Alleged ›gender mania,‹ the ›islamization of the West,‹ or ›uncontrolled migration‹ become the focus according to shifting political circumstances. AfD, Trump, Le Pen, and other right-wing populists have success by presenting themselves as strong sovereigns against these alleged threats and as a true alternative to the weak political establishment.

**JN:** May I add something to this point? I find your analysis of the so-called fears of the relatively unprivileged citizens with Balibar very illuminative. However, it is important to mention that many research projects focus on right-wing mobilizations

and neglect to consider nationalism as a broad social phenomenon. Furthermore, it is crucial to analyze nationalism from a global perspective.

Nationalism cannot be reduced to right-wing ideologies, but must be seen as deeply embedded in the everyday life of people. Precisely what Balibar has called the privileges of the ›social and national state‹ are taken for granted by a large majority in the Global North on a daily basis. The philosopher Thomas Pogge (2011) calls this »ordinary nationalism«: the tacit acceptance of the given structures of nation-states and the legitimacy of a policy oriented towards national interests. This is particularly visible in the unequal chances of mobility, which are deeply connected with the unequal distribution of wealth as the inequality of visa rights around the world clearly reveals. How mobile you are is very closely related to where you were born. This »birthright lottery« (Shachar 2009) is hardly questioned in practice, but the comfort of the jackpot to live in the right place at the right time is considered to be a given. The concept of the »imperial way of life« (Brand/Wissen 2011) is also revealing in this context, since it indicates that capitalist patterns of production and consumption are deeply embedded not only in the everyday practices of the upper and middle classes in the Global North, but also in the emerging countries of the Global South.

**MK:** So you are strongly advocating to expand the view to the Global South. How do you think critical migration research will benefit from this perspective?

**JN:** The shift in perspective from migration to Europe towards unequal rights of mobility worldwide, draws attention to historically produced inequalities and calls into question Occidental perspectives. It is therefore a matter of pointing to global relations, which is, for example, already done in research on the causes of flight, such as expropriations of land and resources, European military equipment exports, neoliberal structural adjustment measures, etc.

In the scientific field, I think it is important to break with the dominant divisions of labor, as, for example, the separation between research on migration regimes on the one hand and on global inequality and therefore on questions of international development and politics on the other hand. The increased inclusion of political-economic perspectives in critical migration research could contribute to link these fields of research.

But what seems even more important to me is that by shifting the view to the global, the ethical question about the entitlement of unequal mobility opportunities and the differentiation between first-class and second-class citizens is accentuated. Nevertheless, I ask myself how we can bring this fundamental question, why some people are free to travel, while others are forcibly denied this right, into the public

debate. At the moment, the discourse and the policies seem to go exactly in the opposite direction.

**HS:** You are definitely right, Johanna, that this question of global inequality, which is highlighted by many refugee activists as well, should be raised more prominently in migration research and left-wing movements. Furthermore, what seems crucial to me as well is the question of emerging local spaces that contest the national-social form by developing alternative modes of belonging. Many have hopes in the movement for Solidarity Cities that could offer an approach for producing the common without national exclusions.

As a resistance to the allegedly self-evident nature of national borders, protests against deportations are a good example. Maren, you've worked a lot on such protests in recent years, can you expand on this?

**MK:** Deportations have been the subject of less visible resistance and public protest in the Federal Republic of Germany since the 1960s. On a daily basis, people defend themselves against deportations in various ways or repeatedly organize, e.g. protests by school classes in order to obtain a residency permit for their classmates. In doing so, regarding the definition of membership, state sovereignty has been questioned over and over again.

However, the connection between anti-deportation protests and nationalism is far from being straightforward. The ›State Project Europe‹ research group has outlined a concept of the »deeply anchored hegemony« (Buckel et al. 2014: 40; translation by the authors) of migration controls and thus of the border, which I find very helpful. Such a ›hegemony of the border‹ is expressed by the fact that national borders are regarded as quasi-natural in the public debate. Johanna has already mentioned this in relation to ›ordinary nationalism.‹ Because of this deeply anchored hegemony, the acceptance of the notion of the border is hardly affected by most social disputes. Interestingly, this is often true for anti-deportation protests, too. Frequently, deportations are questioned if they appear to be particularly brutal or unjust or if the persons concerned are perceived as very vulnerable and worth protection. Protests against such deportations often refer to specific argumentative frames pointing out why a *particular* person, family, or group should not be deported — without questioning deportations in general.

In some cases, this is even based on a very special idea of merit. In the interviews I conducted for our research project, I spoke with a politician of the Christian Democratic Union of Germany (CDU) who regularly got involved in protests

against the deportation of pupils in Hamburg. In the interview, he uses the term ›Leistungsdeutsche,‹ which could be translated as ›Germans by merit.‹ To me this term symbolizes quite well the shift in relations of force in the area of migration policy in Germany, which resulted in a neoliberal ›migration management‹ system in the mid-2000s. Residency permits and options for naturalization were linked in part to (expected) economic performance. This was accompanied by a change of how belonging is conceptualized, which did not necessarily imply a fundamental limitation or questioning of deportations or national borders. And in particular, the basic exclusion from rights is not attacked thereby. This exclusion is a central feature of the nation-state, though, as Helge has already pointed out.

Nonetheless, there have always been protests against and resistance to deportations, which take the demand for equal rights as a starting point. Examples from the past 20 years are campaigns and actions by initiatives like *The Voice, alle bleiben!* (all stay!) or *no one is illegal* as well as the marches for the rights of refugees or the protests by the alliance against deportations in Osnabrück since 2013. If someone said ›I do not want to be deported,‹ the alliance was there, trying to prevent the deportation. No one asked why or how the person deserved to remain or why deportation would be inappropriate. Instead, they tried to assert a normative right to remain.

**HS:** You have now spoken about the connection between nationalism and protests against deportations. Can you briefly say something about the relationship between the nation and deportations?

**MK:** You, Helge, referred to Balibar's concept of the ›national-social-state‹ before. In connection with deportations, this is relevant in two ways: On the one hand, deportations make abstract civic rights come alive as both symbolic and material privileges. On the other hand, the circle of those to whom material concessions must be made is kept small by deportations. In this regard, what matters more than the specific deportation of people is the possibility to be deported at any time. Nicholas de Genova (2002) introduced the concept of »deportability« to emphasize this. Through deportability, illegality is established and maintained as a deeply internalized way of life. Thus, internalized in a quite similar manner to what Johanna has just said of the ›imperial way of life.‹ These subject constitutions are interconnected and bound to the constitution of society in large. Deportations and ›deportability‹ are not simply an expression of national sovereignty, but a central component of what Sandro Mezzadra and Brett Neilson (2008) have called »differential inclusion«: rather than excluding people from a certain territory, it stratifies living and working conditions.

**JN:** I also find it important to emphasize that this fundamental inequality of the ways of life is not a coincidence, but politically promoted by dominant forces. By means of ›deportability,‹ people are taught: ›Hey, you do not really have the right to be here, unless you are useful to us.‹ Clearly, the definition of ›useful‹ corresponds to the principle of capitalist accumulation, hence the increase of profit. From the migrants' point of view, it seems contradictory that on the one hand globalization creates a world market for labor and thus motives and opportunities for migration, and on the other hand, national border regimes decide who will gain access to the national territory and labor markets. While this might be contradictory on the subjective level, it is not so much on the structural one, since, even in globalized capitalism, the labor market logic is anything but ›limitless.‹ Rather, it follows selective mechanisms of openings and closures for capital, goods, and labor. Furthermore, precisely because of its crises, capitalist accumulation needs regulation, and therefore migration policy is a crucial element. Despite this connection, it is important not to fall into the trap of economism, but to consider also the subjective dimensions of migratory movements.

**HS:** Besides those structures of regulating migratory labor forces in the interest of exploiting them, we have to keep in mind the struggles related to them, the relative autonomy of migration that subverts attempts of control — but also creates conflicts between different hegemony projects. This could result, for example, in restrictive migration policies following the preferences of nationalist forces, which are inefficient in the logic of more neoliberal forces.

Maren, we have talked a lot about nationalism and the connection with capitalism. In this context, the relation to the European level is crucial, too. Lately, I have the impression that the discourse tends towards the direction of presenting the EU and a pro-European policy as opposed to nationalism and right-wing politics.

**MK:** I would absolutely agree with you, and this is clearly reflected in the French presidential elections, which in the public discourse were directly linked to the future of the European Union. I was also relieved that Le Pen did not win the first round with a clear majority, and that Macron won the election. Still, I find the discourse about the election in France and also about the previous elections in the Netherlands problematic. In a way, this also shows how marginalized we are as left-wing movements in Europe. The question ›Yes or no to the EU‹ falls way too short. ›Yes to the EU‹ can mean exactly: ›Yes to the EU-Turkey deal,‹ ›Yes to the Dublin Regulation and the externalization of migration control,‹ ›Yes to the European austerity policy,‹

et cetera. Asking ›Yes‹ or ›No‹ does not at all tackle the orientation of these European policies. In my opinion, this is also a weak point of the Pulse of Europe movement.

In my view, the essential question is not: EU — yes or no? But rather: In what kind of society do we want to live, and how can living together in solidarity be developed in Europe and beyond? What would a policy look like that neither reverts to national positions, nor continues with the disastrous European policies that try to regulate the multiple crises that we have been experiencing since 2009? In recent years, there have been numerous discussions among the radical left under the slogan ›Europe from below.‹

I believe that the movements of migration and solidarity are a good example of such a Europe from below. However, from my point of view, the question that is still open is: How can this be sustained and stabilized? And what does this mean for the constitution of the EU?

**BK:** What is missing these days is not only a left-wing political project for Europe, but even a vision. Certainly, none of us would like to return to the era of the nation-state in Europe, but an uncritical affirmation of the European Union as it is, is also not an option. But it is exactly this perceived binary opposition that has hindered the development of such a vision. European social democracy has largely followed the neoliberal agenda of the European project, especially in the last couple decades, and even on the level of organization, the social-democratic left has not kept up with Europeanization. There is no functioning Europe-wide trade union association, no organization around the classical fields of left-wing politics, such as labor and social security. In consequence, these are also the fields that have undergone the least Europeanization. Labor market and welfare policies remain firmly in the hands of the nation-state within the EU.

The results of this become most evident in regards to migration. During the era of Fordist migration, migration policy was largely set by the labor and welfare ministries in the nation-state. It was only in the 1970s that this competence gradually passed to the ministries of the interior, resulting in what we today call the securitization of migration policy. This is why today in Europe migration policy is nearly synonymous with border, with police, with Schengen.

What does this mean for a left-wing project for Europe? From a perspective of migration, the European project as it stands is highly ambivalent. For the migrations that preceded the formation of the EU were largely migrations within the larger European space. The creation of European citizenship and the establishment of the freedom of movement as well as the freedom to settle have erased these migrations as



migrations. Today, they are perceived as European mobility, and one that is actively encouraged, at least in Western and Central Europe (though people from Eastern European countries are confronted with the ›poverty migration‹ discourse, see Fiedler et al. 2017). For all the migrations from outside the European Union, however, migration has become increasingly problematized, even though the particular genesis of social and political rights for European citizens could function as a model for a different Europe. Once we again erase the — in the end — arbitrary distinctions drawn up by the category of migration and return to the question of rights and belonging in Europe, a different vision for society in Europe would emerge. In the end, it is not about drawing up a different, more humanitarian migration policy for Europe, but rather to take the experiences and the history of migration in and to Europe seriously in order to arrive at a different post-national project for Europe.

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# Research Lab



# Border Contestations, Syrian Refugees and Violence in the Southeastern Margins of Turkey

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H. PINAR ŞENOĞUZ

**Abstract:** Although the tensions and conflicts between the local population and the refugees at the border regions do erupt at times, they are by no means the immediate consequences of the encounters among locals and refugees. Rather, they are mediated by the ways in which the emergency and societal responses to the ›refugee crisis‹ are politically deployed and discursively narrated. Drawing on Walters' distinction between three historically different trajectories of territorial borders, namely ›geopolitical borders,‹ ›national borders,‹ and ›biopolitical borders,‹ this paper argues that the emergency and societal responses to the Syrian refugees at the Syrian-Turkish border express the trajectory of Turkish-Syrian border as a geopolitical and national border. Focusing on the contestations among Turkish citizens, Syrian refugees and local authorities in the context of refugee reception in the border city of Gaziantep, the paper demonstrates that ›geopolitical‹ and ›national‹ borders in southeastern Turkey should not be conceived of as being firmly in place. Rather, they are quickly upended by nationalist violence and transborder ethnic ties, compelling state authorities to seek stability and assimilation among the border populations.

**Keywords:** Syrian refugees, Turkish-Syrian border, geopolitical border, national border, border and migration control, local conflicts

In the context of emergencies, borderlands are very often the first regions to turn into temporary sanctuaries for fleeing refugees. Borderlands therefore allow researchers to instantly observe early states of emergency and societal responses as well as the conflicts erupting from the discourses, ideologies, and practices underlying these responses. Although the eruption of tensions and conflicts between the local population and the refugees at the border regions do occur at times, these tensions are by no means the immediate consequences of the encounters among locals and refugees. Rather, they are mediated by the ways in which the emergency and societal responses to the ›refugee crisis‹ are politically deployed and discursively narrated. As such, exploring these tensions and conflicts informs us about the nature of nation-state borders and political anxieties of the state revolving around them. Such anxieties about borders often address the questions of migration, citizenship, and belonging. To observe these tensions, this paper focuses on the Turkish-Syrian border and the reception of

Syrian refugees fleeing conflict and violence by the Turkish society. It explores how the reactions among the local population at the border have been shaped and turned into struggles over the definition and meaning of society — over the question who belongs and who does not.

There is an increasing scholarly emphasis laid on the concept of »biopolitical power« (Foucault, 1998 [1976]) in analyses of the border and migration regimes in the European context in recent years.<sup>1</sup> William Walters (2002), for instance, is among the pioneering scholars who have drawn attention to the recent deployment of the border as a site of »biopolitical management.« His study of border controls within the framework of the European Union calls for a genealogical analysis as a methodology to »denaturalize« territorial borders and highlight their historicity and changing functionality. Walters' analysis reveals the contingency of the configuration of sovereignty, territory, and population associated with the modern state (ibid.: 576).

