

A LEGAL APPROACH OF SYRIAN PEOPLE IN TURKEY

- What are The Difficulties that Syrians Face? And What legal Solutions has Turkey Offered? -

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Supervised by Michael Bartlet

Word count: 7880

The Independent Study Project

Foundation Diploma for Postgraduate Studies

International Foundation Courses and English Language Studies

School of Oriental and African Studies

April 2019

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ABSTRACT

The research aims to starkly illustrate a regional issue, the Syrian puzzle, from the perspective of a blend of international and domestic law. It will mostly consider the reasons why Turkey has reservations, to what extent these reservations are of use, what legal regulations can be expected from Turkey to ease the pain of Syrian people living in Turkey, and the differences between Turkey and other countries that have accepted Syrians who escaped, in terms of finding a permanent solution.

It is argued that Turkey has been overcoming the crisis with some minor mistakes. The author tries to explain the further legal efforts that it is necessary for Turkey to make. After examining the problems that affect both sides, the terminologies for being a refugee in Turkish law will be defined for the reader.

The research is narrowed to Syrians in Turkey, comparison with other regions, and Turkish legislation. The analysis is limited to the period in which Syrians started move to neighboring countries up until the end of 2018 because the conflict is still topical. This study is the output of an idea of offering ongoing legal suggestions based on the basic principles of law and in light of universal ethical values about the confused legal statuses of the people who came from Syria to settle in Turkey or who have come from the divisions of combat in several territories in the wracked country of Syria.

INTRODUCTION

Since decolonization, the Middle East has lived through constant conflict. A sense of permanent peace has not been established since the Ottoman Empire. Even though numerous states have taken over administration from mandates, these states could not entirely overcome the difficulties they faced after a long course of pupillage. Eventually, all Arab states gained their independence and have set up new governments to rule their citizens. Some states have adopted electoral democracy as a regime, while some have maintained old-fashioned monarchies. These indigenized governments have isolated people from the advancements of the contemporary world. Rulers and oligarchs lived pretentiously while citizens were struggling with difficulties such as famine, poverty, lack of education, inequality, and lawlessness. Anger was gently growing among the people, year by year.

With the introduction of the technological evolution in the Arab world, using social media as an instrument of communication has become a daily routine. By the end of 2011, 30 percent of the 160,000 bloggers in Egypt were writing about politics, which is a very high number by Middle Eastern standards.¹ Citizens of Egypt could use the internet as a means of contact, despite almost 93 percent of Egyptian internet addresses and networks being subject to a governmental ban.² The precaution of shutting down the internet would not be useful as a way to neutralize the oncoming mobilization. On the contrary, the pressure to silence dissent led to unintended outrage. Eventually, the old-world Arab leaders began to step down or fall, one by one, until demonstrations had spread to the Syrian Arab Republic ('Syria'). Bashar Hafez al-Assad ('Assad') responded to protests, which started as peaceful meetings and marches by people who demanded freedom and dignity in Syria, with harsh, barbaric, and inhumane methods.

A teenager, Ahmed Masri, drew graffiti aimed at Assad, writing 'It's your turn now, Doctor!' in the city of Dara'a.³ He was referring to the leaders who had fallen before Assad,

¹ Ekaterina Stepanova, 2011. The Role of Information Communication Technologies in the 'Arab Spring. Policy Memo 159. PONARS Eurasia 3 http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/pepm_159.pdf.

² Ekaterina Stepanova, 2011. The Role of Information Communication Technologies in the 'Arab Spring. Policy Memo 159. PONARS Eurasia 3 http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/pepm_159.pdf.

³ Jaime Tarabay, CNN, 'For Many Syrians, the Story of the War Began with Graffiti in Dara'a' (CNN) <<https://www.cnn.com/2018/03/15/middleeast/daraa-syria-seven-years-on-intl/index.html>> accessed 21 March 2019.

such as Zine El Abidine Ben Ali, the former President of Tunisia; Muammar Al Gathafi, former President of Libya; Hosni Mubarak, former President of Egypt; and Ali Abdullah Saleh, former President of Yemen. Assad faced civil uprisings across his state and responded rigorously. Massacres became Assad's favorite device to spread terror. Ultimately, people started to seek safety away from their home cities because the uprising against the Assad regime initiated mass murders, without any discrimination, throughout the country. Therefore, because Assad could not perform the necessary actions but created terror among his citizens, people pursued a place for their primary needs: shelter away from the front line, food to survive, and a social environment to feel secure.

In the beginning, people resorted to taking shelter on the borders with the help of border states. For instance, in the beginning, the Turkish Republic ('Turkey') responded to the huge influx making their way to the Turkish border by pitching earthquake tents, donated by the Red Crescent ('Kizilay') to the Disaster and Emergency Management Presidency ('AFAD') to house them outside its border, on the Syrian side. However, as the influx increased from tens of thousands to millions of people, Turkey had to apply an 'open door' policy. Turkey's open door policy has brought many issues with it. Today, Turkey, which in the first place is an international society, suffers significantly from disorganization. As the crisis finally started to touch cross-borders when the people had no choice but leave their homes, 'the domestic issue of Syria' transformed into an international headache, which one may argue has reshaped the course of events not only in the Middle East but also in the world. Global politics have been redirected from liberalist, open-minded, somehow standardized ways into a medieval-like, populist, nationalist, palliative solution-offering platform. Turkey, as a developing state, has been taking its share since the Syrian issue became a domestic affair. It has an important contribution to make to the development of the world by ensuring peace by any means necessary.

In this piece of work, the author tries to explain the ominous aftermath of the civil war, which has lasted longer than World War II. He will reveal a detailed report of the historical background of Turkey to understand the state's present operations and to create a foreseeable projection for possible and necessary future steps that stakeholders—made up of regional and international organizations, including states—should promptly take. This paper will be split into four parts: Early migration movements in the young Turkish Republic, a comparison of Syrians in various countries, Turkey's approach and the challenges in Turkey, and types of

protection according to Turkish laws and international documents. Besides academic books, academic articles, and numerous news articles, the author will evaluate domestic and international cases while searching for a permanent and legal solution for the Syrians who are in need today, who are likely to stay within the borders of Turkey for a long time. Turkish laws and relevant domestic codes and regulations will form the basis of the research to enlighten the reader about the entire progress from a jural point of view. In the meantime, universally accepted international law practices will be synthesized with international legal documents and unwritten usages, including treaties, conventions and declarations. All relevant materials will be considered.

EARLY MIGRATION MOVEMENTS IN THE YOUNG REPUBLIC OF TURKEY

Turkey is a new-found state that has faced four significant migration waves in its history. 'To consider how Turkey established itself as a sovereign state, it is important to review the consequences of the world's first catastrophic experience that almost every state was involved in: World War I. As well as the aftermath of its 45 million casualties,⁴ another of its outcomes was especially significant. Almost all empires fell over and new states emerged right after this great world incident. Some states contested their independence not only on battlegrounds but also at the negotiation table. The Republic of Turkey, for instance, got its independence in 1923 as a result of the Treaty of Lausanne. In fact, the Turkish fight for independence ended and a newborn state was officially recognized by the 'enemy states' of Turkey at that time. While the parties were finalizing the Treaty of Lausanne, Turkish and Greek sides made terms, called the Convention Concerning the Exchange of Greek and Turkish Populations,⁵ for the exchange of those who were left away from their own nation's state. It was necessary to carry out an exchange to prevent possible unsolicited occasions because there were originally Turkish folk on the Greek side and Greek folk on the Turkish side. Religious separation also played an important role because Greeks, known as Rums, who were on Turkish soil followed the Orthodox sect of Christianity and Turks who were on Greek soil followed the Sunni sect of Islam.

The Population Exchange Between Greece and Turkey

The first migration movement started according to the Convention's first article:

[T]here shall take place a compulsory exchange of Turkish nationals of the Greek Orthodox religion established in Turkish territory, and of Greek nationals of the Moslem religion established in Greek territory.⁶

⁴ Walter F Willcox, 'Population and the World War: A Preliminary Survey' (1923) 18 Journal of the American Statistical Association 699, 9.

