

**COPING WITH IMMIGRATION:
THE INSTITUTIONAL AND POLITICAL DYNAMICS OF
MIGRATION AND ASYLUM POLICY-MAKING IN
TURKEY**

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ABSTRACT

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As a country that is highly affected by the changing nature of international migration due to transformative forces of globalization, Turkey is now being defined as a country of both immigration and emigration. This thesis analyzes Turkish state's international migration politics and policies with regard to recent global trends in migratory movements. It examines the underlying dynamics that govern the policy making processes and tries to identify the problems stemming from them.

The primary goal of the thesis is to make an elaborate assessment of the existent institutional framework and to detect the presence of securitization paradigm in the political and legal setting of international migration in Turkey by means of qualitative research methods. It investigates how international pressures and trends, national interests, political considerations and especially the dynamics of fragmented institutional structure have affected policy making strategies. In view of these factors, the thesis suggests adopting a humanitarian approach towards refugees, asylum seekers and migrants that leaves political concerns behind and avoids securitization of the issue.

Keywords: Asylum Policy, Irregular and Illegal Migration, International Migration and Turkey, Securitization, Foreigners and International Protection Law.

ÖZ

GÖÇLE BAŞ ETMEK:
TÜRKİYE'DE ULUSLARARASI GÖÇ VE İLTİCA
POLİTİKALARINI YÖNLENDİREN KURUMSAL VE SİYASİ
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Uluslararası göç hareketleri, küreselleşmenin dönüştürücü güçlerinin etkisiyle büyük bir değişimden geçmektedir. Türkiye, göç hareketlerinin odağında bir ülke olarak, bu gelişmelerden doğrudan etkilenmektedir. Bugün, yaşanan dönüşümler sonucunda, Türkiye hem göç alan hem de göç veren bir ülke konumundadır. Bu tez, küresel gelişmelerin ışığında, Türkiye Cumhuriyeti'nin uluslararası göç alanında oluşturduğu yasal düzenlemeler, politikalar ve uygulamaların bir analizini yapmayı; bu analizi yaparken politika

retim srelerini ynlendiren dinamikleri ve bu dinamiklerden kaynaklanan sorunları saptamayı amalamaktadır.

Tezin ncelikli amacı Trkiye’de uluslararası g politikalarını dzenleyen kurumların kapsamlı bir deęerlendirmesini yapmak ve bu kurumların oluřturduęu yasal ve politik erevenin katmanlarına nfuz etmiř gvenlikleřtirme olgusunun varlıęını tespit etmektir. alıřma, kresel baskılar ve ynelimlerin, ulus devlet reflekslerinin ve zellikle kurumlar arası paralı yapıdan kaynaklanan siyasi ve ideolojik atıřmaların politika yapım mekanizmalarının zerindeki etkisini lmek iin niteliksel arařtırma yntemlerinden faydalanır. Yapıcı ve nitelikli bir uluslararası g politikasının oluřturulması iin sunduęu temel neri; mlteci, sıęınmacı ve gmenlere politik kaygılardan arınmıř bir řekilde insani pencereden yapılacak yaklařımların bir an nce benimsenmesi gerektięidir.

Anahtar kelimeler: İltica Politikası, Dzensiz ve Yasadıřı G, Trkiye ve Uluslararası G, Gvenlikleřtirme, Yabancılar ve Uluslararası Koruma Kanunu.

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LIST OF ABBREVIATIONS

AI	Amnesty International
AKP	Justice and Development Party (Adalet ve Kalkınma Partisi)
ASAM (SGDD)	Association for Solidarity with Asylum Seekers and Migrants (Sığınmacı ve Göçmenlerle Dayanışma Derneği)
DFBA	Department of Foreigners Borders and Asylum (Yabancılar Hudut İltica Dairesi Başkanlığı)
ECtHR	European Court of Human Rights
EU	European Union
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
IOM	International Organization for Migration
MFA	Ministry of Foreign Affairs
MOI	Ministry of Interior
Mülteci-Der	Association for Solidarity with Refugees (Mültecilerle Dayanışma Derneği)
NGO	Non-Governmental Organization
PKK	Kurdistan Workers' Party
PolNet	Police Computer Network and Information System (Polis Bilgi Sistemi)
TGNA	Turkish Grand National Assembly
TNP	Turkish National Police
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
USSR	Union of Soviet Socialist Republics

CHAPTER 1

INTRODUCTION

Giles Deleuze (1995) points out that “[t]here’s nothing more unsettling than the continual movement of something that seems fixed” (quoted in Nyers, 2006). Societies and the people that construct them are not fixed. This statement also refers to a physical situation as well as a sociological and ideological one. Contemporary world has been the stage for mass population movements of all kinds including the lands of Turkey for a long period of time. Deeply analyzing the underlying dynamics of international migration in Turkey bears great importance since it helps determining the political and ideological position of Turkey in the contemporary global setting.