Walters distinguishes between three more or less historically different trajectories underlying territorial borders: »geopolitical borders,« »national borders,« and »biopolitical borders« (Walters 2002). According to him, the geopolitical border, prevalent in the 17<sup>th</sup> and 18<sup>th</sup> century of European colonialism, implies the state's interest in gaining total control over its territory with borders clearly defined at its limits. Thus, the demarcation of borders expresses states' desire to achieve power, peace, and security. The »national border« has a homogenizing and standardizing role. It demarcates a population and turns it into a »nation.« In an enclosed political territory, the national border has the function of providing national unity, by removing ethnic enclaves or assimilating them into the nation. Lastly, the biopolitical border — as the main characteristic of the contemporary border — brings to the fore the filtering function of border controls. Walters views it as an instrument of »biopower« in a Foucauldian sense, the biopolitical border being the site for the regulation of a national and transnational population. The biopolitical border is to be understood as an assortment of old and new technologies to produce a population as a knowable and governable entity (ibid.: 573).

Nevertheless, the border is not a homogeneous unit and there can be many borderlands along a geopolitical frontier with particular and distinct »border cultures«

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1 | For a reference to EU borders as biopolitical borders within the context of recent refugee migration to Europe after summer 2015, see Vaughan-Williams 2015. Recently, a few references have appeared regarding the notion of biopolitical governance in the analysis of Turkish migration and borders in general; see, for instance, Toğral-Koca 2014; Topak 2014; Fine 2013; Kaşlı/Parla 2009; Biehl 2015.

(Donnan/Wilson 1999). The borderlands, with multiple actors and straddling ties across the border, affect the display of state power. Against the backdrop of recent social dynamics along the Syrian-Turkish border, I will problematize whether this conceptual framework — focusing on the biopolitical border as the main trajectory of borders today — could be embraced in the analysis of Turkish migration and border control. Following Walters' distinction, I suggest to regard the emergency and societal responses to the Syrian refugees rather as expressions of geopolitical and national trajectories of the Turkish-Syrian border that are distinguished from his conception of a biopolitical border. Walters defines ›the border‹ as a larger heterogeneous assemblage of discursive and nondiscursive practices (Walters 2002). In the scope of this paper, I refer to the everyday practices of urban dwellers at the Turkish-Syrian border as well as activities of local political actors and humanitarian NGOs. From the vantage point of the border, the reception of refugees in Turkey will be conceived as a complex issue, calling for an examination of the ongoing debates about Syrian refugees. While the debates appear to be dominated by biopolitical reasoning deploying knowledge and resources to regulate and manage the refugee population, a closer look will bring the geopolitical sentiments and national belongings beneath these debates to the surface. These sentiments indicate that the Turkish border and reception policies concerning Syrian refugees are highly influenced by the delicate issue of ›national unity‹ and the long-lasting fractions and conflicts about the Kurdish question.

To support my discussion, I focus on the contestations among Turkish citizens, Syrian refugees, and local authorities in the context of refugee reception in the border city of Gaziantep. Through these contestations, the locals draw boundaries between ›deserving‹ and ›undeserving‹ refugees, while they also seek to challenge the state in an attempt to redefine the society and its members. These contestations also demonstrate that ›geopolitical‹ and ›national‹ borders in southeastern Turkey should not be conceived of as being firmly in place. Rather, they are quickly upended by nationalist violence and transborder ethnic ties, compelling state authorities to seek stability and assimilation among the border populations.

With its geographical proximity to Aleppo, Gaziantep ranks fourth among Turkish cities in terms of the population of Syrian refugees. In a city of nearly two million people, the General Directory of Migration Management estimated the number of Syrian refugees to be 329,670, including camp refugees, in March 2017 (Basın İlan Kurumu 2017). This means that the total amount of Syrian refugees presently makes up 16.7% of the city's inhabitants. The primary data of my research stems from a month-long fieldwork including semi-structured interviews with both Turkish locals and Syrian refugees. I conducted them during the summer of 2016 in the old city



center and the city's slum areas, which are populated by an old migrant community of mixed ethnic and religious backgrounds with differing neighborhood identities. Working-class Syrians reside in these neighborhoods, thanks to the affordable housing and shops as well as its proximity to industrial workplaces.

I illustrate the contestations among the urban dwellers of Gaziantep by presenting two cases that followed each other in a short time span in late summer 2014: first, the widespread anti-Syrian sentiments and hostility — particularly dominating the slum areas — and second, the affection and grassroots humanitarianism, fostered by cross-border solidarity with refugees from the Syrian town of Kobanê. It was in this setting that the events, which tainted the city slums with violence and that demonstrated the level of contestations, took place. In the former, the hostility towards the Syrians momentarily culminated in widespread attacks against them. In the latter case, the bitterness among Kurdish citizens about the apparent alignment of the AKP government with the Islamic State attacking Kobanê, a small border town with a strategic location in the north of Syria bridging the Kurdish autonomous zones, unleashed violent confrontations between Kurdish protestors and the Turkish authorities.

## **ANTI-SYRIAN HOSTILITY**

The anti-Syrian hostility in Gaziantep can be best attested by the riots that broke out on the night of August 11, 2014, after the alleged murder of a Turkish landlord by his Syrian tenant. The events sparked or unleashed hatred against Syrians among the Turkish locals. Youth mobs attempted to lynch Syrians and vandalized their shops and cars. Even Syrian homes were looted by unknown assailants (see MAZLUMDER 2015 for a detailed account of the attacks). The tumultuous situation lasting several days caused the enraged youth carrying Turkish flags to terrorize the Syrians on the street, and many of the wounded ended up in hospitals. Although the police forces eventually got the riot under control on the third day, sporadic attacks still continued in the aftermath, and, according to the interview accounts, the Syrians, threatened by mass violence, were compelled to shut themselves in their homes in the following weeks.

Accounts gathered in the interviews reflect how the Turkish locals developed anti-Syrian hostility when Syrians were conceived as crossing moral lines. For instance, a Syrian refugee sitting on the lawn to enjoy an urban park, launching a small business to compete with Turkish locals, occupying the waiting line in public hospitals or the pavement space of narrow alleys in slum areas were interpreted by some (Turkish) interviewees as Syrian transgression of Turkish hospitality. The following account of

a *mukhtar*<sup>2</sup> in the Karayılan-Türkmenler area is illustrative. In this part of the city, Syrians' housing was brutally attacked and small shops run by Syrian refugees in the neighborhood alleys are barely left, except for a few grocery stores and tailor shops.

The *mukhtar* introduced himself as the man who guided the police forces when the locals rioted against the Syrians and the latter were evicted from the shops they had rented. Apparently, the hot summer nights did not allow the tenants, mostly male bachelors, to take shelter in the shop, and they needed to open the pull-down shutters. According to the *mukhtar*, the Syrians started to sit on the pavement during the nights and smoked water-pipe tobacco, for the locals a symbol for how different the Syrian culture allegedly is. The slum dwellers normally have a habit of sitting on the pavement day and night, since the slums often lack green spaces and parks. According to the *mukhtar*, the Syrian tenants sneaked into the midst of slum dwellers by gradually and mischievously occupying more space on the sidewalks, a space that was apparently not designated for Syrians.

For the *mukhtar*, the Syrians disturbed the order and acted immorally by slipping into the common space of the alley. Since I recognized a common (racist) cliché about Syrians, I tried to provoke him by asking whether the Syrian culture did not include any element that the locals could appropriate. He repudiated by saying: »The Syrians do not have anything nice that we [the Turkish people] can borrow.« Similar to the *mukhtar*'s account, many interviewees draw on the negative stereotypes and images of Arab identity historically produced by Turkish nationalism. The rise of »nationalist consciousness« at the Turkish-Syrian border dates back to the early nineteenth century and was reinforced by the mutual rise of Turkish and Arab nationalist waves during the dismantling of the Ottoman Empire (Watenpaugh 2005). World War I and the Entente Powers demarcating an Arab nation-state in the Ottoman Syria and Iraq under their own auspices further helped to anchor the perception of Arabs among the local community, which has indoctrinated by the way history has been written during wartime and early Republican period.<sup>3</sup> The city of Gaziantep, involved in the War of Independence against the occupation of Entente Powers between 1919 and 1921, is named after the exalted status of »veterans« (*gazi* in Turkish). The wartime history still resonates today in the popularized accounts and urban iconography glorifying the »heroic« resistance against the would-be enemy.

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2 | A *mukhtar* is an elected head of a village or neighborhood.

3 | Çiçek (2012) brilliantly demonstrates, for instance, how the trope of »Arab treason during the World War I« is effectively reproduced during the early Republican period in the Turkish schoolbooks as part of nation-building process.

Furthermore, it should be remembered that the arrival of Syrian refugees triggered discontent among the locals as early as they started to cross the border. This happened despite the strong kinship and trade bonds revived by the economic and political convergence between Turkey and Syria in the past decade and until the reversal in the relationship of the two governments due to the war in Syria and the Turkish government's aim to topple Assad. Rumors about the alleged unreliability, lewd demeanor and misbehavior of the Syrian refugees widely circulated the border regions (Şenoğuz 2014). Özden (2013), for instance, stated in her 2013 report on the situation of Syrian refugees in the border city of Hatay that the talk among the locals could verge on hate speech when they spoke about their cultural differences with the ›peasant,‹ ›non-urban,‹ and ›uneducated‹ Syrians (ibid.: 10).

In the neighborhoods I visited, the stigmatization of Syrian refugees embodying stereotypes associated with Arabic identity could be particularly observed among my Turkmen interviewees. As they put it, the ethnic Turkmen used to suffer from discrimination in Syria because of their ›non-Arab‹ background, while, after their immigration to Gaziantep, they were harassed by their Turkish neighbors because they were perceived as ›Arab.‹ »We have become Arab here [after we came to Gaziantep],« a Turkmen woman asserted. Still, the linguistic affinity between the Syrian Turkmen and Turkish locals has helped the former to elude the sporadic attacks on the street. Several Turkmen interviewees told me that they could prevent being attacked during those tumultuous days because they could respond in Turkish to the local youth who intercepted them on their way to their home or work and pretend to be Turkish natives.

The emergency responses to the anti-Syrian riot reinforced ›national‹ boundaries between locals and refugees. For example, the mayor of Gaziantep, Fatma Şahin, announced preparations under the roof of governorship to replace Arabic signs with Turkish ones (Posta 2014). The authorities announced to the public that Syrian housing characterized by unhealthy conditions would be evicted. The mayor promised an immediate solution to the problem by saying: »Our priority is our *own* citizens« (Milliyet 2014; emphasis added by HPS).<sup>4</sup> According to the local press, the authorities identified 7,800 Syrians living in the conflict-ridden areas (Gaziantep Güneş 2014). The police forces detained Syrian families living on the ground floors of unplastered and cheaply built apartments, in ruined factory and housing buildings, makeshift tents

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4 | However, the MAZLUMDER report states that while about 7,000 Syrians had to move within the city, 3,250 of them were resettled in the camps. During these tumultuous days, the mayor announced that the İslahiye tent camp in Gaziantep near the Syrian border would be enlarged to a capacity of 25,000 (see MAZLUMDER 2015).

in the parks, or on the street collecting garbage and relocated them to refugee camps. According to the locals, some families who refused to live in the camps were compelled to leave the city or return to Syria (Zete 2014; MAZLUMDER 2015). As a remedy to anti-Syrian hostility, the authorities initiated the replacement of Arabic signs by Turkish ones in Syrian shops as well as the replacement of Syrian license plates by Turkish car licenses, while still marking the owner as Syrian by only issuing temporary license plates (Hürriyet 2015).

The emergency measures also point to the ease of local authorities in co-opting the anti-Syrian rioters, who undid the state practices of control and law enforcement, by containing the Syrian refugees and not the attackers. That governmental measures result in the incrimination of violence victims rather than the lynching mobs is far from rarely seen in Turkish history. The Turkish scholar Zeynep Gambetti (2013) asserts in a discussion about the legitimate use of violence passed on to society from the state's monopoly, that the extralegal violence committed by lynch-attempting mobs — as they attack dissenters or would-be enemies of the state — points to the limits of state sovereignty. Such attacks open the path to negotiations on the definition of legitimate violence, while the assailants can move on with impunity. To her, legitimate violence turns the mob into an »officer-citizen« challenging the law enforcement officials and replacing them in their function as officers (ibid.: 130). She argues that this means the pluralization of sites of regulation, which are — following Das/Poole (2004) — construed as lying outside, or prior to, the state, but do not necessarily undermine state power. In light of Gambetti's argument, I assert that the rioters assume the authority to set limits to and impose spatial control over the refugees. Hence, the co-opting of emergency measures serves to incriminate Syrian refugees as »troublemakers« in the slum areas.

## GRASSROOTS HUMANITARIANISM FOR KOBANÊ REFUGEES

An offensive launched by the so-called »Islamic State« (IS) against the town of Kobanê in north Syria in September 2014 caused a high number of refugees fleeing to the Turkish border crossing in Suruç, a district of Şanlıurfa bordering Syria. The town of Kobanê is largely populated by the Kurdish Syrians and is a stronghold of the Democratic Union Party (*Partiya Yekîtiya Demokrat*, PYD). PYD claims an ideological affiliation with the political platform of Abdullah Öcalan, the leader of PKK, and the town is a strategic location for the territorial unification of the three Kurdish cantons in the north of Syria. Therefore, the IS offensive against the small town, threatening atrocity and slaughter, was regarded by Kurdish political circles in

Turkey and elsewhere as a threat to the Kurdish existence in the region. It was reminiscent of the recent massacre against the Yazidi community by the IS in the Iraqi city of Shingal in early August 2014.