⁵ Convention Concerning the Exchange of Greek and Turkish Populations (signed 30 January 1923) (1923)

⁶ Convention Concerning the Exchange of Greek and Turkish Populations (signed 30 January 1923) (1923) article 1

As clearly mentioned in the legal document, people were suddenly left without nationalities with respect to their race and religion. It might have been easy for the politicians but Turkey would learn to deal with ‘refugees’ for the first time since rejecting the Ottoman Empire’s legacy.⁷ Before establishing a state based on the ‘nation system’, the Ottoman Empire was gaining citizens as it was losing land as a result of lost wars.⁸ However, the Republic of Turkey, under its first president Mustafa Kemal’s leadership, would be faced with a mass population influx for the first time. A joint committee was established for monitoring and troubleshooting the process between the states. According to the joint committee, Turkey sent 189,916 Greek people and received 355,635 Turkish people.⁹ Turkey’s policy on its first experience of refugees was to leave the event to itself by offering citizenship to newcomers. The exchange caused numerous miseries for those who were left with no option other than leaving the country in which they were born.

The Bulgarian Turkish Emigration and Return

Turkey’s second test on the issue of refugees was in the period of the communist regime, which was one of the results of World War II. Communism was an alternative rising power against capitalism and the Balkans were under the domination of the Union of Soviet Socialist Republics (‘USSR’). The Republic of Bulgaria (‘Bulgaria’), which is one of Turkey’s bordering neighbors, had its share of communism from being part of the USSR. The world was living in a bipolar era. Unlike the Greek settlement, Turkey did not need to compromise with Bulgaria about Turkish kin in Bulgarian lands because Turkey had never been involved in a war with the Bulgarian state. However, the communist regime of Bulgaria assimilated Bulgarian Turks¹⁰ by giving them Christian names, enforcing religious changes, banning the Muslim practice of circumcision, and preventing the Turkish tradition of wedding feasts, from the end of World War II to the disintegration of the Iron Curtain. Turkey accepted and granted

⁷ Metin Heper, ‘The Ottoman Legacy and Turkish Politics’ (2000) 54 *Journal of International Affairs* 63, 7.

⁸ Şener Aktürk, ‘Persistence of the Islamic Millet as an Ottoman Legacy: Mono-Religious and Anti-Ethnic Definition of Turkish Nationhood’ (2009) 45 *Middle Eastern Studies* 893, 10.

⁹ Fahriye Emgili, ‘Türk Yunan Nüfus Mübadelesi Hakkındaki Araştırmalara Bir Bakış’ (2017) 1 *Tarih ve Günce* 29.

¹⁰ Lale Ayhan İzmirli, ‘TÜRKİYE’DEKİ SURİYELİLERİN HUKUKİ DURUMUNA İLİŞKİN BİR DEĞERLENDİRME’ [2017] *ASEAD*, 346.

<https://www.academia.edu/35967410/T%C3%9CRK%C4%B0YEDEK%C4%B0_SUR%C4%B0YEL%C4%B0LER%C4%B0N_HUKUK%C4%B0_DURUMUNA_%C4%B0L%C4%B0%C5%9EK%C4%B0N_B%C4%B0R_DE%C4%9EERLEND%C4%B0RME> accessed 16 March 2019.

citizenship to almost 340,000^{11, 12} people of Turkish origin who escaped from communist Bulgaria's cruelty. Furthermore, Turkey recognized these people as immigrants and created a legal basis for these people according to Turkish Settlement Law.^{13, 14} According to articles 5 and 8 of the settlement law, 'Turkish-rooted' people had an opportunity to gain Turkish citizenship by way of 'acquiring Turkish citizenship afterward'. Hence, Turkey has implemented citizenship before for those who have cultural, ethnic and social bonds, with the condition that one needs to provide a reference of connection with someone who lives in Turkey as a Turkish citizen.

Kurdish Refugees in Turkey: The Gulf Crisis Period

The third important migration wave through Turkey occurred during the Gulf War in 1990. The Gulf Crisis started on 2 August 1990 because of Saddam Hussain's ('Saddam') claims of various reasons to invade Kuwait, according to Swearingen.¹⁵ Practically, the invasion started after Saddam's declaration of Kuwait as a province of Iraq. After Saddam's army was defeated by the US-led allied forces, Kurdish minorities rebelled, independently from each other, against Saddam's administration in the city of Raniya, in Northern Iraq. This spread to other areas across the state because of the corrupt, pan-Arabic and totalitarian ruling percept of Ba'ath politics, as well as the unforgotten Halabja incident.^{16, 17} Eventually, Saddam's response was pitiless so the Kurdish people of Iraq started to escape from their mistreatment towards the Turkish and Iranian borders. Turkey opened the only entry point at that time, the 'Habur Border Gate', for Kurdish people who had escaped from Iraq's oppression. Under the

¹¹ Bilal Niyazi Şimşir, *Türk Basınında Bulgaristan Türkleri: Zorla Ad Değiştirme Sorunu : Ocak-Nisan 1985* (Başbakanlık, Basın, Yayın, ve Enformasyon Genel Müdürlüğü 1985) 54.

¹² Turhan Çetin, 'Bulgaristan'dan Göç Eden Soydaşlarımızın Sosyo-Ekonomik Özellikleri' (2009) 39 *Erzurum Kültür ve Eğitim Vakfı (EKEV) Akademi Dergisi* 395, 2.

¹³ 'İSKÂN KANUNU.Pdf' (Turkish Settlement Law) <<http://www.resmigazete.gov.tr/arsiv/2733.pdf>> accessed 14 March 2019.

¹⁴ The Turkish Resettlement Law (İskan Kanunu - 2510 s. kanun) was announced and invoked in 1934 and aimed to resettle the minorities in the Turkish Republic. The law was also used to welcome those who used to live outside of Turkish borders who have Turkish ethnic roots. It has signs of the young Turkish Republic's racist motives by discriminating against 'nomad gypsies, anarchists, spies, banished people'.

¹⁵ C. Jan Swearingen, David L. Jacobs and James Sledd, 'THE POLITICS OF PLURALISM AND ASSIMILATIONIST POLICY IN ANN ARBOR'S BLACK ENGLISH TRIAL: SOCIOLINGUISTICS AS A POLICY SCIENCE' (1981) 1 *Review of Policy Research* 111, 315-330.

¹⁶ Omer Karasapan, 'Gulf War Refugees in Turkey' [1989] *Middle East Report* 33.

¹⁷ During the Halabja incident in 1988, Saddam Hussain used chemical weapons against people who were mostly Kurdish minorities. Some scholars consider the incident was an act of genocide.

presidential lead of Turgut Özal,¹⁸ the Kurdish people, who were approximately 460,000 in number, were settled in the boundary cities of Şırnak and Hakkari. Turkey maintained urgent supplies, such as food, blankets and medical supplies, after the declaration of a state of emergency in the region. Turkey also established a control center by assigning a government minister in this period, Vehbi Dinçerler, as the Coordinating Minister to Diyarbakir city.¹⁹ Therefore, one may argue that Turkey contributed indirectly to the global efforts by lifting its borders for the Kurdish people who were in need during the Gulf crisis.

The Vast Influx of Syrians to Turkey

The last but the most terrifying stop of the Arab Spring protests was Syria. The Arab Spring protests involved a number of people that is easily comparable with the population of some countries. It is a global disaster, and has lasted longer than the duration of World War II. The uncertainty continues, even today. In 2011, people in Tunisia began rebelling against an outdated leader for almost the same reasons that people rose against Saddam in 1990 in Iraq. The former leader of Tunisia was tyrannous and people were demanding freedom, prosperity, equal rights, justice, democracy, liberty, and regime changes. Although the protests in Tunisia started as unplanned, through the action of self-immolation, people took one man's sacrifice seriously and started to become organized in demonstrations against the second President of Tunisia, Zine El Abidine Ben Ali. Ultimately, as the protests started to gain positive results for citizens, they spread to similar states across the majority of Arabic countries.

The fourth and the most important migration wave into Turkey is the great Syrian influx, which embodies the main hypothesis of this analysis. It is essential to briefly discuss the background to the disruptive series of occurrences. In mid-2011, after the expanse of protests throughout the Arab world, while people were watching the protests that were taking place in other countries, some teenage students in the city of Dara'a did something that ignited a signal flare for the biggest scene in the twenty-first century: Someone from a school in Dara'a wrote, 'It's your turn now, Doctor', referring to Assad, who has a degree from a medical school

¹⁸ Turgut Özal was the Republic of Turkey's 8th president who served between 1989 and 1993.