This study aims to investigate the transformations in Turkish asylum and migration politics and policies since the foundation of the Republic with specific emphasis on the post-1980s period which was shaped by the forces of globalization. As a country literally located at the intersection of developing third world and industrialized West, Turkey did not have any direct policy towards refugees and immigrants until 1994. Still, it does not have any legislation; the first asylum law of Turkey (Foreigners and International Protection Law) was prepared in 2011 waiting to be enacted in the Parliament. The lack of concern on the issue was previously accepted as an expectable

result of the lack of severity since Turkey was formerly known and proven as a net-emigration country. However, statistics show that Turkey has been experiencing continuous immigration from African, Asian and especially Middle Eastern countries since the 1980s. Therefore the persistent ignorance about the topic should not be considered as a reasonable reaction to the circumstances, but rather an ideological and political choice and strategy.

Refugee problem is a humanitarian issue. According to the Article 14 of the Universal Declaration of Human Rights, *“everyone has the right to seek and to enjoy in other countries for asylum from persecution. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.”* Thus, this universal right is conditional and therefore creates a need for a definition of refugees who are the ones that are the true claimants of this right. The Article 1A of the 1951 United Nations Convention Relating to the Status of Refugees defines the refugee as the person *“owing to a 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country.”* According to past experiences, the world witnesses forced population displacements in every sixteen month and massive displacements in every two years (UNHCR, 2006). In the last twenty years, at least 1.5 million people have been forcefully displaced. Therefore, the refugee problem is not a minor trouble stemming from exceptional localized conflicts,

but rather a structural deficiency of the contemporary world to be handled by globally.

1.1. Conceptualization

Although population movements have always existed from the very beginning of human history, the concepts of political refugee and mass migration are relatively new and modern phenomena that emerged after the mass population movements in Europe with the outbreak of World War II. In accordance with the argument of Zygmunt Bauman (1998) that addresses mobility as ‘the most powerful and most coveted stratifying factor’ of contemporary societies; today according to the statistics of the United Nations High Commissioner for Refugees (UNHCR), there assumed to be 43 million refugees all around the world 36.4 million of whom are among the people of concern of the UNHCR. The approximate number of international migrants which was 100 million in 1960 increased to 175 million in 2000 (UNHCR, 2006). The number of international migrants in developed countries on the other hand, has risen to 110 million in 2000 from 48 million in 1980. Although only about two or three per cent of the world population is classified as international migrants, even the small percentage is sufficient enough to be the catalyst of certain social and political transformation, both in sending and receiving countries.

Globalization and international migration are intrinsically related to one another. While globalization ensures the continuous flow of goods and capital across the boundaries, it also eases the population movements. The

improvement of technology, transportation and communication facilities and the huge impact of media and deepening and widening transnational social networks accelerate international migrations while the widening economic and political development gap between developed and developing world contributes to it. Migration industries and networks are developed through the help of media and internet. Capitalist world market that is spreading with the forces of globalization usually destroys the rural subsistence economies causing many people from the rural areas seek jobs in cities. New areas that are incorporated into global world market often go under dramatic social and political changes and these changes often go hand in hand with upheavals and restlessness which usually end up in massive displacements.

Today, in a world where both the physical and ideological boundaries tend to get obscure; it is difficult to make a perfect distinction between concepts of economic migration and asylum. As explained above, asylum is a very rigid concept that arises as a right only with presence of certain conditions. It is a political type of migration unlike other migration types most of which take place due to economic factors. Nevertheless, the distinctions between classical migration categories have been blurred recently and making clear-cut categorizations turned out to be impossible. In the case when agents migrate illegally, it may not be possible to find out their initial motives which may also have been complex at first hand. Malfunctioning economies usually mean also malfunctioning governments which leads us to the notion of ‘asylum-migration nexus’, indicating that many migrants and asylum seekers

have multiple motives for mobility (Castles, 2003). Armed conflict, political violence and economic concerns like poverty often overlap.