When the fleeing Kobanê refugees rushed to the border crossing, the border authorities did not initially allow them to enter (Tait/Al-Qasem 2014). The Kurdish political actors compelled the Turkish government to yield control at the border when the Kobanê crisis erupted and to accept the refugees.<sup>5</sup> They also undertook diplomatic attempts to prevent the Turkish government from backing the IS militants and to open Turkey's border to the delivery of arms sent by Masoud Barzani, the President of Kurdistan Region of Iraq, to the Kurdish militia forces fighting in Kobanê. The Kurdish actors expected that the ongoing peace negotiations between the Kurdish movement and the Turkish state might raise the prospects for a solution in the case of Kobanê. Nevertheless, these attempts proved futile and the intensified assault of IS in Kobanê led to street protests and violent clashes between Kurdish protestors and law enforcement in the southeastern part of Turkey as well as in major cities in western Turkey.<sup>6</sup>

The reluctance of the Turkish government to open the borders to the refugees, following President Erdoğan's notorious speech in a refugee camp of Gaziantep about the fall of Kobanê (Saul 2014), helped the genesis of grassroots humanitarianism. As a result, a grassroots humanitarianism, which entailed the charity activities of Kurdish as well as Turkish leftist political actors as well as the locals who sympathized with them, together with resistance efforts against the IS siege by Kurdish militia in Kobanê, highlighted the cross-border affection among the Kurdish people. Here, a mental map of Kurdistan was drawn, including the Syrian *Rojava* — in Kurdish, this word means ›the West‹ and it is a metonym standing for West Kurdistan. Taking advantage of the geographical proximity, the Kurdish political actors were able to

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5 | According to my interviewees, the clashes with Turkish law enforcement resumed at the border when the Kurdish opposition decided to march to the border in order to cross to the other side and join the local militia in Kobanê, or help refugees and wounded fighters enter. Additionally, the pro-Kurdish Democratic Regions Party (Demokratik Bölgeler Partisi, DBP) organized its regional forces to set up vigils in the border villages day and night in order to stop IS fighters from sneaking onto the Turkish side and from going behind the Kurdish fighters in Kobanê, who were stranded in the town, wedged against the closed Turkish border in the north, and besieged by IS all around.

6 | During October 5–6, 2014, a large-scale protest and associated violence resulted in more than 40 deaths, including five civilians being killed in the city of Gaziantep (Amnesty International 2015).

mobilize a local solidarity campaign in Gaziantep and recruit party members to join the opposition at the Kobanê border.

Amnesty International (2015) reported the total number of Kobanê refugees entering across the Turkish border in the aftermath of the IS attack to be 200,000. Kurdish political actors accused the Turkish government of hampering their humanitarian efforts to provide assistance to Kobanê.<sup>7</sup> According to a former HDP head in Gaziantep, only one-fourth of Kobanê refugees were provided resettlement and aid by the national authorities in the border camps, while the rest were taken care by the HDP-run Suruç municipality, Kurdish associations and local families. According to a crisis response report by a Syrian NGO, the tension between the Kurdish humanitarian actors and state actors providing aid to Kobanê refugees was quite clear, so that the international NGOs had to choose between them in order to cooperate extensively and deliver aid (Bihar Relief Organisation 2014).

Kobanê refugees maintained their kinship ties and sought temporary refuge in Gaziantep, with the old migrants of Suruç (the Kurdish of Turkey) in Gaziantep as the largest migrant group, becoming a pull factor for their relatives from Kobanê. A DBP member estimated that one thousand families from Kobanê had temporarily immigrated to Gaziantep. As he noted, the party commissioned a working group to launch a humanitarian campaign for helping these families, gathering provisions mainly among the ›old‹ Kurdish migrants dwelling in the city. Supervised by DBP, the humanitarian campaign leveraged the Kurdish grassroots, who assumed that the AKP government and its politics of assistance would discriminate against the Syrian refugees on the basis of their ethnicity. Though unable to find corroborating evidence from my interviews with the humanitarian institutions, the aid distribution was questioned not only by the Kurdish citizens of Turkey, but also by the Syrian Kurdish interviewees. Both groups tended to think that the ethnic identity of Syrian refugees had mattered for receiving humanitarian aid either from the governmental or non-governmental organizations, and that the Kurdish Syrians might be discriminated against. Hence, the ethnic identification encouraged the Kurdish locals, themselves old migrants in the slum areas, to open their houses or rent their property for lower prices to Kobanê refugees. The staple goods distributed to the Kurdish refugees from Kobanê were also donated by Kurdish locals.

My interviewees suggest that the AKP stance on the Kobanê siege led to strong resentment among its Kurdish citizens and discredited Erdoğan's commitment to the

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7 | A HDP board member in Gaziantep indicates that the Turkish government tried to hinder their assistance to Kobanê refugees by cutting off the electricity of the camps and by attempting to seize the winter tents sent by a Kurdish NGO from the Netherlands.

ongoing peace negotiations with the Kurdish insurgency. The former HDP head, for instance, argued that the Kobanê protests raised awareness amongst the Kurdish dwellers in Gaziantep to a large degree and raised ›Kurdish consciousness‹ with the street protests in the city as well as in the larger southeast area of Turkey in light of the calls of HDP, PKK leader Öcalan and other political organizations linked with the Kurdish insurgency. As the interviewees asserted, the Kobanê protests helped spread Kurdish politicization beyond the urban outskirts of Gaziantep and helped to downplay the class divisions among the Kurdish residents. For the Kurdish political circles, the protests reinstated the city's old status as a hotbed of the Kurdish insurgency, where its former cadres were mobilized. According to the former HDP head, the protestors who took to the street even included the Kurdish constituencies of the ruling party AKP, which signified a cleavage on the assimilation of Kurdish identity by Turkish nation-building.

Although local Kurdish entrepreneurs disapproved of the Kobanê protests as a return to violence at the expense of peace negotiations, the protests brought the selective humanitarianism of the government to the businesspersons' attention, thus, resulting in fostering care to Kobanê refugees among the larger Kurdish community. As a local HDP member in Düztepe area suggested, the campaign to provide help to Kobanê immigrants received a lot of financial aid from the Kurdish tradespeople and shopkeepers in the neighborhoods. I also observed that the Kurdish middle class and industrial entrepreneurs in the more developed areas of the city not only supported the Kobanê refugees but also began to finance the reconstruction of the almost completely destroyed town of Kobanê as well as the Kurdish militia's warfare in Syria. Backed by the optimism of the ongoing peace negotiations between the Kurdish insurgency and the Turkish state at that time, it clearly meant a reversal of the tendency among the local Kurdish bourgeoisie, which used to deny any affiliation or support to Kurdish political actors for their commercial interests.

The role of Kobanê resistance locates Syrian Rojava not only as a strategic point for publicizing the Kurdish model of ›democratic self-government‹ to European eyes. It also serves as a symbol for the Kurdish ›homeland,‹ drawing on a narrative of an epic battle by young ›martyrs.‹ For instance, the humanitarian campaign led by the Kurdish political actors for Kobanê refugees highlights their vulnerability, and prioritizes aid on the basis of ›martyred‹ family members. In their viewpoint, the ›martyrs‹ in the family signify their participation in the Kobanê resistance and indicate their shared consciousness for the Kurdish political struggle. According to interviews and media accounts, many Kobanê refugees have returned to Syria following the call of PYD. Thus, the campaign remained limited to the aid given to the Kobanê refugees until their return in May 2015 and did not cover those who remained in and those who

came back to Gaziantep after returning to Kobanê. Compulsory military service and the economically dire straits in the Kurdish cantons may affect the decision of Syrian Kurds to cross over to Turkish soil. These refugees are viewed among the Kurdish political circles in Gaziantep as ›economic migrants‹ and deemed to be ›undeserving‹ refugees.

## CONCLUSION

In this paper, I framed the emergency and societal responses related to the incoming Syrian refugees in the border city of Gaziantep with reference to Walters' distinction between different trajectories of territorial borders. Considering his accentuation of the contingent nature of how sovereignty, territory, and population can be associated in the modern state, I suggested to regard the local tensions and conflicts among the Turkish citizens, Syrian refugees, and state authorities in the southeastern borderlands of Turkey in terms of the ›geopolitical‹ and ›national‹ border. In other words, the Turkish state does not embrace a ›biopolitical‹ governance of migration control by producing the Syrian refugees as a knowable and governable population, as much as it invests in retaining its territorial control and national integrity.

As the Turkish state continues to invest in achieving what it sees as ›peace and security‹ which is the definition of state geopolitics according to Walters, and by denying the ›Kurdish question‹ its southeastern borderlands as well as metropolitan cities will be doomed to unrest. Although the peace negotiations between the AKP government and the Kurdish insurgency have failed and the semantic field opened up by the Kobanê resistance no longer helps to mobilize larger segments of Kurdish working-class people and entrepreneurs, the frame of collective action, which emerged with the Kobanê protests, will remain a dormant force in the city. However, it is still possible to observe an increased tendency of anti-Syrian sentiments among the Kurdish grassroots. For instance, an established parallelism among the Kurdish grassroots, between the neo-conservative AKP rule and the IS' self-proclaimed caliphate as well as the IS-led violence in Gaziantep, like the recent suicide attack during a Kurdish street wedding, are likely to increase the worrisome anti-Syrian sentiments in the slum areas that Kurdish political actors should take as a warning. As the border city of Gaziantep, host of the Syrian Interim Government set up by the Syrian National Coalition and an alleged stronghold of the IS financial operations, turns into a black box, one must wonder about the possible compromises between Turkish and various other actors operating in the region. Nobody knows yet whether the emergent actors of the region will trigger new violent clashes and further highlight this zone as



contested frontier of identity. Nobody knows yet whether the ›Syrian spaces,‹ where the refugees might build a community, will emerge or prevail in this border region together with the help of Syrian economic positions or businesses and the international humanitarian sector, despite the careful delineation between the ›deserving‹ and ›undeserving‹ refugees.

In the light of this discussion, I am prompted to suggest a further research agenda that investigates in what ways Turkey and other Middle Eastern countries receiving large numbers of refugees in recent decades differ in terms of governmental technologies and practices from their Western counterparts. Transborder and transregional networks, the pluralization of regulatory authorities in the border zones, local actors, and sophisticated patronage relationships with the central power also characterize modern governance in these countries. The future will show how the relationships between sovereignty, territory, and population will be re-configured in the Middle Eastern context unsettled by conflicts and war, displacement and new formations of trade geographies. Also, this geography may teach us novel methodologies and conceptual framings that help to investigate these configurations.

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# Strategies of Resistance of Syrian Female Refugees in Şanlıurfa

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REJANE HERWIG

**Abstract:** The experiences of Syrian female refugees in Turkey are strongly characterized by a multifaceted quality of violence, which intersects with discrimination and other difficulties stemming from a lack of education, a lack of financial means, ethnicity, and the precarious situation of being a ›guest‹ in Turkey. In the scope of my master thesis research, I went to Şanlıurfa in order to find out more about their situation. I realized that the omnipresent violence certainly limits the field of possibilities that Syrian women in Şanlıurfa can move within. However, their narratives also showed that these limitations are not deterministic, they are breached and modified through *eigensinnige* (willful) interpretations that open up possibilities to act. They are active willful agents that develop strategies in their everyday life to circumvent violence, to protect themselves from it, and to resist.

**Keywords:** Syrian female refugees, violence, everyday resistance, willful agents

»Perhaps some accept to get married with you. For me, I prefer to stay alone all my life and I don't want to get married with someone of you,« Manon<sup>1</sup> says, looking disdainfully into her *çay* glass, as if talking directly to the Şanlıurfa men that want to take Syrian women as second wives, rather than to me.

For about an hour, we sit across from each other, talking, drinking ice tea in a lousy attempt to fight the heat. On this July afternoon, we met in an alternative café in the center of Şanlıurfa, one of the few places in the city where the presence of women is not unusual or eyed with suspicion. Manon is 25 years old. In 2013, together with her parents, she came to Şanlıurfa in southeastern Turkey, from Hasaka, a city in north-eastern Syria. She had started studying philosophy, but had to leave her studies when the war broke out. Recently, her brother and his three daughters moved in with them. Because of an illness for which he cannot afford the treatment, he is unable to work. Her parents are also well into old age, leaving her as the sole provider for the family. The seven of them live in a one-room apartment without a bathroom, which they can barely afford, since landlords charge exploitatively high rents to refugees. Of-

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1 | All names of my interlocutors were changed.

ten such dwellings, marketed as ›apartments,‹ are actually garages or old basements (MAZLUMDER 2014). Manon, who is responsible for the well-being of her family and refuses to beg for help from NGOs, never really thought about starting to study again since they arrived in Turkey.

This article is based on my master thesis research. I want to make the perspectives of female Syrian refugees visible, giving particular attention to their experiences of violence and modes of resistance. Despite the importance of their perspective in developing a comprehensive understanding of migration, refugeeeness and border regimes, as well as the production of direct and structural violence by state and non-state actors (Gerard/Pickering 2013: 338; Freedman 2012: 38), the experiences of female migrants are still largely neglected in academic discourse. I explore Syrian women's strategies of resistance, and the way these strategies interact with a field of possibilities that is shaped by their experiences of violence. I see agency and resistance as interconnected with violence and vulnerability in complex ways (Gilson 2016). To think about these qualities as two extremes of one line, picturing women either as solely victims or invincible agents is a dangerous oversimplification.

## **REFUGEES, WOMEN, FEMALE REFUGEES IN ŞANLIURFA AND TURKEY**

With 2.8 million registered individuals, the world's largest community of displaced Syrians (as of January 2017) lives in Turkey (DGMM 2017), a country which is regarded as a ›safe third country‹ by the EU. A small amount (9%) lives inside camps, the other 91% in cities and villages in Turkey (IOM 2016). Women and children make up 77% of this population (UNHCR 2016 quoted according to Kivilcim 2016: 2). Turkey does not have an established asylum system, and until recently referred to Syrian refugees as ›guests.‹ There is still only an exceptional legal regime of temporary or subsidiary protection under which Syrian refugees cannot access international protection. This puts them in a position of limbo in which they have fewer rights and entitlements than refugee status holders (Kivilcim 2016: 2; Baban/Ilcan/Rygiel 2016: 2).

Şanlıurfa is a province and city in southeastern Turkey, close to the Syrian border, with a population of about 1.9 million people. After Istanbul, Şanlıurfa has the second-largest population of Syrians in Turkey, with 428,838 registered Syrians, representing 21.38% of the total Şanlıurfa population (DGMM 2017).

Upon arriving in the city, people from the first NGO I visited told me early on how I should not behave (›Don't smoke on the street!‹) and how I should not dress

(»I know it's hot already, but better not wear short things, for your own good.«). Several people advised me to say that I have a husband, since I was constantly going to be asked if I am married, and would be eyed with suspicion — and pity — if I answered that I was not. Despite my generally defiant attitude, I acquiesced to some of these conditions, wore only long pants and blouses and went to the back balcony to be minimally visible when I wanted to smoke. Nevertheless, I did not lie about being married and also walked around the city by myself. I often found myself being the only woman sitting in a *çay* garden otherwise packed with men. I was told several times that I should not roam around by myself, or at all, and was stopped and questioned several times by plain-clothed police officers. Of course, not everyone shared this conservatism. I also got to know some very open-minded people, and they themselves shared my impression of Şanlıurfa. I experienced the city's conservatism moving within it myself — conservatism which not only influences the people living there, but also my interactions with them, dictating the possibilities of my movement as a researcher. I have lived in Turkey for a year and a half now, traveling around the country, observing these momentous political and social changes, and seeing and experiencing the masculinization and militarization of public spaces in Istanbul. Yet after all this, my experiences and perception of Şanlıurfa concerning masculinity, social control and conservatism are still unique to me.