¹⁹ Gökhan Kavak, 'Birinci Körfez Savaşı Sonrası Irak'tan Türkiye'ye Göç ve Sonuçları', 437. <https://www.academia.edu/19620445/Birinci_K%C3%B6rfez_Sava%C5%9F%C4%B1_Sonras%C4%B1_Irak_tan_T%C3%BCrkiye_ye_G%C3%B6%C3%A7_ve_Sonu%C3%A7lar%C4%B1> accessed 1 April 2019.

in Damascus. After that, some teenage boys were taken into custody for police questioning without any ‘legal’ reason being presented.²⁰ The discomfort from families towards young Syrians grew day by day, slowly but with sound steps. The Syrian administration under the rule of Assad initially used riot police to palliate the uprisings. However, as the government’s actions became more aggressive, for the people, the situation reached a point of no return. The protests which began peacefully resulted in hard responses to the Syrian regime and by the year 2014, more than 206,000 have lost their lives in Syrian lands.²¹

Belatedly, people who were suffering gradually moved towards the borders to avoid the civil war in Syria. Although between 1995 and 2013 Turkey received only 635 asylum applications from Syrian citizens, the numbers of Syrian people in the Turkish borders in 2014 reached approximately 1.5 million.²² Nonetheless, at first, Turkey tried to control mass immigration through its border on the Syrian side near the Turkish border gates. The numbers were increasing enormous and logistics, tents, and resources were limited; Turkey opened its border gates to Syrians who were in need for shelter, as it was not possible to manage the crisis outside Turkey’s borders in the Syrian zone. Turkey, in its most recent but most multifaceted challenge, opened and began to settle asylum seekers in various southeastern cities of Turkey: Şanlıurfa, Mardin, Gaziantep, Hatay, and Kilis. The Disaster and Emergency Management Presidency of Turkey (‘AFAD’) established refugee camps in collaboration with the United Nations High Commissioner for Refugees (‘UNHCR’) and other UN agencies. These camps had huge with a capacity of almost 32,000 people so they were named container-cities or tent-cities for Syrians.^{23, 24} In total, Turkey was housing more than 280,000 people in ‘tent-cities’ located in various cities by the end of 2015.²⁵

²⁰ Jamie Tarabay, CNN, ‘For Many Syrians, the Story of the War Began with Graffiti in Dara’a’ (CNN) <<https://www.cnn.com/2018/03/15/middleeast/daraa-syria-seven-years-on-intl/index.html>> accessed 21 March 2019.

²¹ Rick Gladstone and Mohammad Ghannam, ‘Syria Deaths Hit New High in 2014, Observer Group Says’ *The New York Times* (10 January 2018) <<https://www.nytimes.com/2015/01/02/world/middleeast/syrian-civil-war-2014-deadliest-so-far.html>> accessed 16 March 2019.

²² TÜİK Turkish Statistical Institute, ‘Population of Provinces by Years, 2007-2013’ Excel <http://www.turkstat.gov.tr/PreIstatistikTablo.do?istab_id=1590> accessed 13 March 2019.

²³ ‘New Container City to Be Built for Syrian Refugees in Turkey’s Adana - Turkey News’ (*Hürriyet Daily News*) <<http://www.hurriyetdailynews.com/new-container-city-to-be-built-for-syrian-refugees-in-turkeys-adana-109537>> accessed 1 April 2019.

²⁴ ‘Document - UNHCR Turkey: Syrian Refugee Camps and Provincial Breakdown of Syrian Refugees Registered in SE Turkey’ <<https://data2.unhcr.org/en/documents/details/54624>> accessed 1 April 2019.

²⁵ ‘Çadır Kentlerde Kaç Mülteci Var?’ (*Timeturk.com*) <<https://www.timeturk.com/cadir-kentlerde-kac-multeci-var/haber-116772>> accessed 1 April 2019.

Syrian people, or in other words, conditional refugees,²⁶ were treated with the highest standards that a refugee could hope for, beyond their expectations. They were registered in Turkish databases and government archives so they could benefit from free social services, free healthcare services, and free medicines. Turkey, from the beginning of the crisis, performed strongly in easing the wounds of the civil war for Syrians. Turkey not only kept its borders open but also provided refugee camps ‘equipped with medical centers, schools, recreational facilities, and vocational training programs’. The International Crisis Group announced that these camps were the ‘best refugee camps ever seen’, according to Kirişçi.²⁷ Furthermore, *The New York Times* published an article entitled ‘How to Build Perfect Refugee Camps?’ that praised Turkey’s interventions and ability to assist people.²⁸ From fire hydrants to TVs in flats, the article powerfully reflects well-equipped buildings for refugees. Moreover, a settled Syrian living in Kilis said, ‘This is a five-star hotel’, although he was not happy to live there.²⁹ Turkey also assisted with psychological support for people in refugee camps.³⁰ A lot of Syrian people who live in refugee camps are in need of mental health help because it is hard to overcome the effects of the civil war in Syria. Therefore, Turkey offered a high standard of care to meet the needs of those who had escaped from the tragic consequences of undesirable war and sought trustworthy shelter.

²⁶ The conditional refugee premise will be explained by incoming topics.

²⁷ Kemal Kirişçi, ‘Syrian Refugees and Turkey’s Challenges: Going beyond Hospitality’ (The Brookings Institution 2014), 15 <<https://www.brookings.edu/research/syrian-refugees-and-turkeys-challengesgoing-beyond-hospitality/>> accessed 2 January 2019.

²⁸ Mac McClelland, ‘How to Build a Perfect Refugee Camp’ *The New York Times* (20 December 2017) <<https://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html>> accessed 1 April 2019.

²⁹ Mac McClelland, ‘How to Build a Perfect Refugee Camp’ *The New York Times* (20 December 2017) <<https://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html>> accessed 1 April 2019.

³⁰ Authority R of TM of ID and EM, ‘Turkey Response to Syria Crisis - Syria - AFAD Republic of Turkey Ministry of Interior Disaster and Emergency Management Authority’ (*Republic of Turkey Ministry of Interior Disaster and Emergency Management Authority*) <<https://www.afad.gov.tr/en/2601/Turkey-Response-to-Syria-Crisis>> accessed 1 April 2019.

COMPARISON OF SYRIANS IN VARIOUS COUNTRIES

Lebanon's Approach

The neighboring states of Syria, such as Lebanon, Jordan and Iraq, host more than 1,850,000 Syrian refugees³¹ altogether, which accounts for 33 percent of all Syrians according to the UNHCR.³² At this point, it is useful to compare and contrast Syrian refugees in terms of the amenities, facilities, and opportunities that they are able to access. Interestingly, none of these states has made any reservations to the 1951 Convention Relating to the Status of Refugees.^{33, 34} In Lebanon, a state that shares much in common with Syria, there are more than 944,000 refugees at present.³⁵ That is nearly fifteen percent of the whole population.³⁶ Lebanon has followed the same policy as Turkey for Syrians: the open door policy. However, the open door policy in Lebanon does not mean that the Beirut administration uses systematic policies for Syrians. Inasmuch as the open door policy did not continue, the tension in Lebanon has been increasing since the Lebanese army movement, Hezbollah,³⁷ interfered and become a side in the war on Syrian soil. The UNHCR has been registering Syrians' records in Lebanese lands, unlike in Turkey. It is assumed that the number of Syrians in Lebanon is higher than recorded in the UNHCR database because the Lebanese government revoked the permit for the UNHCR to record, as of 6 May 2015.³⁸

³¹ The term refugee here is used to symbolize Syrians in other countries. Each state may have different legal regulations, laws, and reservations on international treaties and documents.

³² 'Situation Syria Regional Refugee Response' <<https://data2.unhcr.org/en/situations/syria>> accessed 10 April 2019, updated 22 April 2019.

³³ The Convention Relating to the Status of Refugees will be noted in future topics by the author.

³⁴ Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention) Reservations <<https://www.unhcr.org/protection/convention/3d9abe177/reservations-declarations-1951-refugee-convention.html>> accessed 1 April 2019.

³⁵ 'Situation Syria Regional Refugee Response' <<https://data2.unhcr.org/en/situations/syria/location/71>> accessed 10 April 2019.

³⁶ 'Middle East :: Lebanon — The World Factbook - Central Intelligence Agency' <<https://www.cia.gov/library/publications/the-world-factbook/geos/le.html>> accessed 10 April 2019.

³⁷ According to NATO and some international non-governmental organizations, Hezbollah is one of the primary targets in the war on terror. However, Lebanon maintains its relations with Hezbollah are defensive in respect of the state.

³⁸ 'Lebanon Cabinet Votes to Stop Accepting Syrian Refugees | News , Lebanon News | THE DAILY STAR' <<http://www.dailystar.com.lb/News/Lebanon-News/2014/Oct-23/275075-refugee-crisis-tops-lebanon-cabinet-agenda.ashx>> accessed 10 April 2019.