In the Turkish case, the task for distinguishing migration categories is even harder because of the very nature of the immigration to Turkey which tends to be rather irregular than regular. Irregularity refers to migrants having illegal status either by entering country without valid documents or staying illegally after their visas and passports expired. There are many people in Turkey who had started their journey in order to escape from political violence in their countries but have never applied for political refugee status or have been rejected by the official organs and therefore fallen into the category of illegal migrants instead of refugees. Therefore a strict separation of categories in Turkish experience may lead to misunderstandings about the nature and magnitude of the problem. False categorization may also result in a humanitarian crisis for the asylum seekers who already occupy a fragile position.

Turkey has been receiving a considerable amount of immigrants most of whom travel and settle illegally especially from Middle Eastern and ex-Soviet Union countries enough to classify Turkey an immigrant country since the 1980s. Despite the lack of sufficient official data, Turkey is assumed to attract more than 400.000 people annually, which is a greater number than what Australia gets as a classical country of immigration (İçduygu, 2005). While the main push factor that lead migrants leave their country at first hand has been the political and economic destabilization in the Middle East and

Balkans, the main pull factors have been the very characteristic of the Turkish economy that enables illegal workers to be absorbed in informal economy, the lack of tight control mechanisms on illegal migration, geographical suitability because of the mountainous landscape and long borders which harden border controls. The tightening asylum policies of the European Union also played a crucial role in Turkey's being a transit country for migration headed towards the European Union member states.

Despite the massive magnitude of the problem, legal migration framework in Turkey is far from being extensive. Turkish legislation on the issue is not comprehensive and unified. A fully-fledged, large scale immigration and asylum program and even an asylum law do not exist. The first direct policy about the international migrants was the Asylum Regulation in 1994. An action plan to develop a comprehensive policy framework was prepared in 2005 in accordance with the requirements of EU harmonization process, but the efforts to complete the program still has not come to an end. In 2011, the draft for the Foreigners and International Protection Law (Yabancılar ve Uluslararası Koruma Kanunu) was prepared which is now pending in the Turkish Grand National Assembly to be enacted.

International migration literature in Turkey is limited in terms of the number of studies conducted and topics discussed. Former studies conducted by Abadan-Unat, Tuna and Ekin, Gökdere, Gitmez and Tunalı in the 1960s-1970s and 1980s were mostly focused on labor emigration and its social and economic effects. With the changing trends in migration flows, studies also

tended to focus on immigration especially transit migration rather than emigration. Although new research questions have been raised along with the transformation of Turkey's position in international migration map; political and legislative framework was slightly adapted to the new conjuncture.

Present legislation consists of minor regulations that came up as pragmatic reactions to immediate needs or obligatory arrangements for the EU harmonization process in order to obtain full membership. Besides, in these limited obligatory or pragmatic regulations; security concerns and economic considerations outweighed humanitarian concerns. It is possible to say that there is not a legislative framework that adopts a humanitarian approach to facilitate provision of social, political and human rights of the immigrants, asylum seekers and refugees in Turkey with an extensive integration program.

As Hannah Arendt mentions, "*homeless, stateless and rightless; [refugees] had become the scum of the earth*" (quoted in Marfleet, 2006). The refugee and illegal migration problem cannot be separated from the humanitarian concerns. Both illegal migrants and refugees are usually the victims of human rights violations. Most of the time, their low status in society and poor economic, social and political conditions are seen as an unpleasant but inevitable situation due to other nation state concerns such as security or homogeneity. States often treat and evaluate asylum claims based on their own concerns and needs instead of asylum seekers'. Most of the time, rights of the migrants are secondary issues to consider for the receiving states. For

immigrants, even acquirement of the legal refugee status does not guarantee the full enjoyment of basic human rights.