Discrimination, oppression, and the violation of women are global issues. Miriam Ticktin emphasizes that oftentimes when women in the Middle East are written about, their narrative »resonates with Orientalist fantasies that turn on the idea that non-Western and particularly Muslim cultures are more patriarchal than Western ones. These fantasies have clear plotlines, with Muslim men as villains, and they conclude with Westerners coming to the rescue of oppressed, veiled women« (Ticktin 2011: 145). I do not have any intention to perpetuate such a representation. I cannot go into detail about the situation of women in Turkey more generally in the scope of this article. Nevertheless, the »dominant patriarchal and heterosexist societal culture,« as Özgül Kaptan (2015) from the Women's Solidarity Foundation (KADAV) puts it, provides necessary context for the situation of Syrian women in the country. In 2010, then-Prime Minister Erdoğan declared that he did not believe in the equality of men and women (ibid.). One-third of all marriages in Turkey are early marriages and one-third of women get married under the age of 18 (Akyol 2014). According to Gaziantep University research from 2013, the proportion of early marriages in Şanlıurfa is around 60% (Haberler 2013). In 2016, the governing Justice and Development Party (AKP) sought to introduce legislation which would have made child rape no longer punishable in caspanses where the perpetrator would offer to marry his victim; this was withdrawn after a public outcry against what was widely seen as an

attempt at »legitimising rape and encouraging child marriage« (Cookman 2016). The Gender Inequality Index, a composite measure reflecting inequality between women and men in the dimensions of reproductive health, empowerment, and labor market participation, ranks Turkey 71st out of 152 countries (UNDP 2015). Within the Global Gender Gap Index (World Economic Forum 2016), which benchmarks national gender gaps on economic, political, education and health criteria, the country ranks 130th out of 145. Currently, only 27% of Turkish women have a paid job, and the illiteracy among women is about 10% (Schick 2016). Since 2002, the rate of femicide rose by 1400% (ibid.). According to reports that Bianet compiled from national and local newspapers, news websites, and press agencies, men killed 261 women and girls, raped 75 women, harassed 119 women, sexually abused 417 girls, and injured 348 women in 2016 (Tahaoğlu/Baki 2017).

## **METHODOLOGY AND THEORETICAL APPROACH**

Before I started my research, I considered only conducting expert interviews with NGO employees. I gave Szczepanikova's (2010) argument about NGOs' power to shape societies' impression of refugees a lot of thought. NGOs are almost always the first contact for state authorities, media, and researchers. They are therefore influential on knowledge production concerning refugees. However, I was deeply concerned about talking to women about violent experiences while having nothing to offer as support, being neither a psychologist nor a social worker. I was sure that the risk of re-traumatization was not worth the potential benefits of my master thesis research, and so I entered the field initially by approaching NGO employees. I spent time in organizations' offices and social centers to observe how they work. My presence there raised curiosity and led to brief conversations with Syrian women, who worked at or frequented the places, who would inevitably ask about my reasons for being there. After several such conversations, someone who would later become one of my interlocutors asked me why I was not talking to them for my research. I remember her partially confused, partially skeptical facial expression asking: »So you want to write about our situation here but not talk to us?« What followed was a long conversation, another reflection process, and my final decision to include in my research those women that had of their own accord decided to talk to me. This did not avoid possible trauma, but my interlocutors had decided to talk to me, and the risk of pressuring people was minimized.

The women I had conversations with were between 19 and 35 and were from different parts of Syria, but mostly from urban areas. They all had at least completed

high school, some had started studying before leaving Syria, one was carrying on with her studies in Turkey, and three held a degree. Those who I met in one-on-one situations could all speak English. I met with my interlocutors in the café mentioned above. I had certain questions in mind, but we had slightly structured conversations rather than structured interviews. Rana, one of my interlocutors, asked if she could bring other women along, which led to a group conversation. At this occasion, non-English speakers were present, but they could still take part in the discussion thanks to the women supporting each other with translation. Both methods give more control to the interlocutors over the interview situation (Oakley 1981; Wilkinson 1999). In this article, I include the insights of two NGO employees: Ece, from Turkey, a Gender-Based Violence Officer and Liha, from Syria, who coordinates workshops and vocational training for women. Of the fifteen Syrian women I spoke to, I refer to Manon, with whose narrative this article begins as well as Rana, Tara and Basma, who took part in the group conversation. Though I focus and largely rely on the narratives of my interlocutors, I contextualize those within the broader discussion about Syrian female refugees in Turkey.

## **VIOLENCE AND VICTIMIZATION**

»Beyond stories of victimhood, yet being informed by them.« (Kwapisz Williams 2014: 437)

Left as the sole provider, Manon took the jobs she could find — »often blatantly underpaid and where she was being mistreated.« She started out working as nurse in a hospital full-time with the promise of earning 700 Turkish lira a month. After a month they let her go, explaining there had been too many complaints about her, only giving her 300 TL. The rest of the money found its way to the Turkish men who had ›helped‹ her find the job. Finding work as a ›guest‹ from Syria, and especially as a woman, is rather difficult (Kıvılcım 2016: 19). After the hospital, Manon found a job at a small factory. After staring at her for a couple of days, the factory owner called her to his office:

»So, I went there, he just came and closed the door. I remember I was wearing a dress, it was a long dress, and he just tried to take it off like this and he put his hand on my ass and I pushed him and I started to scream, to shout, shout at him, ›don't do that! Just let me go or I will call the other staff.«



She left and did not tell anyone. She later explained that there would not be any reason to go to the police as they would not help anyway. So, Manon stopped working at the factory, and again started to worry about how to manage her family's financial situation. She even begged her parents to go back to Syria, which they refused. After a while, she found a job with a humanitarian aid organization, where she worked for about a year before transitioning to another. She was jobless when we met. She quit both NGOs because of similar reasons. She explained to me: »There is a line, you are Syrian refugee and they are [nationality], so they are like a manager [...] and I am a refugee, I cannot ask for anything. So really, I'm stuck. I said, »It's enough, I cannot continue like this.««

Manon's personal insights shed light on the multifaceted quality of violence in Şanlıurfa that Syrian women deal with, both from other Syrians and from Turkish society. This violence intersects with discrimination and other difficulties stemming from a lack of education, a lack of financial means, ethnicity, and the precarious situation of being a ›guest‹ in Turkey (Baban/Ilcın/Rygiel 2016). My interlocutors spoke about domestic violence, harassment and assault as major issues, and called out the lack of support from state authorities. They also described forced, polygynous, and early marriage as very problematic, but at the same time acknowledged it as a strategy for survival. Though polygynous marriages are largely socially accepted in Şanlıurfa, often justified on cultural grounds, my interlocutors explained that Turkish women see ›the potential Syrian second wives‹ as a threat, creating another field of tension. Considering this violence, discrimination, and insecurity, one should avoid an oversimplified impression of women as passive victims without any strategies or resources.

## RESISTANCE: STRATEGIES OF WILLFUL AGENTS

»Where there is power there is resistance.« (Foucault 1978: 95)

Certainly, the omnipresent violence limits the field of possibilities (Foucault 1987) that Syrian women in Şanlıurfa can move within. However, their narratives also showed that these limitations are not deterministic, they are breached and modified through *eigensinnige* (willful) interpretations that open up possibilities to act. *Eigensinn* (willfulness) (Lüdtke 1989) describes practices with a certain dissidence: Subjects are not detached from history, structures, and the ›practiced‹ ways connected to them; however, they are able to create something new, something willful (Benz/Schwenken 2005: 374). They are active willful agents that develop strategies

in their everyday life to circumvent violence, to protect themselves from it, and to resist.

The word ›resistance‹ may call to mind highly visible actions such as demonstrations, strikes, or riots. I follow the invitation of the concept of *Alltagsgeschichte* (history of everyday life) (Lüdkte 1989) to examine everyday life for evidence of resistance. *Alltagsgeschichte* considers continuously shifting historical structures, processes, and relationships of power. I combine these concepts with Scott's (1985) idea about small moments of resistance in the practice of everyday life, which he calls the weapons of the weak, and connect these to de Certeau's (1984) thoughts about everyday practices as political resistance. Opposing Scott's characterization of everyday resistance as necessarily deliberate and his assumption of a self-determining subject, de Certeau argues that agents build upon strategies and tactics that do not necessarily seek success. Nor do they have to be the result of planning, but depend on the given situations and opportunities. Resistance by people and groups and their awareness of it varies. Some may actively seek to resist the dominant ideology, while others are content with their position in society, yet subvert it unknowingly. Resistance can thus take many different forms, including ones as subtle as contesting public transcripts (established ways of behaving and speaking) through rumor, gossip, disguises, metaphors, euphemisms, sarcasm, and humor (Scott 1985: 137).

»Every joke is a tiny revolution.« (George Orwell 1945: 484)

A fleeting grimace, the raise of an eyebrow, or the derogatory looks and sounds of my interlocutors made it, even without their verbal explanations, more than obvious that they not only do not agree with the situation as it is, but oppose it. Those very small acts, sometimes subconscious and uncontrollable, render emotions of inner resistance visible. I was not really surprised to observe these expressions of disagreement. What surprised and further impressed me was the laughter, the irony, and the jokes they made concerning the violent situation they live in. To my question during the group conversation of whether they feel like getting treated differently because they are Syrian women, Rana laughingly explained: »Of course, because Turkish men like Syrian women, that's the case.« Despite the harassment they experience daily, they make fun of and ridicule the ones who inflict violence on them. Billingsley (2013) argues »that humor is a promising method of feminist resistance, allowing women to shift oppressive scripts of discourse that discourage women from speaking to a context where women can speak on their own terms.« Even under extreme circumstances, people creatively use humor and comedy to cope and resist. Humor can provide relief, it can change the »social dynamics of the speaker, and the audience [...] which amounts to a change of context« (Weaver 2010: 31), and is a way of fighting back. Indeed, »The

›Other‹ Laughs Back« (ibid.). It may have to be hidden, only to be released under guarded circumstances, with those one can trust, but it is there. It symbolically cuts the oppressor down to size, while supporting the spirits of the oppressed, »serving as a true ›weapon of the weak‹« (T’Hart 2007: 1). Humor was and is used by oppressed peoples as one form that Hewitt (1986: 237) describes as »reverse-humor.« It picks up an attached stereotype, mocks the oppressor, and transforms racism »into a play-thing, in an attempt to acknowledge its social presence while rendering it meaningless« (ibid.). Illustrating this, when I posed a question during the group conversation about whether most of them had been accused of stealing husbands or flirting openly, the whole group laughed out loud, and one of them imitated a Turkish woman by squinting her eyes and shouting »Thiefs!« before herself bursting into fits of laughter.

## PASSING AS RESISTANCE

»Without *hijab*, they cannot figure out if you are Syrian or Turkish until you start speaking, but for us they immediately, they just recognize that girl is Syrian. [...] They just focus on the Syrian girl and try to bother her, or any other kinds of abuse that you can imagine. Even the ones that are just saying, you are Syrian ›Suri, Suri,‹ this is very awful. OK, I’m Syrian, what’s the problem? But they feel that they want to bother you, so they say that just kind of as a humiliation or something.« (Rana)

Basma tries to handle both working and studying at the local university. She had to learn Turkish well to be able to follow her classes. She found out that with her language skills and by changing her *hijab*-style, she can easily blend into Turkish society. Syrian women who wear the *hijab* do so differently than Turkish women, which makes them more easily recognizable, and thus an easier target for harassment. My interlocutors pointed out that Turkish men feel less restricted about their behavior when they realize that a woman is Syrian. Basma often had to work late, and even with Turkish women still on the street she felt not only unsafe, but targeted. Blending in gives her a sense of security and makes it possible for her to study more easily. She counters othering and harassment with a strategy of »passing,« »a performance in which one presents [one]self as what one is not, a performance commonly imagined along the axis of race, class, gender or sexuality« (Rohy 1996: 219, quoted according to Kanuha 1999: 28). Some judge this as surrender, but it helps her to reach her goal: to feel safer, continuing with education and graduating. This narrative does not fit in the general (widespread) idea of agency. But through her performance as a

Turkish woman at some points in her daily life, passing partially, she avoids the risks that come with being a Syrian refugee woman. Her friends also do not see this as surrender, but admire her for her fast language comprehension and her diligence, and they gleefully enjoy that »they [Turkish people] cannot figure out that she is Syrian.«

This strategy, its reasons, as well as its negotiation, also reminded me of Bhabha's (1994) idea about mimicry (and mockery). He describes upper-class African women who would use wigs in order not to show their curly hair. They imitated the colonizer to blend in, yet also made fun of them.

»The effect of mimicry is camouflage. [...] It is not a question of harmonizing with the background, but against a mottled background, of becoming mottled.« (Lacan 1978: 99)

Basma's way of dealing with the situation is one individual example. For all women with a *hijab*, with a changed *hijab* or without one, language can be revealing. This is why, some of my interlocutors explained, in certain situations they would avoid talking at all so not to »blow their cover.« In her study on lesbian and gay men of color, Kanuha (1999) says »the maintenance of a false performance [is] for the purpose of opposing those forces that would threaten or harm them in specific encounters,« again describing passing as a form of resistance.

## THE AMBIGUITY OF POLYGYNOUS MARRIAGE

»Strategies, subtle ›combination‹ (›action is tortuous‹), ›navigate‹ among the rules, ›play with all the possibilities offered by traditions,‹ make use of one tradition rather than another, compensate for one by means for another. Taking advantage of the flexible surface which covers up the hard core, they create their own relevance within this network.« (de Certeau 1984: 54)

Polygynous marriages<sup>2</sup> are one of the biggest problems for Syrian women in Urfa. Such weddings are socially accepted and often justified as part of the culture; however, they »are based upon imbalances concerning gender and sexuality rather than simply being a reflection of culture« (Dauvergne/Millbank 2010: 57 quoted according to Kivilcim 2016: 14). All my interlocutors opposed the practice, arguing against

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<sup>2</sup> I clearly cannot speak for all, yet an argument that denies agency within this context cannot either.

it in terms resembling Kivilcim, who says that these women get »exploited as sexual and house workers at the service of Turkey's men« (2016: 14). Kivilcim, further, uses a framework of legal violence to explain what kind of disadvantages women face, since such marriages are not legal in Turkey, and they do not obtain any rights from a religious marriage.