Also, Lebanon's experience with its previous crisis has shaped its policies. Indeed, Palestinians who had to settle initially temporarily in Lebanon because of the Arab–Israeli War between 1948 and 1949 still live in the country. According to the United Nations Relief and Works Agency for Palestine Refugees in the Near East ('UNRWA'), which was established by the UN for Palestinians in Lebanon, there are almost 500,000 people of Palestinian origin living in Lebanon.³⁹ These Palestinian refugees have been affected deeply several times by Lebanese daily politics. Moreover, the relationship between Syria and Lebanon originates from seasonal workers' cross-border movements from Lebanon to Syria between 1976 and 2005. This is one of the things that effects policies in Lebanon, which need to be seen in context. Although Lebanon faces a political crisis because the state hosts a huge number of Syrians, the government of Lebanon follows the policy of 'being passive pitching tents' for refugees. The policy is a consequence of being afraid about Syrians, whom Lebanon thinks may stay permanently. Additionally, as mentioned above, the Beirut administration has tried to limit the crossings of Syrians through Lebanon.⁴⁰ Therefore, Lebanon has failed to track a constant policy for Syrian refugees because of either its fragile politics or its experience with Palestinian refugees.⁴¹

³⁹ 'Employment of Palestine Refugees in Lebanon: An Overview' (UNRWA) <https://www.unrwa.org/sites/default/files/content/resources/2017_employment_of_palestine_refugees_in_lebanon_arabic_and_english_ve.pdf> accessed 9 April 2019.

⁴⁰ 'Lebanon Cabinet Votes to Stop Accepting Syrian Refugees | News , Lebanon News | THE DAILY STAR' <<http://www.dailystar.com.lb/News/Lebanon-News/2014/Oct-23/275075-refugee-crisis-tops-lebanon-cabinet-agenda.ashx>> accessed 10 April 2019.

⁴¹ Ferhat Piringçi, 'Policies of Syria's Neighboring Countries toward the Syrian Refugees' (2018) 5 TESAM Akademi 50.

Jordan's Approach

Jordanian administration—which, like the Lebanese government, also has refugee experience—was second after Turkey to develop a systematic approach to the humanitarian crisis of Syria. The key advantage of the Amman government, which cooperated with the UNHCR from the beginning, is that its border with Syria is, relatively, further from the conflict zone. The migration density to Jordan was low at the beginning of the crisis and in 2012, when Syrian migration to Jordan was inspected. Jordan's first response to the Syrian influx, once the numbers became critical, was to direct incoming people to settle in refugee camps.⁴² Syrians who came from the boundary lines to Jordan were conducted to camp Zaatari in the city of Mafraq.⁴³ The camp was opened in cooperation with the UNHCR and the camp's population has now increased beyond expectations. At one time, the number of Syrians in the camp reached more than 160,000; thereupon the government resorted to opening new camps.⁴⁴ The government began to settle Syrians in cities when the camps became incapable of hosting the Syrians.⁴⁵ According to the UNHCR, more than 81 percent of Syrians live in urban areas of Jordan outside of the dedicated refugee camps.⁴⁶

The differences between Jordan and the other countries that receive Syrians, in terms of the politics that are used towards Syrians, can be summarized under two different points. First, Jordan has responded to the crisis systematically, like Turkey, although not yet certain. Unlike Turkey, record-keeping is being undertaken by the UNHCR so the numbers, which are often criticized by Jordanian authorities, are lower than the real figures. However, it is controversial how the Jordanians could have carried out their counting under the immense penetration of people towards the country.⁴⁷ After all, Turkey has reacted with an orderly

⁴² 'Jordan Allows Aid Delivery to Rukban' (*Jordan Times*, 7 January 2018) <<http://www.jordantimes.com/news/local/jordan-allows-aid-delivery-rukban>> accessed 1 April 2019.

⁴³ 'Situation Syria Regional Refugee Response' <<https://data2.unhcr.org/en/situations/syria/location/36>> accessed 13 April 2019.

⁴⁴ 'UN: Nearly 50,000 Stranded at Jordan-Syria Border' <<https://www.aljazeera.com/news/2017/08/50000-stranded-jordan-syria-border-170815004814548.html>> accessed 10 April 2019.

⁴⁵ 'Document - UNHCR Turkey: Syrian Refugee Camps and Provincial Breakdown of Syrian Refugees Registered in SE Turkey' <<https://data2.unhcr.org/en/documents/details/54624>> accessed 4 April 2019.

⁴⁶ 'UNHCR Jordan Factsheet - February 2018 - Jordan' (*ReliefWeb*) <<https://reliefweb.int/report/jordan/unhcr-jordan-factsheet-february-2018>> accessed 16 April 2019.

⁴⁷ Ferhat Piringçi, 'Policies of Syria's Neighboring Countries toward the Syrian Refugees' (2018) 5 TESAM Akademi 52.

process and registered every single Syrian in the government databases, not only before border crossings but also in the whole country when a person travels from point A to point B.⁴⁸ Second, although Jordan, like Lebanon, has a background with refugees, unlike Lebanon, Jordan never used its practice negatively, such as ‘being passive pitching tents’.⁴⁹ In addition, it is helpful to state that Jordan has different socioeconomic dynamics due to its demographics when compared with other countries. Therefore, it can be confirmed that Jordan stands between Turkey and Lebanon when the three countries are ranked with respect to the actions that they have taken.

Iraq’s Approach

Syrians have swarmed towards Iraq because the incidents that have been occurring in their homeland exposes different attributes when compared with other regional/neighboring countries⁵⁰ like Turkey, Lebanon, and Jordan. First of all, 'Iraq ranks the lowest of all countries in the area in terms of the numbers of Syrian refugees it receives. According to the UNHCR’s database, Iraq hosts more than 253,000 Syrians, as of 31 March 2019.⁵¹ This number is less than Turkey, Jordan and Lebanon combined. Second, the migration towards Iraq began a while after the crisis emerged. Iraq did not encounter the first and the most critical preliminary flow compared to the other countries.⁵² Third, the Iraqi government could not follow an open door policy, unlike Turkey, Jordan and Lebanon, because of political instability within the state. It is remarkable to mention that the federal government of Iraq (‘Iraq’) and the Kurdistan region of Iraq (‘KRI’) have implemented different types of policies for Syrian refugees. Although the Baghdad government opened its border gates ‘Rabia’ and ‘Al Qa’im’ from July 2012 and built refugee tents for those who had left Syria, the numbers of whom multiplied day by day, the

⁴⁸ The special ID cards will be explained by incoming topics.

⁴⁹ ‘Jordan Allows Aid Delivery to Rukban’ (*Jordan Times*, 7 January 2018) <<http://www.jordantimes.com/news/local/jordan-allows-aid-delivery-rukban>> accessed 1 April 2019.

⁵⁰ Egypt is also one of the countries that host Syrians. Egypt was discarded from the research because it is located in the continent of Africa.

⁵¹ ‘Situation Syria Regional Refugee Response’ <<https://data2.unhcr.org/en/situations/syria/location/5>> accessed 15 March 2019.

⁵² ‘Document - UNFPA Regional Situation Report for Syria Crisis #14; 15 - 31 October 2013’ 2 <<https://data2.unhcr.org/en/documents/download/39105>> accessed 10 April 2019.

process did not last long and the borders were closed after a time, with the exception of some extraordinary humanitarian circumstances.^{53, 54}

When compared with the government of Iraq, the KRI has treated Syrians with more compassion and implemented a loose policy towards them. The central Iraqi government has not allowed freedom of movement inside Iraqi territories for Syrians, nor has the federal government granted work permits for those who have settled outside of the KRI's area of responsibility. However, the Baghdad administration has been rendering basic needs to Syrians without discrimination. Within this scope, the Erbil government, which has implemented the open door policy for Syrians, has not limited the incoming Syrian population to living inside or outside of refugee camps, whereas it has been rendering basic needs to refugees, as has Iraq. Fourth, it should be noted that the migrations which have taken place from Syria to Iraq, to a large extent, have verged towards the KRI region. The reason that Syrians who moved to the KRI region chose that particular region is not only an ethnic affinity but also broad connections with KRI society in terms of a social and cultural relationship. Even though the UNHCR does not classify Syrian refugees in terms of their ethnicities, it is obvious that a vast scale of migration has occurred from major Kurdish cities of Syria to the KRI.⁵⁵

Finally, it should be noted that Syrians' main motivation to emigrate was not only to seek security; it should also be noted that it was not caused by the Islamic State of Iraq and the Levant ('ISIL'). The Kurdistan Workers' Party ('PKK') and the Democratic Union Party ('PYD'), who have taken control of specific zones, have militarily cooperated with the United States of America ('US') and ISIL can be seen as another factor that urged Syrians to leave their homes.⁵⁶ Furthermore, PKK and PYD have used arbitrary practices of force in lands under their control to keep control over Kurdish-populated opposition.⁵⁷ Consequently, 'significant

⁵³ 'Iraq Says to Open Border Crossings with Syria Soon' <<https://www.aa.com.tr/en/middle-east/iraq-says-to-open-border-crossings-with-syria-soon/1422740>> accessed 19 March 2019.