Refugee -or the illegal migrant- as an individual, symbolizes a break from the regular. In contemporary world, regularity has many requirements, but first of all, it comes with a full attachment to a nation state. By not belonging to the national space, the refugee is the problematic agent of the humanity that has to be 'corrected' through repatriation or resettlement both of which are simply just giving the national identity back to the irregular agent (Soğuk, 1999). Therefore, the normal setting of the territorial space necessitates 'refugee problem' to be solved by the help of regularization methods and this regularization is usually the primary concern of the nation states. Illegal migrants' status, in this sense, is not dissimilar to refugees' since they pose the same threat to the very reason of the modern nation states –that is territorial sovereignty. In that regard, a state point of view easily securitizes and politicizes the issue and may ignore humanitarian concerns. The securitization paradigm, which is developed by the Copenhagen School, refers to the extreme form of politicization that transforms any issue into a matter of security.

Although this thesis analyzes the securitization of migration asylum policies in Turkey, it is crucial to mention that this paradigm is not intrinsic to the political sphere of the Turkish state. Securitization has always been existent within the migration policy frameworks of modern nation states, especially of the European Union members. As the European Union introduced integrity

among the member countries, it also strengthened the external control mechanisms and securitized reflexes towards immigration (Guiraudon and Lahav, 2000). The integration of the internal resulted in the exclusion of the external. In the European case, the primary focus of policy makers has been on the destabilizing effects of immigration on domestic integration (Huysmans, 2000). Hence, security matters are given greater importance to protect the strengthening ties within the internal space. Even the attempts to create a common EU migration policy have primarily stemmed from the member states' quest for a more securitized migratory framework without taking the responsibility of harsher measures for controlling the movements (Lavenex, 2001). Nevertheless, Turkey has a unique position in such international setting; since lacking the necessary legislation gives Turkey the opportunity to freely design its policies in accordance with the security concerns. While the EU member states are constrained by the sanctions of the laws, the non-existence of binding legislation in Turkey results in discretionary initiatives play a greater role in its policy making processes.

The purpose of the study is first to make a situation analysis in order to point out the scope of the problem and to identify trends and tendencies, to detect the failures in the institutional setting due to fragmented structure and to develop a humanitarian approach to the asylum and migration issue in Turkey without fully separating political asylum and economic migration concepts from each other. It explores how the state policies are shaped by several institutions and how the dynamics of institutional relations have been effective

in the policy making processes. It tries to capture the defects of dominant ideological approach, which has been securitization, and offers an agenda for new policies that avoids securitization and politicization of the concept and takes the issue as a humanitarian concern rather than accepting pragmatic policy frameworks for temporary resolutions that deepens the problems. The thesis does not approach to the refugee and illegal migrant issue as a ‘problem’ to be solved and eliminated, but a natural consequence of the modern territorial space design. Nevertheless; it strongly emphasizes that despite not constituting a problem and being ‘normal’ members of the human society, refugees and illegal migrants are the fragile members of society whose lives should be promoted and should come before the security or sovereignty concerns of nation states.

1.2. Research Design and Methodology

This research is composed of three main topics discussed in three chapters. The first chapter includes an extensive literature review of the international migration theories, recent trends in global international migratory movements and future challenges. The second chapter takes a snapshot of the current situation of Turkish international migration politics and legislative framework including issues related with asylum and illegal migration with specific reference to past experiences especially after the 1980s. The chapter three is composed of a field research that is conducted in Ankara, Kilis and Istanbul. This chapter focuses on policy suggestions in the light of the information gathered from the interviews with bureaucrats, scholars and

officials from Ministry of Interior, Ministry of Foreign Affairs, Turkish National Police, Police Academy, UNHCR, local authorities and several non-governmental organizations that play a role in the decision making and practicing processes of Turkish policies about migration and asylum or operate as practitioners of these policies. In April and May of 2012, I conducted several semi-structured in depth interviews with officials and experts from these institutions in order to obtain a deeper insight about Turkey's stance on the issue and to be able to make more viable inferences about recent developments. I also visited the 'container city' in Kilis that was built for the 'guests' running away from Syrian government's persecution and conducted interviews with the local authorities. These interviews helped me detect the problems and deficiencies of Turkish asylum and migration system to make appropriate policy suggestions; but more importantly, they were aimed at revealing the differences and contradictions in opinions and standpoints of several institutions if there are any.