However, my interlocutors also acknowledged this kind of marriage as a strategy for survival. They described it as a kind of trade, because the possible husbands offer a lot of money and often will support the woman's family. Freedman (2012: 47) points out a similar ambiguity, referring to sexual »transactions« or »survival sex« being reported »as part of women's strategies for survival [in return for safe passage at the border], and thus in some ways as a reclaiming of agency and a move away from passive victimhood.« Considering the highly unequal power relations and extreme insecurity, she claims there is an absence of choice, which precludes agency. These situations are far from identical, but I would like to draw on Freedman's example to propose the use of the term »agency« in the sense of a strategy for survival. I reject a romanticized understanding of agency that assumes that an agent's actions must have a good outcome and if not, they are to be held accountable for it. Some women use those marriages to secure their own and their families' situations, but also to shield themselves against harassment from random men, who only see a woman as »off-limits« when she belongs to another man. Liha argued that many women are well aware what they are getting into. Annoyed, she explained, »If they say it's not good, they have to give other solutions! Of course, it's not good. [...] It's still better than being a single and jobless mother.« She not only points out the possibility of decision making within a field of possible action, but also calls for a change of that field itself.

I would like to suggest that we should not simplify the decision to enter a religious polygynous marriage by always labeling it »forced,« thereby leaving no room for agency or resistance. This simplification diminishes the actions that some women take to secure the welfare of their family and improve their situation. Especially here, the complexity of women's lived realities and the possible simultaneity of victimhood and agency is rendered visible. Although some women enter very consciously in a polygynous marriage to support themselves and their family or to be less targeted by other men, one should not hold them responsible for the possible negative consequences: an agent can be a victim; a victim can be an agent.

## THE EXPANSE OF RESISTANCE

»With a Turkish woman, I was sitting in a garden and she was with her husband and she came to me and she said, ›Why are you looking at my husband?‹ I said, ›No, I'm not looking at your husband, your husband is looking at me. This is very different.‹ She said, ›no, you are looking at my husband, and I saw you, why are you sitting here alone.‹ I told her that I was waiting for my friend: ›This is not your place, this is not your house, this is a local place for everyone, you cannot say that to me and I'm not looking at your husband and if you want your husband to stop looking at other women, please take care of it yourself.‹ It was very rude, I know, but she was also, she came to me, said, ›why are you sitting here?‹ like I was sitting in her house. This is not your house, this is a local place, this is a garden for everyone.« (Rana)

During all my conversations, I recognized nothing like acceptance, but outright disagreement with the current circumstances. Scott (1985) argues that oppression and resistance are in constant flux, and that by focusing on visible historic »events« like rebellions or collective action, subtle but powerful forms of »everyday resistance« are easily neglected. Rana took a stand for herself speaking up against the woman in the *çay* garden; she claimed public space and shifted the responsibility for the situation to the gazing man. Yet, what is also revealed here is the ambiguity of such resistance. By saying »take care of it yourself,« Rana not only shifted responsibility back to the staring man but also to his wife, as if she was responsible for his behavior:

»What appears to be resistance from one point of view becomes a form of co-operation from another. [...] [The oppressed] adopt the language of the oppressor and use it for their own ends, and in so doing are themselves implicated in reproducing the structures of domination.« (Howe 1998: 532)

The other women taking part in the conversation were congratulating Rana under laughter for being that bold. They were supporting each other. A couple of them during the conversation had frequently mentioned »their net.« Within this group, as is often the case for women's personal networks, similar experiences and challenges can be talked about more freely. These are even used as a source of strength. Although they were not built on purpose, those groups or networks are a form of self-organization. Such informality is not unusual, as the division of labor in both public and private realms make community networks more accessible to women. Additionally, under authoritarian conditions, »dissent is likely to take the form of small,

personalistic groups based on informal ties and loyalties« (Denouex, quoted according to Kuumba 2001: 54). For the national/racial liberation movements in the US and South Africa, informal women's self-organization played a key role (ibid.). Kaplan (1990 quoted according to Kuumba 2001: 54) calls those neglected layers of social struggle »communities of resistance.«

## **NAMING, SHAMING, DISMANTLING**

»Naming the harm gives all women the tools with which [it] can be dismantled and gives them the strength to speak out, up, loud, and in response to [it].« (Davis 1994: 223)

My interlocutors were not only aware about the violence that is happening, but they also point it out, name it, shame it, and call for change. Living in a situation in which one cannot be certain if speaking up brings improvement or worsens the situation, because of possible reprimand or worse, makes the very act of naming violence crucial. It is the first step of making it visible, stating that something we are used to, that is perceived or acted out as ›normal‹ as ›custom,‹ is in fact not. Naming violence *is* resistance.

Not everyone perceives simply naming as a form of resistance, since it can be born out of desperate situations. As Ece, the NGO officer who worked on GBV that I talked to, pointed out: »One good thing about the state of crisis seems to be that women talk more about their experiences, they don't have a lot to lose so they also can talk about those things.« Yet whatever its cause is, naming shows disagreement and can set a cornerstone for opening a discussion and change.

Different acts, like Rana standing up to the woman in the çay garden, ridiculing Turkish women that call Syrian women ›stealers,‹ or Manon quitting her jobs at the NGOs because she refused to be treated as a second-class person just because she was a refugee, are all forms of resistance against an assigned identity. These women resist »the application of representations which casts them as« (Howe 1998: 532) unaware of the violations they are affected by, as ›easy to get,‹ as potential second wives, (men) stealers, or second-class persons. Other times, they may refuse to work with an NGO due to the NGOs' perpetuation of power imbalances, as Manon did, or on account of the generally patriarchal assumptions often at the basis of humanitarian aid.

»But the point is that we are not looking for providing jobs at home for females. We are aiming, or as much as we can, to create a safe environment or safe jobs outside of our houses. It's not possible to stay at home all the time if you are not safe.« (Tara)

Explicitly, they criticize the NGOs' approach to distributing sewing machines to enable women to work at home, since it is often an unsafe environment, either because of dangerous housing conditions or the risk of domestic violence. They oppose the still widespread assumption that women are generally safe in the private sphere, and claim a place in public for women.

## CONCLUSION

In this article, I shed light on the ambiguity and violence that characterize Syrian women's life in Şanlıurfa and the strategies of resistance they develop. The narratives of my interlocutors rendered visible two categories often understood as strictly opposed to each other, that of victimhood and vulnerability, and that of agency and resistance, are in fact interconnected and can trigger each other. I oppose a »perpetual retelling of uncontextualized stories of victimhood and necessity of saviour« (Miller 2004:31) because it in fact reproduces violence by propagating the narrative of refugee women's homogenous passive victimhood. However, we must speak about such experiences of violence, to contextualize it, and to call out the structures that not only enable but even foster violence in different forms. It is important to me to talk about the acts of resistance of my interlocutors and other Syrian women in Şanlıurfa. Scott argues that »everyday forms of resistance make no headlines« (1985: 8), which we should take as an imperative to acknowledge them. Being put in a position of high vulnerability, Syrian women in Şanlıurfa create space for awareness and recognition of injustice. As willful agents, they act in resistance despite their limited field of possibilities. Strategies of resistance, in contrast to strategies of resilience, do not have to prove effective (Butler et al. 2016: 6). They can reproduce the very power imbalances that oppress the agent herself, and they can even worsen the situation. In many cases, to resist means to expose oneself to the possibility of more violence. This is the case when speaking up against violence to those who are inflicting it, or when wearing the Syrian-style *hijab* in the male-dominated public sphere. Of course, I was impressed by how my interlocutors and other Syrian women in Şanlıurfa cope, manage their lives, and find strategies to resist. But none of this can substitute for governments and organizations defending human rights. The vacuousness of the idea of a savior from above is manifest in this connivance. Manon, Rana, Basma, Liha, Tara, my interlocutors, are aware of this, they name the violence it acquiesces, and above all, they resist. As a feminist and anti-racist activist and researcher, I call out others to name this violence, to demand change and to act in solidarity.



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## Escaping Exclusion

### Confused Moralities and Syrian Unaccompanied Minors' Search for Freedom in Turkey

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EDA ELIF TIBET

**Abstract:** With the start of the negotiation processes of the EU-Turkey deal in November 2015, the first batch of Syrian unaccompanied minors, residing in a child and youth support center in Istanbul under state care protection, were transferred to a refugee camp by the (Turkish) Ministry of Family and Social Policies as part of preventive measures taken to secure the European borders. After having to spend a few weeks in the refugee camp, some of the minors chose to escape from state protection, in which they would have otherwise been locked up until the age of 18. By accompanying the minors during the events taking place throughout the ethnography, I explore the diversity of state rationalities, tensions, and contradictions existing between conceptions of rights and duties. I argue that this ambiguous moral configuration within various state agents leads to greater confusions (Fassin 2015), and leaves an open space for minors' agencies to emerge as a response, particularly at times of sudden structural changes. The state's shifting treatment towards the Syrian minors and their overall relationship, will be observed from a perspective of what I will call ›confused moralities‹ practiced by the state — the police, social workers, gatekeepers, and teachers. Through youth participatory action research, I explore how seeking freedom has been exercised (Laidlaw 2002) by these minors in terms of their agency, in the context of escaping from exclusion (from becoming child soldiers, from imprisonment in Syria, and from detention in the refugee camp in Turkey) and in reclaiming their inclusion back into the institutions of state care through schooling.

**Keywords:** Syrian unaccompanied minors, refugee adolescents, moralities, freedom, agency, photography elicitation, participatory youth action research

Mazen had a mischievous smile on his face as he looked at the camera with great curiosity and enthusiasm. His hair kept falling on his forehead, blocking his vision. In order to see clearly, he had to lift his head up all the time. Realizing Mazen's funny situation, Yaman comes and drags him by his shoulder. They start a quarrel that makes everyone around them laugh. Their quarrel was about who would be the

first one to use the camera.<sup>1</sup> Both Mazen and Yaman were from Aleppo, and 15 years old at the time that we first met in October 2015 at the yard of ÇOGEM,<sup>2</sup> (*Refakatsiz Mülteci Çocuklar için Çocuk ve Gençlik Destek Merkezi*), the child and youth support center for unaccompanied minor asylum seekers in Istanbul. Then Mazen left us to play soccer with the Afghan minors who were getting ready for their tournament in the front yard of the youth center. Ali made a photograph of the moment; he captured Mazen entering through a hole in the playground fence.

A week later (November 2015), when I met Ali, the Somali minor (17), to talk about the photographs they took, he tells me in awe that Mazen, Samer, and Aimar were taken by the police and social workers in a minivan to a refugee camp in Adana. Ali recalled that moment: »Sister, they cried so much, all of us here were extremely moved by their departure.« Minors were transferred to the Adana Sarıçam temporary accommodation center (refugee camp) assigned by the Ministry of Family and Social Policies (MoFSP) and as part of the new policy.<sup>3</sup> I asked Ali what he thought of the photograph, and he told me his interpretation:

»I just saw him making the move; he wanted to play soccer with the others, so I took a few pictures without really thinking too much about it. But later on, when I came to think about it, it reminded me of someone who had to cross many borders and fences. In this case, a boy who had

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1 | This paper is part of an ongoing PhD dissertation, a joint collaboration between the University of Bern's Social Anthropology department and PH Bern. Our research project is called: »Transnational Biographies of Education: Young Unaccompanied Asylum Seekers and their Navigation through Shifting Social Realities in Switzerland and Turkey« and is funded by the Swiss National Science Foundation. It is coordinated and supervised by: Prof. Dr. Sabine Strasser & Prof. Dr. Kathrin Oester. As part of the research's main methods of conducting participatory radio shows and photography elicitation, in our first outing, four minors were handed cameras. Two Somalis, a Congolese, and a Syrian took the lead photographing the neighborhood.

2 | There are six unaccompanied minor asylum seeker centers called as ÇOGEM (Children and Youth Support Centre) run by the Family and Social Policy Ministry in Turkey for the age groups between 14 and 18. Van, Konya, Niğde, Yozgat and Istanbul ÇOGEMs are for males and Bahçelievler ÇOGEM in Istanbul is for females.

3 | The Directorate General for Migration Management (DGMM) has requested that the MoFSP issue Directive 2015/20 No: 152065 and issue orders to refer the Syrian unaccompanied minors to Adana Sarıçam Temporary Accommodation Center (Refugee camp), which has been administered by AFAD, the Disaster and Emergency Management Presidency in Turkey. Both are responsible for the registration of Syrian minors.

to go through all of that and escape from everything in order to live like a normal child. It is sad but true; this is how life has been for us. This is the photograph of a boy who has to cross the fence in order to play.«

This moment, seen as escaping by Ali, would actually become true once and again in the lives of Mazen and the Syrian minors as they escaped from their war-torn country and later on from the refugee camp in Turkey. Their crossing repeatedly manifests itself in different spatial and temporal grounds upon their arrival to Turkey, and beyond their stay, as the minors continuously have to escape detention and police interrogations. By following the lives of the Syrian unaccompanied minors throughout the year, and being inspired by Ali's photograph on »crossing the fence in order to play,« in this paper, I will explore the act of »escaping« from various life-threatening conditions, moments, and situations that prevent minors from participating in daily life, and that deny them the rights to access education and other social services as well as, lastly, childhood in general. I discuss 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.

Following Arendt's view on the intimate links between freedom and power (1972), I link freedom, agency, and the moralities of state agents. Building upon recent anthropological debates on morality (Zigon 2007) and ethics (Laidlaw 2002), I look at how state agents try to act morally and become ethical subjects (Fassin 2013: 249). Without having to approach the state agents as rational or strategic actors driven by power and interest, I join Fassin as he states, »the boundaries between the moral, the ethical and the political are empirically more confused than what one usually believes« (Fassin 2013: 249), since they all remain in between treating, receiving, and profiling the minors as children, refugees, guests, Syrians, the innocent, criminals, weekend fighters, terrorists, fugitives, and in local terms as *mazlum* (oppressed, downtrodden). However, in this paper, I will show how such categorizations result in minors escaping from these invented figures.

Throughout the paper, I explore how — prior to the EU-Turkey deal — the state care facility agreed to provide access to education and social services to minors in Istanbul, and how later on — after the deal — the facility denied them access by keeping minors outside the sphere of social interaction by transferring them into an enclosed refugee camp in Adana. From there, most of them escaped as a way to resist exclusion, marginalization, and further criminalization. It is therefore particularly important to highlight that the processes of the EU-Turkey deal stand as a life-changing event, as minors were forced to reject state care protection and follow different pathways in life at the age of 15.