⁵⁴ IOM, 'IOM Regional Response to the Syria Crisis - SITUATION REPORT' (International Organization for Migration 2013) 4. <<https://reliefweb.int/sites/reliefweb.int/files/resources/IOM%20Syria%20Crisis%20Regional%20Response%20Sitrep%2020August.pdf>> accessed 15 March 2019

⁵⁵ Ferhat Piringçi, 'Policies of Syria's Neighboring Countries toward the Syrian Refugees' (2018) 5 TESAM Akademi 54.

⁵⁶ Human Rights Watch, 'Under Kurdish Rule Abuses in PYD-Run Enclaves of Syria' (Human Rights Watch 2014) 12 <https://www.hrw.org/sites/default/files/reports/syria0614_kurds_ForUpload.pdf> accessed 15 March 2019.

⁵⁷ Avenue HRW| 350 F, York 34th Floor | New and t 1.212.290.4700 N 10118-3299 U|, 'Syria: Abuses in Kurdish-Run Enclaves' (*Human Rights Watch*, 18 June 2014)

numbers of of the Syrian–Kurdish population had to leave their territories before the effects of the Syrian turmoil spread there.

To sum up, it can be seen that Iraq has exhibited two different approaches towards Syrians. The first approach welcomed Syrians to Iraq at the beginning of the crisis but then closed the border gates; in the other approach the KRI has embraced Syrians since the beginning by using the open door policy.⁵⁸ Although the KRI has faced domestic political strife, economic crisis, and the Baghdad–Erbil tension over the share of Iraqi petrol during the crisis period, the KRI has kept its welcoming policy with the help of international organizations like the UNHCR.

<<https://www.hrw.org/news/2014/06/18/syria-abuses-kurdish-run-enclaves>> accessed 19 March 2019.

⁵⁸ 'Syria to Reopen Borders with Iraq 'Soon'' (*The Independent*, 18 October 2018) <<https://www.independent.co.uk/news/world/middle-east/syria-iraq-border-un-envoy-bashar-al-Assad-jordan-golan-heights-a8589706.html>> accessed 1 April 2019.

TURKEY'S APPROACH AND CHALLENGES IN TURKEY

Refugee Camps

The tent-cities have been unable to respond to every Syrian who needs to live one of them because the number of Syrians in Turkey has exceeded expectations and the limits of the camp. Turkey is hosting more than 3.6 million officially recorded Syrians, with almost a million unregistered.⁵⁹ These people are fundamentally free to move across the country after they have received their unique identification from the government agencies. They are not forcefully being kept in refugee camps. However, conditions for Syrians outside the camps are not better than inside. Most of the Syrian people, as much as 94 percent,⁶⁰ live outside the camps. In addition, the government passes over the situation, even though it leads to unplanned population burdens for many cities in Turkey.⁶¹ The AFAD was responsible for the documentation of Syrians in Turkey. After the huge influx of Syrians towards Turkish land, the AFAD had to hand its duty over to the Directorate General of Migration Management ('DGMM'). Since 2012, the DGMM has been in charge of sorting and registering Syrian people in Turkey. Syrians are offered a 'Temporary Protection⁶² Identification Document' ('TPID'). People who hold the TPID may enjoy some rights that are protected by international documents⁶³ and domestic laws.

⁵⁹ 'Situation Syria Regional Refugee Response - UNHCR Turkey: Provincial Breakdown Syrian Refugees in Turkey - March 2019' <<https://data2.unhcr.org/en/situations/syria/location/113>> accessed 10 April 2019.

⁶⁰ The calculation was made from the capacity of the camps (220,000) out of the total registered Syrians (3.6 million) who live in Turkey.

⁶¹ 'Document - UNHCR Turkey: Provincial Breakdown Syrian Refugees in Turkey - March 2019' <<https://data2.unhcr.org/en/documents/details/68943>> accessed 1 April 2019.

⁶² Temporary Protection notion will be mentioned in the next topics.

⁶³ Reservations will be mentioned as upcoming topics.

Domestic and External Challenges in Turkey

Political and Administrative Challenges

Employment, education, social issues, political challenges, and administrative challenges are the main difficulties of Syrians in Turkey. The problem in Turkey has two faces, like a medallion. One face of the medallion is the ‘interior’ aspect of the crisis that places a burden on Turkey’s shoulders; this includes the government, institutions, and Turkish citizens. The other face is the ‘external’ aspect, which places burdens on those who have come from Syria. There are two issues in Turkey that fall under the interior face: political challenges and administrative challenges. In terms of political and administrative challenges, the state has been passing an arduous test since the beginning. The ruling party, the Justice and Development Party (‘AKP’) has ruled the state since 2002. The AKP has followed a policy, until a certain point, that is a hybrid synthesis of Islamism and conservatism.⁶⁴ However, the policy always changes and shows a lack of consistency, according to Kılıç Buğra Kanat.⁶⁵ When Turkey started to implement its open door policy for Syrians coming into Turkey, the government remained incapable of legitimizing its policies from the voters' point of view.⁶⁶ In the end, Turkish citizens, even AKP voters, began to grumble about the resources being used for Syrians’ needs.⁶⁷

⁶⁴ Hakan Övünç Ongur, ‘The AK Party and Biopolitics: How a Transformation in Governmentality Affects Population Politics in Turkey’ (2015) 19 *Iran & the Caucasus* 185.

⁶⁵ Kılıç Buğra Kanat, ‘CONTINUITY OF CHANGE IN TURKISH FOREIGN POLICY UNDER THE JDP GOVERNMENT: THE CASES OF BILATERAL RELATIONS WITH ISRAEL AND SYRIA’ (2012) 34 *Arab Studies Quarterly* 243.

⁶⁶ Özden Zeynep Oktav and Aycan Çelikaksoy, ‘The Syrian Refugee Challenge and Turkey’s Quest for Normative Power in the Middle East’ (2015) 70 *International Journal* 417.

⁶⁷ ‘Mülteciler Neden Hedefte?’ (*Sivil Sayfalar*, 2 August 2018)

<<http://www.sivilsayfalar.org/2018/08/02/multeciler-neden-hedefte/>> accessed 10 April 2019.

Employment

The other face of the medallion, the Syrian part of the puzzle, consists of employment, education, and social issues. The Syrian influx to Turkey has brought both employment and unemployment issues. Syrians without work permits are not allowed to work in Turkey due to their legal status.⁶⁸ Syrians need to earn money to support their families because there is not enough space in the refugee camps so they have been living in various cities in Turkey.^{69, 70} According to a research report, which comes from parliament from the main opposition party in Turkey, the People's Party ('CHP'), it is assumed that by the end of 2018 there were more than one million cases of illicit employment of Syrians.⁷¹ This illicit employment results in a 'cheap workforce' and causes a loss to registered Turkish laborers. Syrians have to register for 'temporary protection' under the Regulation of Temporary Protection.⁷² There are some critical limitations for Syrians who want to work and earn money with social insurance from the state. For instance, a Syrian can only obtain a work permit six months after he/she has got his/her temporary protection registration from the state.⁷³ The six months' waiting period can no doubt be shortened to make it serve its purpose. Thereby, the government should have taken more initiative in easing processes relating to work permit applications and planning the workforce's additional precision for Turkish citizens.

⁶⁸ They are not 'refugees'. The topic will be noted in future pages.

⁶⁹ 'Refugee Camps in Turkey at Peak Capacity' (*BORGEN*, 20 December 2016)
<<https://www.borgenmagazine.com/refugee-camps-turkey-capacity/>> accessed 4 April 2019.

⁷⁰ 'İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü' (Directorate General of Migration Management)
<http://www.goc.gov.tr/icerik6/gecici-koruma_363_378_4713_icerik> accessed 17 April 2019.

⁷¹ '1 milyon göçmen kayıt dışı çalışıyor' (*Yeni Çağ Gazetesi*, 10 November 2018)
<<https://www.yenicaggazetesi.com.tr/1-milyon-gocmen-kayit-disi-calisiyor-212137h.htm>> accessed 1 April 2019.