The results showed that although the attempts to establish legal framework by the preparation of a relatively liberal law on a period in which the asylum and immigration policies getting stricter and harsher are progressive; the securitization paradigm still prevails which prevents Turkey from adopting a pure humanitarian policy framework. The persistent securitized approach is evident in the preservation of geographical limitation, which precludes non-European asylum seekers from being accepted as refugees in Turkey, and in the avoidance of suggesting proactive integration

policies. Securitization goes hand in hand with politicization. Politicization also showed itself in law making process as tension and power struggle between institutions.

In the light of these considerations, it is legitimate to claim that the international migration policies including asylum and irregular migration in Turkey are shaped by security and political concerns which are even observable in the inter-relations of several governmental institutions authorized in the management of the issue.

CHAPTER 2

INTERNATIONAL MIGRATION AT A GLANCE

It is no dubious that international migration has always existed since the beginning of the history of civilizations. Nevertheless, as a large scale sociological and economic phenomenon; it is a product of the modern world. It has grown in both volume and significance especially after World War II. The great savagery of the war forcefully displaced millions of people and led some others to migrate voluntarily in Europe. The ratification of the Geneva Convention and the establishment of the UNHCR were reactions to such mass movements that have never been come across before in that pace and magnitude. In such context, governments gave migration great importance and migration theories were developed mostly after World War II. This chapter covers the theories of international migrations, the recent trends in migratory movements and future challenges.

2.1. Theories of International Migration

Migration was first discussed as an academic concept in the 19th century. In 1885 and 1889, a German-British geographer Georg Ravenstein prepared two papers for Royal Statistical Society named “Migration Laws” (Abadan-Unat, 2002). As can be understood from the names, these papers intended to develop universal migration laws that are able to explain all kinds

of migratory movements and asserted that the primary reason for migration is the desire of human beings to enhance their economic conditions.

The first serious attempts to provide a complete theory for migration came after World War II. There is not a universal law for migration that is applicable across the board today. However, the first migration model, which was the neoclassical model that was developed by Lewis (1954), Fei and Ranis (1964), Haris and Todaro (1970), Borjas (1989), aimed at developing a universal theory like Ravenstein's. Neoclassical theory of migration analyzes population movements from the economic perspective. According to this model, international migration occurs only when there is inequilibrium between supply and demand in the world labor market. Countries with excess labor supply have a lower wage level compared to countries with higher demand and the geographical differences lead people to migrate from low wage countries to high wage countries. It appears that classical model only evaluates economic factors that play role in migratory movements and detects wage differentiations as the primary reason for migration. On the micro level, it assumes that individuals make independent decisions to migrate based on rational profit-loss calculations.

The neo-classical perspective can be accepted as the continuum of the 19th century understanding of the migration that is the attempt for making generalization without stemming from any real life experiences on migration. Most of the theorists of neo-classical migration approach were economists who tended to analyze international migration concept within the economic sphere.

The classical approaches to migration are also known as the 'push-pull theories' because they systematically define migration as the result of push factors that lead people to leave their countries of origin like demographic growth, poor living standards, underdevelopment, lack of opportunities and political deficiencies and pull factors that attract people to receiving countries like excess demand for labor, availability of land and jobs, political freedoms and improved life chances.

Oded Stark (1991), on the other hand, claims that decision to migrate is made not by the individuals but rather by the family members and household by proposing a theory called 'new economics of labor migration'. Since migration often takes place from low income countries to higher income countries, it is important to give credit to traditional family structures that dominate the society in low income countries. In developing countries, it is more likely that household acts an independent economic unit rather than individuals because of the traditional forms of production. Therefore, in Stark's opinion the traditional neoclassical approach undermines the role of family by taking individuals as the unit of analysis. Moreover, he also asserts that families do not only seek for increasing their absolute incomes but also increasing their relative incomes comparing to other members of the society. This theory makes us conclude that it is not only the absolute income differences between countries that lead people to migrate but also other factors that reduce household risks like secure employment, availability and easiness of entrepreneurship and all other kinds of life chances.

Both Stark's theory and neoclassical theory try to explain migration at the micro level that is primarily as an outcome of rational decisions of agents. These theories are criticized because of not taking into account structural deficiencies of the capitalist world market. Moreover they are accused of being individualistic and ahistorical. Borjas (1989) summarizes the neo-classical theory of migration as individuals' search for the countries that will maximize their utility that are the ones will most contribute to their well-being. This means one would leave the economically disadvantageous areas for the more advantageous ones until the drive for migration come to an end when labor market reaches equilibrium with equalization of wages and living conditions. This theory predicts in the end, international migratory movements are destined to be finished, because normal functioning of the market will eventually lead markets to reach an equilibrium point unless governments and other economic and political agents do not interfere in the market.