*Crossing the fence in order to play*, made by Ali (Somalia, 17) on 27<sup>th</sup> of October 2015, Istanbul.

## YOUTH PARTICIPATORY ACTION RESEARCH

The access<sup>4</sup> provided (October 2015 to March 2016) to the field site included the making of a radio show program<sup>5</sup> and photography elicitations<sup>6</sup> within the state care

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**4 |** The radio project and the proposed research on navigating educational pathways of unaccompanied minor asylum seekers in Turkey were received as an original proposal by the unaccompanied minor asylum seekers' shelter, and were granted official permission by the governor on the state level for the time period between October 2015 and March 2016.

**5 |** Conducting a radio show enabled young refugees to narrate their own stories through participating in various roles as researchers, ethnographers, presenters, scriptwriters, performers, artists, interviewers, producers, sound engineers, and content makers; this all depended on their own choices and at spaces including outside the radio booth (Tibet 2018). The content of the radio show in which the Syrian minors' took place became mostly about their experiences of escape — from becoming child soldiers, being imprisoned in Syria or their escape from the refugee camp in Turkey. They have also shared their anxiety and frustrations for having to live far away from their homes and not knowing where their families are (whether they were alive or dead, they did not know at the time).

**6 |** Photography elicitation is based on making photographs and then inserting them into research interviews and settings. The method evokes information, feelings, and memories due to

facility and outside in the neighboring areas. In the beginning, the research was conducted in a structured yet informal manner. The radio program participants provided me with most of the relevant themes, as they were continually and actively involved. My major task then became to ensure that there was enough free space for the multiple voices to emerge within the radio sessions. As such, the radio program facilitated the collection of past and recent memories on stories about escaping from exclusion. However, after their detention at the refugee camp with the introduction of the EU-Turkey deal in early November 2015, there was a methodological shift in our approach, as all of us were expelled from the state care institution. I found myself moving towards what is widely known as youth participatory action research<sup>7</sup>, as I accompanied the minors over the course of these actual life-changing events. The involvement of the youth in participatory action research emerged out of the necessity to address the stress, constraints, and exclusion they were facing on a daily basis. Especially through the photography elicitation minors were able to interpret and communicate personal stressors that provoked critical thinking and further enabled problem solving. The ethnography therefore showcases minors' own photographic self-representations in spaces of their own making, not in structured settings but in spontaneous moments during our interactions and time together during the events taking place (police interrogations, transfers to the refugee camp, searching for education). In collaboration with the refugee youth and with fine-grained attention to the in-the-moment cultural productions and learning within those spaces (Wissman et al. 2015: 187), life events and stories will be presented over a time period that involves the processes of the EU-Turkey deal — starting from early October 2015 to November 2015, when the deal was formally acknowledged, and in March 2016, when the deal began to be implemented.

## ÇOGEM

Before the introduction of the new directive (Yönerge) by the Directorate General of Migration Management, Syrian unaccompanied minors were referred to the *Children and Youth Center Directorate* (ÇOGEM) alongside Afghans, Somalis, Iranians,

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the photograph's particular form of representation (Harper 2002:13) or reflection on a moment that is currently lived.

7 | Youth-PAR was developed by the Institute for Community Research, an independent research organization, to work with urban youth in non-school settings to address in particular social problems and improve social competencies (Schensul et al. 2004:5).



Iraqis, Palestinians, Congolese, and many other nationalities. The center, which is under the management of *Istanbul Social Services*, has been functioning since 1998, and has been mainly for male children living on the streets. In 2008, with the increase in the numbers of unaccompanied asylum seekers coming to Istanbul, the center's function was changed to supporting unaccompanied minor asylum seekers and its capacity increased from 40 to 60 locations, administered by the Family and Social Policies Ministry, and is for 7-year-old to 18-year-old male children. The center is described as particularly being for those who have been neglected and exploited by their parents and who remain unprotected in the face of dangers: children who live on the streets and unaccompanied refugee children who have left their countries.

ÇOGEM was first introduced to Syrians between 2011 and 2012, as the war escalated. During those times, Turkey had maintained an open door policy, and, although Syrians became the newest group within the facility, they also became the least wanted, as it was feared that they would come in great numbers. Children's migration policy regarding Syrians »follow[ed] the general temporary protection framework under Article 91 that separated Syrians from other international protection applicants, refugees, conditional refugees, and subsidiary protection holders« (Soykan 2017: 55). Save the Children experts in Hatay claimed that protection for Syrian minors must be ensured by Turkey's Child Protection Law No. 5395, regardless of their nationality; Turkey is obliged to provide primary education, including language training, and medical care, however »the implementation of these legal requirements remains haphazard, and there is a great need for monitoring and follow-up.«<sup>8</sup>

## **THE EU-TURKEY DEAL AND THE CONFUSED MORALITIES OF THE STATE**

On March 18, 2016, Turkey agreed to accept receiving migrants deported from the Greek Islands due to the EU-Turkey deal (European Commission 2016). And on March 20, the management of ÇOGEM told me that things were out of control and that they no longer had a hold of what the volunteers were doing, that they were not

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<sup>8</sup> | The quote is from an expert interview I made with Save The Children experts in Hatay in June 2016 in Turkey. As of the current political climax, we agreed to keep the names undisclosed.

ready to receive so many returnees from Europe,<sup>9</sup> and that they were under extreme stress. Their concern also had to do with their lack of capacity; they did not have enough beds and space for the possible newcomers. Syrian minors were temporarily being held in ÇOGEM, but in the eyes of the law they were not officially perceived as refugees (as they were still described as ›guests‹). And indeed, once again they were removed to the refugee camp and were replaced with the incoming Afghans and other nationalities.

Exclusion is a process that needs to be stressed, since it covers the workings of social mechanisms and the recognition of situations created earlier for which no solution has been found, resulting in what Jarrett Zigon calls »moral breakdown« (2007). According to Zigon, moral breakdown is a moment of problematization<sup>10</sup> and is an ethical moment (ibid.: 138). He makes a distinction between »morality as the unreflective mode of being-in-the-world<sup>11</sup> and ethics as a tactic performed in the moment of the breakdown of the ethical dilemma« (ibid.). Here, the ultimate moral breakdown would be the EU-Turkey deal, which fostered minors' transfers to the refugee camp as a process that started in October 2015. The deal was the culmination of events that took place in the summer of 2015, when Aylan Kurdi's image went viral, resulting in emotional explosions around Europe and the Western world, and that led to German Chancellor Angela Merkel's announcement that she would open Germany's borders (Fernando/Giordano 2016). Thereafter, the announcement of a temporary welcoming policy prompted one of the biggest marches of migration from Turkey and Greece towards Europe. Months later, the German state's performed tactic, resulting out of an ethical dilemma concerning an appropriate reaction towards the incoming migration movements, manifested itself in the closure of its borders — a process that also resulted in the end of Turkey's open border policy towards Syria. The EU-Turkey deal forced Turkey to take restrictive measures to have control over its own borders. No

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**9 |** According to the EU-Turkey Readmission Agreement, »All new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey.« (European Commission 2016).

**10 |** According to Zigon, the breakdown is very similar to what Foucault called problematization, as the notion describes »a reflective state in which an everyday, unreflected state, such as behavior, is presented to oneself as an object of thought as a particular moment of freedom and (one is able) to question it as to its meaning, its conditions, and its goals« (Foucault 2000: 117; see Zigon 2007: 137).

**11 |** Zigon borrows Heidegger's concept of being-in-the-world (to be at home in our familiar world), being-with, and breakdown as the conditions for an anthropological distinction between morality and ethics (Heidegger 1953: 51; see Zigon 2007: 134).

longer could Syrians from Turkey leave for Europe and Syrians in Europe came back to Turkey. As such, migrants continued to contest the ambiguities and contradictions in the political-legal spaces (Santer/Wriedt 2017: 149).

In this ethnography, the state includes different actors: staff members of the social policy ministry, social workers, teachers and gatekeepers (*bekçi*) of the Children and Youth Center Directorate (ÇOGEM), and the children's police. Each of the agents has different motivations for exercising power; in integrating or excluding people, they do not act as a unified entity. Being composed of different people, the state is the product and the determiner of both policies and practices, and hence looking at the values that are embodied by it denotes how it behaves like a moral agent (Fassin/Kobelsky 2012: 448). I would initially argue that it acts as a confused moral agent, since each actor does not decide similarly according to their moral obligations, duties, desires, drives, and inclinations. A reverse shift in policies often leads to contradictory responses, which state rhetoric must respond to; personal values, compassion, and conscience clashes with the expectations and interests of shifting transnational rationales — the political, legal, and managerial dynamics of structures and the terms of their relationships. The constant swing from humanitarianism to security and vice versa leads to an increasing confusion between the two (Fassin 2005: 362). Therefore, in order to better explain the contradictory and confusing scheme of how each state agent plays a different role and makes different ethical choices, I would coin this pluralism and its paradoxical nature as ›confused moralities‹ produced by various state agents. Confusion will be exemplified and defined in relation to 1) how the multiplicity of state agents creates multiple moralities that result in a variety of misinformed and confusing practices, and to 2) how an agent's morality becomes confused as a result of the sudden changing context caused by the policy shifts. The former is more about the multiplicity of state agents' practices and the latter is more focused on individual responses (meaning, it is not to be defined as entirely self-conscious or autonomous).

In the case of Syrian minors, their reallocation to the refugee camp marked how security became prioritized over children rights. Minors' rights were overshadowed by the new shift in policies, which often functioned in arbitrary ways and resulted in the violations of their rights. Such process of confusion leaves an open space for the ›agentive counter-arguers,‹ as I will additionally call them — the Syrian minors and me as the researcher, who positions herself beside the minors. Hence when objected to forced resettlement to the refugee camp, the agentive counter-arguers found ways of contesting the ambiguous moral configurations of the state and produced counter-solutions by arguing with the state agents and taking action to search for opportunities to exercise freedom. Moreover, I showcase how truly excluded the Syrian minors felt

from the categories of ›civilized and moral beings‹ throughout their struggle, and how they looked for ways for being reincluded into the state care facility.



*Muhafaza odası* at the children's police center, about 5 m<sup>2</sup>, with a ceiling painted like a sky with clouds. Photographs by Eda Elif Tibet.

## MINORS' AGENCY AND THEIR SEARCH FOR FREEDOM

Since understanding agency in terms of moralities is essential, understanding the possibilities of human freedom in relation to the anthropology of ethics is just as important. James Laidlaw argues that it thus requires further ethnographic description (2002: 315). In an attempt to address the lack of theoretical reflection on the nature of ethics in anthropology, throughout this paper I describe various ways the search for freedom has been exercised by these minors in the context of escaping from exclusion and reclaiming their inclusion back to ÇOGEM by: 1) escaping from the refugee camp in Turkey, 2) escaping from becoming a child soldier in Syria, 3) escaping from imprisonment within Syria, and 4) Claiming education.

## Escaping from the Refugee Camp

During the crafting of the EU-Turkey deal in November 2015, unaccompanied Syrian minors were transferred to a space of their own in the form of a single big tent within the camp that would accommodate up to fifteen of them, both males and females. Spending two to three weeks in the refugee camp, Mazen, disliking his new living environment, escaped from the camp and brought a new friend (Burhan) along with him back to ÇOGEM. Escaping the refugee camp could be seen as an attempt to contest the migrant children regime that has been established without the minors' consent or participation in the decision-making. According to the minors, remaining in the refugee camp was no different than being imprisoned. Mazen then came up with many questions: »What have I done to be sent there? What did we do wrong? Why did they punish us? Why don't they like us, why?«. According to him, imprisonment had something to do with punishment; however, it was not about an offense or crime he had committed, it was for a crime that he might commit in the near future. In my own assumption, their transfer to the refugee camp was not for punishment, rather for prevention. After all, the EU-Turkey deal was mostly about preventing refugees from crossing the seas into Greece and making it to European territory (JRS Europe 2016). With the introduction of the EU-Turkey deal, the unaccompanied Syrian minors suddenly became the undesirables and were to be kept in a small territory of exception — the camp (Fassin 2005: 379), as a practical solution to maintain the integrity of the European borders.

## Escaping from Becoming a Child Soldier

»They have long shirts, black shirts, black flags, black ribbons, black masks, black pistols. They are covered all in black. But I don't want to be black; I like to wear my red pants. And it hurts, I have too much pain, can you give me medicine? So *Şeytan* (Satan) can't enter my mind again.« Burhan (15, Mimbic)

This is what Burhan told me a few weeks after we started doing the radio shows and photography workshops together. He told me how confused his mind is, and in many instances he was not able to control his temper. In one of our radio sessions, while we were waiting for Ali to arrive (our program presenter and translator, Somalia, 17), I was with Burhan and Yaman (Aleppo, 15) in the radio. Burhan's Turkish was still very basic; he tried telling us how he managed to escape, together with Mazen, from the refugee camp where he stayed for two and a half months. He tells us how he was kidnapped by ISIS from his home one day and taken into Iraq, close to a border town with Syria, where he got his first training, but that he had found a way

to escape as he did not like the treatment. Although Burhan still seemed to follow a moral code imposed by a fanatic religious group (ISIS), he demonstrated being a free ethical being (Foucault 1977; Williams 1972): he chose to escape. He wanted to have the freedom to make choices in regard to his appearance and thoughts, and, more importantly, he wanted to be accepted into his new host society. After hearing Burhan's story, we later on gave the microphone and the headphones to Yaman, who also told us his own story of escape.