⁷² The notion of Temporary protection will be explained in future topics.

⁷³ Regulation of Working Permits on Foreigners under Temporary Protection (Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik) 2016, Art 5(1)

Education

Education is another nuisance for the Turkish government and Syrians. Education is essential, ergo the United Nations International Children's Emergency Fund ('UNICEF') has raised concerns about the danger of 'a lost generation' of Syrians.⁷⁴ The biggest question that Turkish officials face is whether the government should build a policy based on Syrians remaining in the country even after the crisis. According to the state, the answer was negative in the beginning but it has, over time, evolved into a positive. The government has applied 'the curriculum which was provided by "Syrian Education Commission's" for elementary and high school levels and taught in Arabic, after the removal of any glorification of Assad and his regime.'⁷⁵ The government has acted generously and granted a quota for university students by only a declaration.⁷⁶ When the situation turned to its opposite, the Ministry of National Education ('MEB') and the Council of Higher Education ('YÖK') invoked juridical regulations for Syrian students over time. The MEB has announced that the curriculum will be Turkish in future.⁷⁷ Therefore, it can be seen that for the educational problem Turkey has decided to recognize Syrian pupils as they reside permanently away from their native homeland, which is also a sign of approval of Syrians in Turkey by the state itself.

⁷⁴ 'No Lost Generation Initiative: Protecting the Futures of Children Affected by the Syria Crisis - Syrian Arab Republic' <<https://reliefweb.int/sites/reliefweb.int/files/resources/No-Lost-Generation-Initiative-One-Year-Report-Sept-2014.pdf>> accessed 26 February 2019.

⁷⁵ Kemal Kirişçi, 'Syrian Refugees and Turkey's Challenges: Going beyond Hospitality' (The Brookings Institution 2014) 24<<https://www.brookings.edu/research/syrian-refugees-and-turkeys-challengesgoing-beyond-hospitality/>> accessed 2 January 2019.

⁷⁶ 'Suriyeli mültecilere üniversite yolu' (NTV, 22 September 2012) <https://www.ntv.com.tr/egitim/suriyeli-multecilere-universite-yolu,jN_VmWF4YU2tjsFS9vBt1w> accessed 5 April 2019.

⁷⁷ 'Suriyeli çocuklar için Türkçe müfredat - Eğitim ve Eğitim | Ece Karaboncuk, Muge Arda, Eğitim Programları' <http://www.egitimveegitim.com/mebden_haberler/1285-suriyeli_cocuklar_icin_turkce_mufredat.html> accessed 20 March 2019.

Social Issues

Even though many Syrians who used to live in the north of Syria had social relations with people in Turkey who live in border villages and cities on the Turkish side, Syrians face social barriers among Turkish citizens because the government has fallen short in terms of planned housing. Women especially have taken the heaviest share of the social burden. For example, ‘Syrian women and underage girls have been constrained of joining local families as a second sometimes even third wives.’⁷⁸ This results in social stresses, and the rate of divorce has increased by 100 percent in cities like Kilis and Hatay.⁷⁹ On the other hand, the issue of babies presents another inequity for destitute people. Apart from the inescapable suffering of social marking, Syrian babies are not permitted to register, as stated in Turkish laws. Although the Minister of the Interior of Turkey has declared that ‘[H]is heart is desiring to grant these babies Turkish citizenship’,⁸⁰ they cannot apply for citizenship due to their parents’ legal status in Turkey. Turkey-born Syrian babies are ‘stateless’ because of a legal loophole in the country. According to the law, only people who hold the status of a refugee can make applications for themselves and their children. Hence, Turkey should leave at least its reluctant behavior on Syrian families or form a humanitarian ground with the cooperation of non-governmental organizations from different countries on innocent babies who need the basic and common right of acquiring citizenship immediately, which is protected by a treaty that Turkey is a part of, the Convention on the Rights of the Child.⁸¹

⁷⁸ Turkish Medical Association, ‘SURIYELİ SIĞINMACILAR VE SAĞLIK HİZMETLERİ RAPORU [Report on Syrian Refugees and Health Services]’ 62.

<<http://www.ttb.org.tr/kutuphane/siginmacirpr.pdf>> accessed 10 April 2019.

⁷⁹ ‘Göç Dalgası Kilisteki Boşanmaları Uçurdu’ (*Posta*) <<https://www.posta.com.tr/goc-dalgasi-kilisteki-bosanmalari-ucurdu-328074>> accessed 6 April 2019.

⁸⁰ ‘Soylu: Gönümden Suriyeli tüm bebeklerin pasaport taşıması geçiyor’ (*T24*) <<https://t24.com.tr/haber/soylu-gonlumden-suriyeli-tum-bebeklerin-pasaport-tasimasi-geciyor.750134>> accessed 20 February 2019.

⁸¹ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, art 7(1) available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 1 April 2019].

TYPES OF PROTECTION ACCORDING TO TURKISH LAWS AND INTERNATIONAL DOCUMENTS

Turkey has introduced some legal codes as a domestic reflection of international treaties when it became necessary after the immigration accelerated. The constitution of foreigners in Turkey, the Law on Foreigners and International Protection ('LFIP') was first published on 11 April 2013 to create a legal basis for foreigners, especially for Syrians. In article 2 of the first paragraph, as headlined as the scope, the purpose of the law is explained:

The provisions of this Law apply to the activities and actions related to foreigners; the international protection to be extended in cases of individual protection claims of foreigners at borders, the border gates or within Turkey; the immediate temporary protection to be provided to foreigners in cases when there is a large influx into Turkey and where they cannot return back to the country they were forced to leave; and, the structure, duties, mandate and responsibilities of the Directorate General of Migration Management.⁸²

The main intent of the law is to implement an environment for those who are foreigners and need protection. It also sets the limits of any kind of protection.

Asylum-Seekers

There are five types of protection in Turkey in terms of the law. In order to have a good command of the subject, it is important to differentiate the meanings of these international notions from each other. These are: the status of asylum-seeker, the status of refugee, the status of conditional refugee, the status of subsidiary protection, and the status of temporary protection. In the LFIP, refugees are codified in article 61, conditional refugees are codified in article 62, and the subsidiary protection is codified in article 63. The notion of Asylum seeking

⁸² Law on Foreigners and International Protection 2013, Art 2(1)
<<http://www.goc.gov.tr/files/files/ingilizce-2.pdf>> accessed 1 April 2019.

originates to the emerge of the modern state.⁸³ According to Doğan in his *Turkish Foreigners Law*, asylum means ‘a situation that causes someone who has to leave his/her country, to apply for refuge to another country.’⁸⁴ Asylum-seeker, on the other hand, means, ‘the application for the one who had to leave his/her country as mentioned above but the authorities did not make a decision about his/her application yet.’⁸⁵ The definition of ‘asylum-seeker’ cannot be found in international documents, like the notion of ‘refugee’ can.⁸⁶ Therefore, it is not possible to clearly define the legal status of asylum-seekers in international law⁸⁷ and the notion of asylum-seeker is not defined currently in any written Turkish law.⁸⁸

The Refugee

In the book *The Refugee in International Law*, a refugee is one who is granted aid or support or who is accepted for protection due to events that caused them to leave their country to avoid or depart from insufferable conditions or personal situations for various reasons.⁸⁹ According to the generally accepted view, a refugee means someone who willingly or involuntarily left his/her national country where he/she holds citizenship, because of an incident that has emerged. There is no law about refugees that is commonly agreed by states except international agreements.⁹⁰ The most significant treaty about refugees is the Convention Relating to the Status of Refugees (‘CRSR’), which was signed in 1951, and the Protocol

⁸³ SDAM, ‘Türkiye’de Suriyeli Mültecilerin Hukuksal Statü Problemi’ (SDAM - Strateji Düşünce ve Analiz Merkezi 2015), 3 <http://sdam.org.tr/image/foto/2017/11/24/Turkiyede-Suriyeli-Multecilerin-Hukuksal-Statu-Problemi_1511526402.pdf> accessed 1 April 2019

⁸⁴ Vahit Doğan, *Türk Yabancılar Hukuku*, 3.

⁸⁵ Vahit Doğan, *Türk Yabancılar Hukuku*, 88.