Neo-classical approaches are heavily accused of being over simplistic and one sided by other scholars like Saskia Sassen (1988) or Aristide R. Zolberg (1989). Studies show that it is not usually the people from the most disadvantageous places of world that leave their countries for the richest countries as the neo-classical approach suggests, but rather low and middle class people from relatively more developed places that are going through rapid social and economic transformation (Castles and Miller, 1993). Not surprisingly, neo-classical theory also cannot explain why certain groups of people go to one country rather than another like Turks going to Germany

instead of France or Algerians prefer France instead of Germany unlike Turks (Castles and Miller, 1993). Saskia Sassen (1999) asserts that the international migration is not simply the outcome of individuals in search of better opportunities, but an intersection of several economic, political and geographical processes that include not only the migrants but also governments, all kind of economic actors and market, media and even the populations of migration receiving countries. Massey and Taylor (2004) assert that explaining international migration just by labor market dynamics is highly misleading because international migration is even *less* influenced by the conditions of labor markets than the other markets. The assumption that claims migrants seek for maximizing income with higher wages in developed countries does not explain why the volume of international migration does not decrease but rather increases with the downward pressure on wages (Massey and Taylor, 2004).

The critiques of the neo-classical theory led another academic tradition to be developed in to 1970s called the 'historical-structural approach'. Historical-structural approach is inspired by Marxist political economy and points out the fact that choices of individuals to migrate often stem from political and economic conjuncture of the world instead of isolated rational calculations (Castles and Miller, 1993). This approach also rejects the economic reductionism and tries to analyze international migration issue together with its social and political aspects as well as economic ones.

According to world systems theory, which contributes to historical-structural approach and was first developed by Immanuel Wallerstein in the 1970s, international migration is an inevitable outcome of the expansion of capitalist world market since the 16th century. As the capitalist world market expands from core countries to peripheral countries, population movements become evident which is also directly related to colonialism. The unavoidable destruction of subsistence economy in the peripheral countries after the incorporation process is why international migration is a natural outcome of the capitalist progress. In this sense, this theory falsifies the assumption of neoclassical model that predicts international migratory movements will come to an end when equilibrium is obtained in the labor market but rather claims that mass population movements will always continue independent of the labor market dynamics as long as the expansion of capitalist world market proceeds. The capitalist mode of production requires a continuous flow to be guaranteed; a circle of flows is guaranteed within the capitalist world market in which goods and capital move from core to periphery while labor moves from periphery to core in order to sustain the market growth.

According to historical-structural approach, systematic international migration is a legacy of colonialism and imperialism. Uneven distribution of wealth is both a cause and effect of it. People migrate because of the economic inequalities, but when they migrate these inequalities tend to grow which eventually leads to vicious circle that makes the poor even poorer and the rich even richer (Sassen, 1988). International migration is encouraged and

discouraged at the times of necessity and it is used as a hegemonic tool by the core countries even as important as military power to feed their economies. Therefore people are not 'free' when deciding to migrate but rather constraint by the political and economic zeitgeist. Inequalities of resources and power between countries and even the entry requirements are the great constraints that put a limit on the free rational decision making capability of the individuals (Zolberg, 1989).

However, historical-structural approach is also criticized because of being one-sided. Critiques mention that this approach over-emphasizes the role of the first world countries and capitalist world market. Actually migration is too complex to be explained only by economic forces. While the neo-classical approach lacks a historical framework to insert migration in and neglects the role of state and politics, historical-structural theory ignores the role of group and individual behavior while considering only the interests of capital (Castles and Miller, 1993).

Migration systems theory was developed by Taylor (1986), Fawcett and Arnold (1987) and Massey (1988) to meet the demand for a concrete theory for migration after the insufficiencies of former studies were detected. Like the historical-structural approach, migration systems theory also values political economy and history, but rather than revealing universal tendencies it proposes a collection of several migratory systems all of which consists of two or more countries that are linked to each other and gives the importance to regional differences as well as historical and political context. The countries

that constitute a migration system do not necessarily have to be physically close, but they share some common history, culture or other aspects. The links may be either state relations or cultural connections that arise from prior interactions based on colonization, trade and investment, political or cultural ties. For the sake of example; while the Mexican migration to USA is a result of trade and economic links between two countries, the migration from India and Pakistan to Britain is connected to British colonial period in India (Castles and Miller, 1993).