### **Escaping from Imprisonment in Syria**

Yaman was only eleven when he was jailed in a prison in Aleppo for chanting songs of liberation and freedom as part of the ongoing protests led by children. He was captured by the Assad forces and detained for nearly fourteen days until a barrel bomb hit a building nearby in the neighborhood. Officials, having to evacuate the place and the prison, let Yaman go. He recalled that day and told us during the radio show:

»I shook with the explosion. I was shocked. I started shouting: ›Help, help.‹ There were five more boys in the cell. They screamed too. A man came and opened the gate. We ran to the exit. There was smoke all around the place. I went out and saw that the building around the corner was destroyed. There was nothing left. People started running, shouting Allahuekber (Allah is one). I saw a man sitting and crying: ›My son, my son.‹ I could not take it anymore. I left. I ran in the other direction. I wanted to go to my house to my mother. But a van stopped right in front of me, the man said: ›More bombs are on the way, come with us, we can take you to the border.‹ I refused, I told them that I needed to see my mother. They left. The man shouted: ›Go to Turkey! Go to Turkey!‹ Then another bomb. I panicked and I cried. People were walking, so many people. I followed them. We walked for hours. We arrived at the border. We queued. When it was my turn, the gendarme looked at me and touched me everywhere. I got angry and told him to stop. He slapped me. He told me to leave my phone. I said I couldn't. He swung, a big hit to my hand, and I dropped the phone. My mother's number, her number was in the phone, and I lost her just like that.‹ Yaman (Aleppo, 15)

Yaman then sang a song for his mother<sup>12</sup> on the radio asking: »What is this war for my dear mother, isn't it a big sin (*günah*), isn't it enough, when will this end?«. For Yaman, freedom was about disobeying structures of control and this disobedience happened to become a revolutionary act. Yaman always demanded to be his own self, but how much of the revolution he took part in back in Syria was of his own choice, is questionable. Although agency raises the question of whether people's choices are genuinely their own choices (Laidlaw 2002: 315) — even if not their own choice, it should be considered as a step towards choice making; and this not necessarily on an individual level but also within a collective effort. »Freedom is a function of how much a person is left with, by his overall context, human and natural« (Carter 1999), as it is a choice if someone is left with by other individuals (Berlin 1969). So, also minors revolted against ÇOGEM, as the new policy restricted their access to adequate social services and to education.

### **Claiming Education**

The minors requested that they get enrolled into formal schooling so that they would not be sent back to Adana. Social services agreed to their request, as they seemed positive about giving them a second chance. The social services within the facility also accepted my support and assistance in finding them a good fit. However, the order to have them sent to Adana was from the ministry, and they were not sure how long they could prolong the minors' stay in Istanbul. The social services staff thought that the educational and social services would be much better in the camp. However, due to a few unfortunate events and a misunderstanding between the school principal and the minors, no formal schooling ever took place.

## **THE POLICEMAN, THE GATEKEEPER, AND THE TEACHER**

After his two nights on the streets in solidarity with Mazen, I managed to convince Yaman to go back to ÇOGEM. Yaman's documents had not yet been transferred to Adana and he could still stay in Istanbul. Following procedure, we had to go to the children's police to get Yaman readmitted. Mazen ran away as he feared that he

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**12** | Later in the following months, Yaman got the horrifying news that his mother had been killed during an air strike; she was left under the rubble of her house. Yaman left ÇOGEM and stayed out on the streets for some time until he found a job in a factory in another city. Yaman has been devastated ever since and is still in grief.



*Muhafaza odası* at the children's police center, about 5 m<sup>2</sup>, with a ceiling painted like a sky with clouds. Photographs by Eda Elif Tibet.

would be treated badly by the police, recalling his previous unfortunate experiences. This whole situation had deep psychological effects on Mazen, and he started cutting himself all around his arms and legs; Yaman started doing the same. Although being quite scared too, Yaman came with me. There were two children's police centers (*çocuk polisi*)<sup>13</sup> that I could take him to, but Yaman did not want to go to one of them as he feared bad treatment. He said that the police had kicked him there before. The police looked at Yaman and said: »You are not a criminal, you did not commit a crime, no one can kick you, don't be afraid.« However, according to the social

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**13** | The Children's Police (Çocuk Polisi, Çocuk Emniyet Şube Müdürlüğü) is a specialized police institution under the Turkish Interior Ministry's Directorate General of Security. The Children's Directorate General of Security is responsible for assisting missing or runaway children, children as forced laborers, begging children, street children, sexually abused and neglected children, children who have suffered from violence, and children who are pulled into crime and involved in: burglary, murder, drug abuse, sexual assault, violence, and traffic crimes. [ankara.pol.tr](http://ankara.pol.tr) [15.06.2017].



services in ÇOGEM, Yaman could be a criminal, as the staff member says: »This center is a place where the innocent and the criminals live together.« Yaman was then placed in a small room called *muhafaza odası*<sup>14</sup> where he was asked to wait for his readmission to the facility. I sat next to him in the room. At some point, we looked at the ceiling above us and noticed that it is painted like a sky with clouds. Perhaps this was done in an attempt to make it look like a child-friendly space or to make such a claustrophobic space seem more spacious.

Yaman looked at his small red suitcase and took out some of the photographs we took during our time together. He looked at the photograph of a seagull made by his friend Burhan and said,

»If I become a policeman one day, I will never hurt or kick children. I will let them play and roam around freely. It is because humans stop each other from being free, they always tell you not to do this or that, I don't understand their problem, I always have to tell them to leave me alone and to not boss me, I never listen to them never, I only listen to me, because I am me.«

Hence, as part of his duties, being the children's police, being obliged to protect the rights of the minors, the policeman was aware of the obligation of having to take back the minors into the facility. This was not the case with the social worker during the night shift in ÇOGEM who stayed uncooperative. Only the gatekeeper guarding the facility at the entrance helped us to re-enter. Also, previously he had showed us the way and suggested that we use the police force for getting the minors readmitted. He did not like that the minors had to sleep outside, as he said about Yaman once: »This one has the heart of gold, a very genuine and nice child he is, but just because of his temper he keeps losing. He better learn how to behave, otherwise he is doomed to live a hard life.« While the social worker refused to take back the minor, the gatekeeper did, as he pitied the youth, creating a situation that oscillated between both sentiments of sympathy and a concern for order — minors were caught between a politics of pity and policies of control (Fassin 2005: 366).

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**14** | *Muhafaza* in Turkish could mean any of these: Protection, guarding, preserving, holding, keeping, safekeeping, entailing, shielding, arrest, screen, disposal, care take, custodial, unthreatening, retention, shelter, housing, and asylum.



*A seagull flying over the sea. Photograph taken by Burhan (Mimbic, 15) at Kadıköy, Istanbul 2016.*

## THE BREAKDOWN OF RELATIONSHIPS

The next day, I received a call from the social services and they told me that they did not want this to be a judicial case. The social worker told me:

»They need to learn how to survive on their own. If we stand strong, the kid will give up on the third day and will disappear. Of course we wouldn't want them to disappear, but I mean they will eventually leave. You have built a relationship with them; that is why you are getting hurt. But you need to understand: their whole clan is being hurt right now, and there is no solution. We are stuck here. Let them go.«

Similar to the night shift teacher, the social worker was also demonstrating a moral manifestation inclined towards the institutional interests with which the idea of ›not building a relationship‹ came into the scene. According to the staff member, building relationships is problematic as the minor refugees there cannot be seen as individuals, but rather should be seen as a clan; as a whole. His views are a reflection of the general refugee policy in Turkey, which does not accept Syrians as individuals but sees them as a ›mass influx.‹ This is reminiscent of how Zigon relates ›moral breakdown‹

to the importance of relationships (2007). Zigon further claims, »when something breaks down, it becomes disconnected from its usual relations in the world« (ibid.: 138), and »the ethical subject no longer dwells in the comfort of the familiar, but rather stands uncomfortably and uncannily in the situation-at-hand« (ibid.). Following Zigon's suggestion to limit the study on moralities to what he calls the moral breakdowns, I observed how each state actor stepped away (or did not) »from the unreflective every day and think through, figure out, work on their selves and respond to certain ethical dilemma, trouble and problems« (ibid.: 140). This ethnography is therefore also an example of how everyday life in the facility has been disturbed and denied for a certain group of people — for Syrians.

## CONCLUSIONS

Minors' agency is not only effective in reproducing or in changing the structures within which they act but also serves as a tool to achieve freedom of choice regarding their lives. Escaping from war and the refugee camp, looking for a school, are not only structurally or transformatively important and powerful, but are also expressions and manifestations of the search for freedom, and, most importantly, they are ways to obtain self-reliance and independence. Unlike Laidlaw, who separates agency and freedom, in the Syrian minors' case, agency is inseparable from the way to freedom. Freedom does not necessarily offer criteria for its full realization, but, by acting on the grounds of free will, minors did achieve an exercise of it (Laidlaw 2002: 323).

The state itself has shifted from humanitarian aspects towards a more controlling and authoritarian stance, as the new policy denied minors' rights for the sake of protecting European borders. Prior to the deal, Syrian minors were received by state care institutions, just like the other nationals. However, after the deal, compassion and caregiving left its place to suspicion concerning the minors' legitimacy for becoming unaccompanied minors who should be given equal rights to education and access to social services. Demonstrating the emerging suspicion, a social worker at the camp stated, »Mostly the child lies about his family background and lies about their whereabouts.« Previously, in a similar conversation with the administration back in ÇOGEM in Istanbul, they also mentioned how families actually send away their children to state care facilities on purpose so that the state takes care of their education and needs. »Most of them, they use us and take advantage of us,« said the social worker at ÇOGEM, right after asking me for my opinion on the following question: »Aren't we too normal anyway?«. Extremely surprised and not knowing how to react, I asked: »In what sense?«. The social worker repeated the question, »Aren't we

too normal for a place like this?». Here, in such a place, where the state of exception becomes the rule (Fassin 2005: 377), the abnormal has been normalized as the everyday of the institution is kept going, even at times of moral breakdown (Zigon 2007). Moreover, the whole relationship and interactions with the minors have all been exercised under great confusion. This is the main reason why I defined the moralities of the state ›confused moralities‹ at the beginning of the article. These ›confused moralities,‹ among other, resulted in the exclusion of minors. Hence, as a way out, minors respond to exclusion and try to escape from it in their search for freedom.

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# The EU-Turkey Deal and the Safe Third Country Concept before the Greek Asylum Appeals Committees

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MARIANA GKLIATI

**Abstract:** This article discusses the first case law issued on the EU-Turkey deal from April to June 2016, which authoritatively answers the question whether Turkey constitutes a safe third country for refugees. In 390 out of 393 decisions, the Greek Asylum Appeals Committees ruled that Safe Third Country (STC) requirements were not fulfilled with respect to Turkey, essentially impeding the application of the EU-Turkey deal. Through empirical research, this article sheds light on the reasoning of the decisions of the Appeals Committees and investigates the impact of the EU-Turkey deal on them. This analysis is highly relevant to society today as it aspires to inform further law, policy, and jurisprudence in the field, especially since it provides access to sources that, due to language and other practical barriers, would remain far from the reach of legal and policy experts.

**Keywords:** EU asylum law, EU migration law, EU-Turkey deal, Greece, safe third country

For more than a year since its adoption, the EU-Turkey deal has been at the center of significant political (Nielsen 2016) and legal turmoil. The deal has been widely criticized by migration experts and NGOs regarding the presumption that Turkey is a safe third country (henceforth STC) for refugees (Peers/Roman 2016; AI 2017; Roman/Baird/Radcliffe 2016; Ulusoy 2016). The latest upheaval was caused by a ruling by the Court of Justice of the European Union (CJEU) stating that the EU-Turkey deal was not in fact an EU act, and therefore the court would have no jurisdiction to rule on the lawfulness of the deal on the basis of an action for annulment brought by three asylum seekers that were affected by the deal (CJEU 2017).

The Greek Asylum Service, the first instance authority responsible, has been implementing the deal, determining that the return of failed asylum seekers to Turkey is not objectionable as Turkey can offer adequate protection to refugees. However, the Committees have overturned these rulings in 390 out of 393 decisions, impeding the application of the EU-Turkey deal on the ground.

In this article, I present a summary of a longer paper (Gkliati 2017) that aims to shed light on the reasoning of the decisions of the Appeal Committees. In particular, the paper investigates the reasoning of these decisions with regards to the issue of Turkey as a safe third country and the influence of the EU-Turkey deal on the Committees. The article deals with the first judgements issued on the EU-Turkey deal since its entry into force in April 2016 until the reorganization of the Committees in June 2016, which authoritatively answers the question whether Turkey constitutes an STC. Such an analysis is highly relevant for society at this time, as it aspires to inform further law, policy, and jurisprudence, especially since it provides access to sources that, due to practical barriers, would remain far from the reach of legal and policy experts.

## **THE EU-TURKEY DEAL AND THE ›SAFE THIRD COUNTRY‹ CONCEPT**

The EU-Turkey deal aims to curb irregular border crossings via one of the basic sea routes into the EU — that between Turkey and Greece. Central to the deal is the readmission agreement, according to which all third-country nationals crossing irregularly from Turkey to the Greek islands after March 2016 that are not in need of international protection would be returned to Turkey on the premise that Turkey is safe for them.

Given that most of the people arriving through that route come from Syria and other refugee-producing countries, the EU-Turkey deal would not be able to significantly reduce arrivals. However, a blanket application of the STC principle runs the risk of extending the rule to any third country national arriving from Turkey (Peers/Roman 2016).

The STC concept expresses the principle that refugees should seek asylum in the first safe country they are able to reach. It is based on a strict and heavily criticized interpretation of Art. 31(1) of the Refugee Convention, which excludes asylum seekers from penalization for entering the territory of a state unlawfully when coming ›directly‹ from a territory where they face persecution (Roman/Baird/Radcliffe 2016). The safety of the country to which a refugee is returned is necessary if it is to fulfill the protection standards of the Refugee Convention and the European Convention on Human Rights (ECHR). This principle has been transposed into EU law in the EU Asylum Procedures Directive, which puts common procedures for EU Member States in place for granting and withdrawing international protection. Art. 33(2)(c) stipulates that a claim for international protection does not need to be considered on

its merits and may be considered inadmissible if a country that is not a Member State (third country) is considered to be an STC.

The requirements for considering a third country ›safe‹ have been laid down in national law (PD 113/2013), which incorporates the text of Art. 38 of the Procedures Directive. According to Art. 20(1) of the PD 113/2013, a country is considered a ›safe third country‹ when a person seeking international protection would be treated there in accordance with the following principles: (a) The applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; (b) the country respects the principle of *non-refoulement* in accordance with the 1951 Refugee Convention; (c) the applicant is not at risk of suffering serious harm as described in the Qualification Directive; (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected by this country; (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention; (f) the applicant has a link with the third country concerned, which would reasonably allow him or her to move to that country.

In Greece, asylum and subsidiary protection requests are first examined by the Asylum Service and, on appeal, by the Committees. Only after a claim has passed the admissibility stage can it be considered on its merits, where its substance is evaluated. The EU-Turkey deal operates under the presumption that Turkey constitutes an STC, and thus all asylum applications submitted in Greece should be considered inadmissible, and all applicants should be returned to Turkey to claim protection there.

Since its entry into force, the Greek Asylum Service has been implementing the deal, rejecting all asylum applications without examination of the merit on the grounds of Turkey being an STC. However, this presumption has been rejected by the Committees in 390 out of 393 decisions (AI 2017: 14), blocking the application of the EU-Turkey deal in practice.