⁸⁶ Doğa Elçin, ‘Temporary Protection Status Applied to Syrians in Turkey Similarities and Differences Between European Council Directive No. 2001/55 and Temporary Protection Regulation’ [2016] *Türkiye Barolar Birliği Dergisi* 9, 43. <<http://tbbdergisi.barobirlik.org.tr/m2016-124-1570>> accessed 26 March 2019

⁸⁷ Alice Edwards, ‘Temporary Protection, Derogation and the 1951 Refugee Convention’ (2012) 13 *Melbourne Journal of International Law*, 15. <https://law.unimelb.edu.au/_data/assets/pdf_file/0005/1687379/Edwards.pdf> accessed 2 February 2019

⁸⁸ Lale Ayhan İzmirli, ‘TÜRKİYE’DEKİ SURİYELİLERİN HUKUKİ DURUMUNA İLİŞKİN BİR DEĞERLENDİRME’ [2017] *ASEAD*, 50. <https://www.academia.edu/35967410/T%C3%9CRK%C4%B0YEDEK%C4%B0_SUR%C4%B0YEL%C4%B0LER%C4%B0N_HUKUK%C4%B0_DURUMUNA_%C4%B0L%C4%B0C5%9EK%C4%B0N_B%C4%B0R_DE%C4%9EEERLEND%C4%B0RME> accessed 16 March 2019

⁸⁹ Guy S. Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3. ed, Oxford Univ Press 2007) 15.

⁹⁰ SDAM, ‘Türkiye’de Suriyeli Mültecilerin Hukuksal Statü Problemi’ (SDAM - Strateji Düşünce ve Analiz Merkezi 2015), 3 <http://sdam.org.tr/image/foto/2017/11/24/Turkiyede-Suriyeli-Multecilerin-Hukuksal-Statu-Problemi_1511526402.pdf> accessed 1 April 2019.

Relating to the Status of Refugees ('PRSR'),⁹¹ which was signed in 1967. The CRSR defines a term of 'refugee' in these words:

[O]wing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.⁹²

Hence, the treaty article clearly describes the definition of a refugee.

Turkey has agreed and ratified the treaty with time and geographical reservations.⁹³ As specified in article 61 of the LFIP, reservations are kept also in domestic law:

A person who as a result of events occurring in European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his citizenship and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted refugee status upon completion of the refugee status determination process.⁹⁴

Therefore, the incident must have occurred in Europe to keep the legal status of refugee in Turkey, according to Turkish law. Turkey accepts refugees only from European countries by

⁹¹ The research composes the CRSR including the PRSR because both complete each other in terms of the law.

⁹² Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention) art 1(2)

⁹³ 'The Turkish Government will, at the time of ratification, enter reservations which it could make under article 42 of the Convention.' By accepting the people from Europe who were affected by the incidents that are mentioned in the convention for a certain time that is also mentioned in the reservations section of the convention.

⁹⁴ Law on Foreigners and International Protection 2013, Art 62
<<http://www.goc.gov.tr/files/files/ingilizce-2.pdf>> accessed 1 April 2019.

law because the government has put reservations on both treaties to cover the country from a potential influx from Turkic countries in Central Asia.⁹⁵ It is notable that European countries and many non-governmental organizations still force Turkey to waive reservations on the treaty and this has intensified as the negative effects of the Arab Spring endure in Europe.^{96, 97} However, it is controversial that these countries ask Turkey to take the whole burden of Syrians without offering equal responsibility but using Turkey as a buffer zone, says İzmirli on this point.⁹⁸

Conditions to be a Refugee in Turkey

There are six conditions that must be met to be considered a refugee in terms of Turkish law in article 61 of the LFIP and a person who fulfills these conditions may apply for refugee status. First, the authority looks for a fear of being persecuted that is a consequence one's race, religion, nationality, or belonging of a social group or holding a political view. Second, the fear must be cogent. Third, the person must be outside of his/her country's boundaries. Fourth, the person must be unable to receive protection from his/her country or has rejected the protection. Fifth, the incident which debars him/her from his/her country must have occurred in Europe. Sixth and lastly, the person must not be restricted from acquiring refugee status. The person who seeks immigration to Turkey is obliged to manage an application in the UNHCR first. The DGMM, under the Turkish Ministry of the Interior, has information about numbers of international protection applicants. According to the latest information for the year of 2018, more than 114,000 people have applied for international protection in Turkey.⁹⁹ These numbers put Turkey in third place in the European rankings, after Germany with 184,180 applicants and France with 119,190 applicants.¹⁰⁰

⁹⁵ At these years, signing authorities of Turkey and state mind had thought in that way due to the end of WWII.

⁹⁶ Human Rights Watch, 'PROTECTING REFUGEES' <<https://www.hrw.org/reports/2000/turkey2/Turk009-10.htm>> accessed 1 April 2019.

⁹⁷ 'EU-Turkey Deal: Reception Conditions Trigger Voluntary Returns - Turkey' (*ReliefWeb*) <<https://reliefweb.int/report/turkey/eu-turkey-deal-reception-conditions-trigger-voluntary-returns>> accessed 1 April 2019.

⁹⁸ Lale Ayhan İzmirli, 'TÜRKİYE'DEKİ SURİYELİLERİN HUKUKİ DURUMUNA İLİŞKİN BİR DEĞERLENDİRME' [2017] ASEAD, 51. <https://www.academia.edu/35967410/T%C3%9CRK%C4%B0YEDEK%C4%B0_SUR%C4%B0YEL%C4%B0LER%C4%B0N_HUKUK%C4%B0_DURUMUNA_%C4%B0L%C4%B0%C5%9EK%C4%B0N_B%C4%B0R_DE%C4%9EERLEND%C4%B0RME> accessed 16 March 2019.

⁹⁹ 'İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü' <http://www.goc.gov.tr/icerik6/uluslararasi-koruma_363_378_4712_icerik#> accessed 10 April 2019.

¹⁰⁰ 'Database - Eurostat' <<https://ec.europa.eu/eurostat/data/database>> accessed 1 April 2019.

The fear condition requires an individual examination of every person who applies for protection. Besides objective conditions, subjective conditions are evaluated by authorities in order to assess the nature of every single case.¹⁰¹ The person must have fear that is derived from his/her race, religion, nationality, membership of a certain group or political opinions and the fear must be connected with his/her country of origin.¹⁰² The person is required to be outside of his/her country's territories or, in case of being 'heimatlos',¹⁰³ he/she needs to be in Turkey in order to acquire the status of refugee. To receive the status of refugee it is also required that the person who has all the conditions noted above must not have any status which may exclude them from refugee status. According to the Convention, people who are protected in terms of CRSR article 1(d) and 1(e), who already receive protection from any agency of the United Nations, and people who are impropriated for international protection cannot make applications. In addition, according to the Convention article 1(f), people are not eligible for protection if they have committed or been found guilty of a crime against humanity, peace, or any crime of war.

¹⁰¹ Bülent Çiçekli, *Yabancılar ve Mülteci Hukuku (Law of Foreigners and Refugees)*, vol 6 (Seçkin 2016) 247.

¹⁰² Bülent Çiçekli, *Yabancılar ve Mülteci Hukuku (Law of Foreigners and Refugees)*, vol 6 (Seçkin 2016) 249-254.

¹⁰³ stateless

Losing the Status of Refugee

The person who fulfills every condition above loses the status of refugee when a condition disappears. The 1951 Refugee Convention similarly notes the revocation of the status of refugee.¹⁰⁴ The LFIP law's reservations for international treaties in article 2, paragraph 2, states: 'This Law shall be implemented without prejudice to provisions of international agreements to which Turkey is party to and specific laws.'¹⁰⁵ If the person who is granted the status of a refugee starts to receive willingly protection of his/her origin state, intentionally obtains citizenship from the origin country after the loss of it, or obtains citizenship from a third country after the loss and benefits from that state's guardianship, returns to the origin country on purpose to settle again, or if the conditions such as fear that enabled him/her to become a refugee disappear in the origin country, or if there is a situation that enables him/her to return his/her country of residence, even in the condition of being stateless, this removes the state of refugee for the person.

Conditional Refugee Status

The status of conditional refugee was introduced in Turkey with the LFIP. Before the comprehensive law's definition of conditional refugee status, this status had a place only in the Regulation on Refugee and Asylum in Turkey, in the meaning of 'refugee'.¹⁰⁶ Therefore, the definition of asylum-seeker was preserved and only the name has changed.¹⁰⁷ After this notion, the conditional refugee was introduced to doctrine, and the notion of asylum-seeker has been discarded. The principal difference between the status of refugee and the status of conditional refugee is the location of the applicant for protection. In other words, the status of a refugee can be acquired only by people who have originated in Europe, whereas the status of a conditional refugee can be procured by people from any other country. The general conditions for being a conditional refugee are the same as the status of a refugee, with the exception of 'Europe-based incidents'. Conditional refugees may stay in Turkey until they are settled safely

¹⁰⁴ Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention) art 1(C)

¹⁰⁵ Law on Foreigners and International Protection 2013, Art 2(2)
<<http://www.goc.gov.tr/files/files/ingilizce-2.pdf>> accessed 1 April 2019.