Migration systems theory tries to explain the concept of migration at both macro and micro levels. At the macro level the political economy of the world market and the international relations constitute the systems and at the micro level personal and group networks and connections of the migrants play role in shaping their decisions. While the macro structures link countries to each other, micro structures sustain the continuity of the population influx from one country to another by establishing strong personal ties across the borders and creating a 'migration chain' (Massey, 1990).

What all these theories analyze is why individuals 'choose' to migrate. Even the very assumption that defines the primary reason of migration as underdevelopment is debatable. Douglas Massey (1988) claims that contrary to common belief, international migration does not stem from underdevelopment but rather from economic development itself. It is a natural outcome of greater social, economic and political integration. In such framework, all theories talk about economic migrants that decide to migrate by their own will and classify

refugees as unwilling 'forced' migrants that are not able to enjoy the freedom to choose unlike the economic migrants. Since the refugees are political migrants that are displaced forcefully whether directly by their governments and states or indirectly by the pressure of harsh circumstances, their 'self-motives' for migration are accepted as non-existent. Refugees are traditionally seen as the representatives to point out the political failures of modern international system. However, there are people who think they are the inevitable and natural products of that particular system. Emma Haddad (2008) asserts that refugee problem will never be solved as long as the modern nation states and their borders prevail. Refugees will always exist as the unlucky but natural products of the modern nation states and modernity itself. They are the human reminders of the fallaciousness of our contemporary world.

To summarize, we can basically define three main academic approaches in international migration studies that are the neo-classical theory, historical-structural theory and the migration systems theory that were developed respectively with the pressures of global trends and tendencies. Nevertheless, although the theories help us formulate some general rules to apply; there is not a theory to be accepted as a universal law that is able to explain all aspects of international migration. No single explanation is sufficient enough to answer why people decide to leave one place and settle in another. The primary aim is to understand the underlying phenomena behind the migratory movements even though they do not necessarily have certain characteristics in common. In our contemporary world system, everyone

belongs to a state. In fact, in order to enjoy the rights that modern nation states offer; one *has to be* a citizen of a state. Once s/he breaks the rules of existing structure and become a migrant or a refugee, s/he loses his natural position in the international system and faces the obligation to fight for his rights that are unquestionably given to ‘regular’ nation state citizens. This phenomenon helps us understand why refugees and migrants are seen as a threat to the sovereignty of nation states. The refugee and migrant problem will prevail as long as the nation states continue to be the dominant form of social and political order. What should be done is establishing a transnational system that ensures the protection of basic human rights without seeking the traditional requirements to be met like a full commitment to an identity that are given and created by a nation state.

2.2. Recent Trends in International Migration

Today, Michel Foucault’s (1982) questions that were first asked by Immanuel Kant bear greater importance: “*What is going on now? What is happening to us? What is this world, this period, this precise moment in which we are living?*” Nowadays, we live in a world that witnesses the transformation of almost all of its traditional concepts. It is hard to accept the famous assertion of Francis Fukuyama (1992) that says ‘the history has come to an end’ without any doubts; but obviously the world has entered a new phase different from modern capitalist period in social, political and economic terms with the collapse of the welfare states in the late 1970s and the early 1980s.

The effect of changing trends and characteristics in the area of international migration has been dramatic, since it has been all kinds of movements including population movements that have been stimulated most in the post traditional era. Castles and Miller (1993) identify five major developments in the recent international migration context. These are summarized as (p.8-9):

- 1) Globalization of migration: More countries are getting affected by migration flows as well as the diversity of countries of emigration and immigration is increasing.
- 2) Acceleration of migration: Migrations are growing in volume excessively.
- 3) Differentiation of migration: Most countries do not only have one type of migration but rather have a mixture of all types.
- 4) Feminization of migration: Women are getting more involved in migratory movements.
- 5) Politicization of migration: State policies and politics are getting more affected by the population flows as well as they are affecting them.