These decisions have been hailed by several human rights organizations (e.g. AI 2016), while the European Commission has officially recognized them as proof that there are no blanket or automatic returns to Turkey following the deal, arguing that the ›safeguards provided by the Procedures Directive [...] are in place and respected‹ (European Commission 2016a).

However, one month after the first decision of the Committees, following allegations of lack of objectivity of their members, the Greek Parliament adopted an amendment in a fast-track legislative procedure on 16 June 2016 that modified the composition of these committees (Art. 86 (3) of Law 4399/2016). Up until then, the administrative Committees were composed of one representative from the Ministry



of Interior, one human rights expert selected by the government from a list compiled by the National Commission on Human Rights (NCHR), an official consultative organ to the state, and one representative of the UN High Commissioner for Refugees (UNHCR). Following political pressure at the EU level on the Greek government (Gkliati 2016), new Appeals Committees were created, composed of two judges and one member proposed by the UNHCR or the NCHR, shifting the majority of votes to the state.

In a complete change of course, the ›new‹ Appeals Committees have since upheld the first-instance inadmissibility decision in all 20 inadmissibility decisions they have issued so far, ruling that Turkey is in fact an STC (AI 2017: 15).

It has become apparent that the need to study the content of the decisions of the original Committees extends beyond legal-historical interest into informing the constantly developing law, policy, and practice in the field, towards an issue that affects the life and freedom of thousands of individuals. In fact, according to Amnesty International (AI), 27,000 individuals have arrived on the Greek islands since the EU-Turkey deal has entered into force; more than half of which have applied or expressed their wish to apply for asylum. Until now, only 1,476 individuals have been reunited with their families, and 163 have received international protection in Greece. Furthermore, 865 individuals, of whom 151 are Syrians, have been returned to Turkey on the basis of the EU-Turkey deal (ibid.: 6–14).

An analysis of these decisions, moreover, indicates that these are not simply a parenthesis to the universal and unhesitating implementation of the EU-Turkey deal (Gkliati 2016). According to the Greek authorities, none of these returns to Turkey concern asylum seekers whose claim has been rejected at the admissibility stage, on the grounds of Turkey being regarded an STC (AI 2017: 17). Such returns have essentially been blocked by the Committees that overturned the first instance decisions by an overwhelming majority, but also due to »the efforts of non-governmental organizations and lawyers in Greece that assisted many asylum-seekers to appeal the first instance inadmissibility decisions« (ibid.).

## METHODOLOGICAL NOTE

For the purposes of this study, a random sample of eight of the first decisions made by the Committees was reviewed. This sample is representative and sufficient to provide a basic understanding of the reasoning of the Committees. The decisions follow a similar line of reasoning. Indeed, often the text of one is copied to another, even when the committees are composed of different members. At this point, it is necessary

to note that the most important decisions have been included in the sample. These include the first decision following the entry into force of the EU-Turkey deal, which created precedent and laid down the argumentation for the decisions that followed, and two out of the only three decisions issued that differentiate from the rest, agreeing with the first instance that Turkey is indeed an STC.

As far as the collection of data is concerned, the responsible Asylum Authority declined a request for disclosure of the documents, despite guarantees of confidentiality and data protection offered by the author. The first case issued is available in the public domain,<sup>1</sup> and the other cases were acquired through experts in the field and used in an anonymized form for the purposes of this article.

The article employs the method of analytical description in order to illustrate the reasoning of the decisions in a clear and comprehensive manner. To do so, the following section, making use of simple typology (e.g. negative vs. positive decisions), identifies the relevant indicators/criteria. The evaluation of the decisions is made on the basis of methodology and argumentation rather than on the basis of the substantial evidence. Based on the above, the paper describes a synthesis of the relevant indicators/criteria to provide the answer of the Committees to the central question of whether Turkey constitutes an STC. An in-depth evaluation of the decisions, in terms of methodology and argumentation, as well as a substantiated critical analysis of the re-organization of the Committees, can only be presented in the longer publication (Gkliati 2017).

This article takes into account legal and policy developments until 1 January 2017, unless stated otherwise.

## EXAMINING TURKEY AS AN STC

Out of the 393 decisions issued, 390 are positive, in the sense that they overturn the ruling of the first instance and decide that the applicant's asylum claim is admissible. Only three out of the 393 decisions are negative, upholding the ruling of the first instance that Turkey is safe for the applicant and regarding his/her claim inadmissible.

First of all, all Committees agree that the unsafe situation in Turkey is not generalized to the extent that every return to Turkey would be prohibited *a priori*. The individual circumstances of the applicants still play a role as to whether Turkey is safe for them. The Committees also rule that the evidence provided is not substantial

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1 | Decision 05/133782 (2016). URL: [eerstekamer.nl](http://eerstekamer.nl) [15.11.2016].

enough to suggest »direct risk to the life and liberty« of Syrian refugees or »risk of serious harm.«

On the issue of *refoulement* (criterion (b)), in three out of the five cases in which it was examined, the Committees unanimously held that the principle of *non-refoulement* is systematically violated in Turkey, recalling incidents of violent rejection at the borders and mass deportations to Syria. In the two cases where the issue of *refoulement* was discussed but no risk was found, the Committees refer to systematic incidents of *refoulement*. However, they base their final conclusion on the fact that the Turkish authorities had detained the applicants, and although they were threatened with return to Syria, they were eventually let go, without the threat actually materializing. The main weakness of this argumentation is that it fails to explain how this incident guarantees the safety of the applicants from being arbitrarily deported in the face of the general situation of collective expulsions and violent rejection at the borders.

The most important basis for rejecting Turkey's status as an STC seems to be whether it is possible to obtain »refugee status,« (criterion (e)) as provided in the Refugee Convention. All Committees in the positive decisions agreed that this requirement had not been fulfilled. Two of the Committees ruled so unanimously, while in the remaining three the president of the Committee issued a dissenting opinion. This is perhaps the most stable basis for considering Turkey as not »safe« for two reasons: first, the outcomes are based on a wide variety of reasons; and second, the reasoning in the judgements is not solely founded on the situation on the ground, as described in NGO and institutional reports, but also, significantly, on the legal framework itself.

As mentioned above, the Committees focused on the personal situation of each applicant, rather than the general situation in the country. In Case 3<sup>2</sup>, the Committee avoided discussing the general state of Syrians in Turkey, basing its decision on the »link of the applicant« with Turkey. In addition, the negative decisions were also based on the fact that the applicants had a »link with the country,« paying little to no attention to the other criteria. This does not allow us to draw conclusions about their position on the issues of *refoulement* and »refugee status« for Syrians in Turkey. It is relevant to note that all three decisions were issued by the same Committee. It seems to have been the choice of these three members to focus on the existence of the link with the third country, avoiding a discussion on evidence on widespread *refoulement* of Syrians and the issue of their refugee status. Although this approach is method-

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2 | The case names have been encoded for the purpose of data protection, with the exception of the first case issued, which is available in the public domain.

ologically sound in Case 3, since the non-fulfillment of one condition suffices to reach a conclusion on the issue of the STC, this is not the same with the two negative decisions. The conditions in the law are cumulative and not alternative. In other words, the superordinate category of the STC needs to contain all the attributes included in the law. Thus, even if one condition is fulfilled, the other conditions nevertheless still need to be considered to decide that a country is safe. This methodological error fundamentally challenges the quality of these two decisions, while combined with the limited emphasis on the motivation of the decisions — the negative decisions are on average half the size of positive ones — creates uncertainty as to the precise legal reasoning.

Another element that reveals the lack of quality in these decisions is their documentation. The Committee members placed confidence in the declaration of Turkey as an STC by the EU-Turkey deal, while failing to take into account the general situation in law and practice concerning Syrian refugees, as documented in NGO, institutional, and academic sources. In contrast, the positive decisions are well informed about Turkish law and are thoroughly documented concerning the situation on the ground. The Committees referred to NGO and institutional reports, as well as academic articles, often presenting a clash between law and practice in Turkey. The first decision, *Case 05/133782*, seems to be the most clearly reasoned, with well-structured and elaborate explanations and references to the legal framework. It also laid the groundwork and produced the research and the basic argumentation used by the following decisions.

## IMPACT OF THE EU-TURKEY DEAL

One further important question concerns the impact of the EU-Turkey deal on the Committees' decisions. An examination of the sample reveals that the adoption of the deal was seen by the Committees as an important factor that set the circumstances for their rulings, but not the only one.

In most cases, the Committee explicitly takes the deal into account, as well as important policy documents related to it, such as the first progress report on the implementation of the EU-Turkey Statement (European Commission 2016b), the Commission Communication on the next operational steps in EU-Turkey cooperation in the field of migration (European Commission 2016c), and a letter by the European Commission (Ruete/DG Migration and Home Affairs 2016) to the Greek Secretary General of Migration Policy on the same topic. According to this letter, following the legislative changes in Turkey, the protection afforded is equivalent to that of the

Refugee Convention, and Turkey has taken all the necessary measures for it to be considered safe for the purposes of returns from Greece (ibid.).

Only in Cases 5, 6, and 8 was the EU-Turkey deal not mentioned, though they pointed out that the Committee had adopted the opinion of the UNHCR that the STC question cannot be answered in a general manner (such as through legislation), but would have to be determined on a case-by-case basis (UNHCR 2003: 12), which was also required by Article 38 of the Procedures Directive (Case No. 29047: 19).

It is important to note that the President of the Committee in Case 8 based her decision regarding fulfillment of the ›refugee status‹ criterion explicitly and solely on the EU-Turkey deal. Her dissenting opinion noted that Turkey had provided assurances that all those returned would benefit from the temporary protection regime.

In the first case, *Case 05/133782*, the issue of the EU-Turkey deal is discussed in detail. The Committee held (by a majority) that the notion of the STC needed to be interpreted by the authority that decided on the claim for international protection. The national legislature or administration or EU institutions could in principle establish the presumption that a third country is safe. However, such an act would limit the discretion of the asylum authorities and would shift the burden of proof to the applicant. Because of this shifting of the burden of proof, this presumption should be able to be challenged in court with respect to the correct application of the Procedures Directive.

Regardless of the legal nature of the deal (Peers/Roman 2016; den Heijer/Spijkerboer 2016), the Committee, in an alternative interpretation, held that the deal did not concern the application of the concept of STC to Turkey as such, but rather the obligation of Turkey to accept Syrians whose claim for international protection had been denied. If the deal had established a conclusion that presumed Turkey's status as ›safe,‹ then it would have been necessary to include this presumption in a legislative or administrative act that could be challenged before courts.

It can be concluded that, although the Committees have taken into account the EU-Turkey deal, they do not accept an umbrella presumption of Turkey as an STC. This becomes obvious from the explicit interpretation of the precedent-establishing *Case 05/133782*, but also from the fact that in all cases, while acknowledging the deal, the situation is examined on an individual basis. With respect to the two exceptional cases that characterize Turkey as ›safe,‹ we could argue that the lack of an in-depth discussion and argumentation on the basis of institutional and state reports shows that the Committees in these two cases relied heavily on the EU-Turkey deal. Their members seem to accept a strong presumption that is, however, not irrefutable. This can be deduced from the fact that the possibility of serious risk of persecution is at least superficially examined and rejected.

## CONCLUDING THOUGHTS

To sum up, in 390 out of the 393 decisions issued by the Greek Appeals Committees, the requirements of national and EU law to consider Turkey an STC have not been fulfilled. From the analysis of the decisions, it can be concluded that the main issues, on the basis of which the Committees have drawn their conclusions, concern the risk of *refoulement* and the lack of protection equivalent to that provided by the Refugee Convention.

Another core issue that emerges from the analysis of the decisions studied here concerns the impact of the EU-Turkey deal upon the Committees themselves. The Committees take the deal into consideration; they do not, however, consider it binding regarding the interpretation of the STC requirement. They have held that national authorities have autonomy concerning the interpretation of the concept, which should be carried out on a case-by-case basis taking into account the particular circumstances of each case.

With respect to the two exceptional decisions that considered Turkey an STC, it would be safe to conclude that the Committees heavily relied on the EU-Turkey deal. They seem to accept a strong presumption of Turkey as safe, which is, however, not irrefutable.

The 390 decisions not considering Turkey an STC have significantly hindered the application of the EU-Turkey deal in practice, as the applicants could not be returned to Turkey. As a result, a decision was made to reorganize the Committees, and they were essentially replaced by new Committees that are now controlled in the majority by the state. The hypothesis on which that decision was based, i.e. that this would bring greater objectivity and independence and would provide more effective judicial protection is not substantiated by the conclusions of this empirical study. Issues surrounding the impartiality and independence of the new body can be investigated as the subject of future work that would focus on an analysis of the decisions of the new Committees. However, it can already be pointed out that the timing of the amendment, which coincides with decisions of the Committees blocking returns to Turkey, is alarming and suggests direct political intervention. This is all the more the case as the first indications of the behavior of the new Committees confirm their alignment with the EU-Turkey deal and the opinion of the Greek government and the European Commission.

This can prove detrimental to the rights of asylum seekers, and can lead to the responsibility of Greece for violations of ECHR decisions and the EU Charter of Fundamental Rights. In fact, the first case regarding the implementation of the EU-Turkey deal, is already pending before the European Court of Human Rights (ECtHR

pending; see also RSA 2017). The case concerns the Syrian applicant in one of the two negative decisions of the Committees discussed in this article. The applicant has filed a complaint regarding the violation of Articles 3 and 13 of the ECHR, concerning his deportation to a country where he may be subject to inhuman and degrading treatment. The Court has also temporarily suspended the deportation to Turkey of an Iranian national until the completion of the appeal proceedings, and has asked the Greek authorities for guarantees that the applicant will not be sent back to Iran.

In the light of the challenges concerning migration management in Europe, this contribution, by delving into an untapped and largely inaccessible resource — the decisions of Greece's Asylum Appeals Committees — aspires to inform the discussion concerning one of the most controversial topics amongst scholars, policy makers, and the general public, i.e. the EU-Turkey deal. The implementation in practice of this deal is of broader importance, since cooperation with third countries is one of the main priorities for migration policy at the national (e.g. cooperation agreements of Italy with Gambia and Sudan) and at the EU level (e.g. the EU-Libya deal) for the foreseeable future (European Commission/High Representative of the Union for Foreign Affairs and Security Policy 2017). This is still an open discussion, which started at the policy level, has moved to the field, and is continuing in the courts.

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