¹⁰⁶ 'Yönetmelik' (Regulation of change on the Regulation on Refuge and Asylum)
<<http://www.resmigazete.gov.tr/eskiler/2006/01/20060127-2.htm>> accessed 2 April 2019.

¹⁰⁷ Aysel Çelikel and Günseli Öztekin Gelgel, *Yabancılar Hukuku* (Law on Foreigners) (24th edn, Beta 2018) 24.

in a third country. The rules of conditional refugee status are almost the same as the rules of refugees in terms of state responsibilities. An individual application is required for obtaining the status. Therefore, it is effective and is considered individually.¹⁰⁸

Subsidiary Protection Status

Subsidiary protection can only be applied to those who migrate as an individual. It applies to those who cannot apply to be a refugee or a conditional refugee but who are at risk of being executed, tortured, suffering inhumane treatment or indignity, or being affected by an armed conflict or act of force by the state in their country of origin. The person must meet all the conditions mentioned above to receive subsidiary protection status in Turkey. After the determination of the status of a person, the person enjoys subsidiary protection according to article 63 of the LFIP.¹⁰⁹ Hence, Syrians are obliged to apply individually for subsidiary protection in Turkey.

Temporary Protection Status

Temporary protection status was developed to protect the inherent rights of those who migrate *en masse* to Turkey, no matter whether they demand protection or not. Temporary protection is a mechanism which is universally accepted and aims to provide protection by activating the non-refoulement principle for numerous people, even it is temporary.¹¹⁰ It also plays an important role in Turkey, even though Turkey has a geographical reservation on the Convention of 1951 and the Protocol of 1967.¹¹¹ There were some clauses about mass influxes of protection in the Regulation on Refugee and Asylum before the LFIP was inured. However, the regulation was abolished in 2011 after the LFIP was installed in the system. Known as ‘guest’^{112, 113} status, the temporary protection yields rights and obligations to beneficiaries. One

¹⁰⁸ Vahit Doğan, *Türk Yabancılar Hukuku* 91.

¹⁰⁹ Law on Foreigners and International Protection 2013, Art 63

¹¹⁰ Manuel Angel Castillo and James C. Hathaway, ‘Temporary Protection’ (1996) 15 *Refugee: Canada’s Journal on Refugees* 10.

¹¹¹ Turkey has revoked its ‘time reservation’ with the 1967 Protocol Relating to the Status of Refugees but kept the geographical reservation.

¹¹² ‘Unwanted ‘Guests’: Syrian Refugees in Turkey – Jordan/Lebanon/Syria’ (*WRMEA*) <<https://www.wrmea.org/jordan/lebanon/syria/unwanted-guests-syrian-refugees-in-turkey.html>> accessed 6 April 2019.

¹¹³ ‘Syrian Refugees in Turkey: The Swing from Guests to Citizens’ (*Hürriyet Daily News*) <<http://www.hurriyetdailynews.com/opinion/barcin-yinanc/syrian-refugees-in-turkey-the-swing-from-guests-to-citizens-101480>> accessed 6 April 2019.

point of view argues that temporary protection is a kind of visit; the notion itself does not grant any protection and foundation so ‘guests’ cannot benefit from the rights from which refugees can benefit.¹¹⁴ However, this view has interpreted the law closely. The laws regarding people who are in need are subject to broad interpretation without considering any reservations. Furthermore, the duration of temporary protection has not been resolved in any codes or documents to support the best refuge to Syrians in Turkey.

Temporary protection theory has unsettling dilemmas. The question of what happens to the people who have taken refuge in Turkey after the conflict is over does not yet have an accurate answer in doctrine. One opinion supports that the return does not depend on the person’s willingness, and the host country has the right to comment on returns.¹¹⁵ However, it is not mandatory because when the conditions disappear, they have the right to apply for other protection opportunities. It is also commonly believed by analogy that Syrians have the right to benefit from the non-refoulement principle of the CRSR. Moreover, it is accepted that the situation is not an exception in international law and international humanitarian law, no matter the effect of mass protection influx on the hosting state, as it was agreed in the CRSR.¹¹⁶ In addition, some scholars advocate that although the protection that is provided by the CRSR is used essentially in individual protection incidents, there are no restraints for its use in mass influxes in emergencies.¹¹⁷ Additionally, the UN admits that states have responsibilities in mass influx movements in terms of the CRSR.¹¹⁸ However, there is no indication that allows the practice in mass influx situations, in either the document or preparation phases.¹¹⁹ Therefore, the UN should bring more clarification to methods of using protection in mass influxes by putting this on the agenda.

¹¹⁴ Cansu Kula, ‘Uluslararası Belgelerle İltica Hukuku ve Ülkemizdeki Suriyelilerin Durumu’ [2015] Hukuk Gündemi 49.

¹¹⁵ Karoline Kerber, ‘The Temporary Protection Directive’ (2002) 208 *European Journal of Migration and Law* 195.

¹¹⁶ Bülent Çiçekli, *Yabancılar ve Mülteci Hukuku*, vol 6 (Seçkin 2016) 305.

¹¹⁷ Jean-François Durieux and Jane McAdam, ‘Non-Refoulement through Time: The Case for a Derogation Clause to the Refugee Convention in Mass Influx Emergencies’ (2004) 16 *International Journal of Refugee Law* 9.

¹¹⁸ UNHCR (Global Consultations on International Protection), ‘Mechanisms of International Cooperation to Share Responsibilities and Burdens in Mass Influx Situations’ (2001) para. 2

¹¹⁹ UNHCR (Global Consultations on International Protection), ‘Mechanisms of International Cooperation to Share Responsibilities and Burdens in Mass Influx Situations’ (2001)

CONCLUSION

In conclusion, Syrians in Turkey still face a spate of complications, although the government tries to push its limits by its broadening of the laws. The Ankara government has covered ground, but a lot of improvements are also needed for Syrians in Turkey on a legal basis. It is understandable that Turkey keeps the reservations on the treaties because of its geopolitical location. Nonetheless, Turkey will have to pull the reservations in someday when the crisis in Syria is over. The problem here is the uncertainty about the end of the civil war. Turkey has been confronted with not only a social integration crisis with Syrians in Turkey but also the reluctance of other responsible countries to take on the economic burden. However, Turkey must treat Syrians equally in terms of the inherent rights of Turkish citizens. Pretending to not see the problems, like unemployment of Syrians, has no advantage to anyone. Turkey must avoid complicating its bureaucracy and laws for those who have taken the place of Turkish citizens in 2011. Turkey must refrain from using unpleasant difficulties for those like Turkish citizens who have migrated in the 1960s to Germany. Even though Turkey came first in a regional country service comparison, it must close the gap that has emerged as a result of the geographical reservation on the treaties, until they will be waived by the state.

Turkey has to reconsider its international obligations for the people whose lives depend on the state. Turkey can integrate Syrians with Turkish citizens if Syrians are given the chance to be part of working life, if they stop thinking about the future of their children. In fact, the innocent Syrians have the heaviest burden of the crisis. They have had to leave their homes, neighborhoods, families, cities, and motherland. They have lost their relatives in the war. The political figures should refrain from making contradictory statements, which is far from sharing these people's pain.

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APPENDICES

AFAD	The Disaster and Emergency Management Presidency of Turkey
AKP	The Justice and Development Party
Bulgaria	Republic of Bulgaria
CHP	The Republican People's Party
CRSR	The Convention Relating to the Status of Refugees
DGMM	The Directorate General for Migration Management
Iraq	The Republic of Iraq
ISIL	The Islamic State of Iraq and the Levant
Kızılay	The Turkish Red Crescent
KRI	The Kurdistan Region of Iraq
LFIP	The Law on Foreigners and International Protection
MEB	The Ministry of National Education
PKK	The Kurdistan Workers' Party
US	The United States of America
PYD	The Democratic Union Party
PRSR	The Protocol Relating to the Status of Refugees
RTP	The Regulation of Temporary Protection
Saddam	Saddam Hussein Abd al-Majid al-Tikriti
TPID	Temporary Protection Identification Document
UNHCR	The Office of the United Nations High Commissioner for Refugees
UNICEF	The United Nations International Children's Emergency Fund
UNRWA	The United Nations Relief and Works Agency for Palestine Refugees in the Near East
USSR	The Union of Soviet Socialist Republics
YÖK	The Council of Higher Education