Forces of globalization have changed the nature and forms of migratory movements. They also led to a significant increase in volume and frequency of massive migration flows. Indeed, large scale flows of goods and services, financial assets and people across the borders is a distinctive characteristic of globalization. The strengthening ties between countries due

to expanding trade and mass media culture have accelerated migration. Travelling became cheaper and easier. But the most important impact of globalization over migration has been the blurring of boundaries between the countries of origin, transit and destination. Today, the traditional distinction between emigration and immigration countries seems to get vague. A country may be classified as both a sending and receiving country due to more complex inter-state relations. Another development has been the transformation of repatriation patterns. An increasing number of people migrate several times during their life time. They migrate then return home and after a while they migrate again contrary to former trends (Koser, 1997). This change is another result of advancements in transportation and communication facilities that worked for the creation of a global migration industry.

Globalization also led more people to move because it resulted in growing disparities (Koser, 2007). Increasing unemployment and underemployment levels are one of the reasons why people want to change their countries of residence. While segmentation of labor markets creates an incredible demand for new migrants in developed countries, harsh living conditions, job crises and uneven wealth and income distribution in developing countries results in more displacements. These phenomena have just become evident recently; since during the Cold War, the polarization of states into two poles was preventing free movements across boundaries and the unequal wealth distribution was not as visible as it is today.

On top of these, recent trends have led traditional concepts to change. As mentioned before, refugees in the past were classified as a special group who deserve to be analyzed separately from other kinds of migrants. Policies were designed according to the assumption that refugees are hopeless individuals that are with no other choice but to migrate. Today, this very assumption that created the special status for refugees is under threat. Now the asylum seekers are often seen as individuals that seek for better opportunities in developed countries using political violence in their countries as an excuse for their pursuit by the states (Sassen, 1999). The changing of interstate relations after the Cold War has created a need for a redefinition of the refugee. During World War II and then during the Cold War, the European states were dealing with refugees from Europe particularly. As soon as the Cold War ended; Middle Eastern, Asian and African countries came to the global migration scene and continuous massive flows from these places made European states classify these people as economic migrants masquerading as political victims and develop policies accordingly (Sassen, 1999).

The effects of globalization on the international migratory movements have been multidimensional. Globalization is a concept that has been created in need to explain modern phenomena in the contemporary world, but like most of the huge theoretical concepts that try to explain much, is needed to be explained and understood on its own first. Globalization disintegrates social sphere as well as it integrates (Bauman, 1998). While it means freedom for some it means captivity for some others. The outcomes of

globalization are experienced by everyone, however not everyone benefits from it. The increase in population movements in a globalized world may not be a result of the increase in the level of *freedom* of movement per se. In fact, involuntary displacements also increase as much as the voluntary movements. Moreover, as these involuntary movements are unlucky by their nature, they are also unlucky because they are not desired by the receiving countries. The persons that the new international order sets free are the *tourists*, which are – obviously- voluntary migrants; not *vagabonds*, which are involuntary migrants (Bauman, 1998).

As the changing attitude towards refugees shows us, the concept of international migration is highly politicized that is affected and shaped by the current political and ideological agenda. The history of migration in Europe helps us understand how the policies and attitudes change with circumstances. Although Europe has a long history of migration, the turning point has become World War II. After World War II and throughout the 1950s, 1960s and 1970s; the Western European countries have received massive population flows from other parts of Europe and outside Europe. During that period, the economic growth in the Western Europe was high enough to absorb the mass population influxes. The economies of the industrial West were growing rapidly and the native labor force was not sufficient enough to sustain the high rates of economic growth. It was this period in which most countries ratified labor contracts with developing countries. In the 1950s Italy was the main labor sending country to West Germany, France and Switzerland. In the

1960s, Spain and Portugal have taken the place of Italy with Greece and Yugoslavia. In the 1960s Western Europe also witnessed immigration from the overseas countries like Algeria, India, Pakistan and Caribbeans. In the 1970s, Turkey, Morocco and Tunisia emerged as new countries of immigration.

But the declining economic growth rate with the shock of oil crisis and the population increase in developed countries after years of immigrant receiving from developing countries has decreased the desire of the industrialized states to import labor to meet their labor demand. In the mid 1980s, most Western European countries had stopped demanding labor migration. Anti-immigrant policies began as soon as the labor demand was met. However, the migratory movements continued and even accelerated with the collapse of the USSR and the end of the Cold War.

After the mid 1980s, the most common form of migration to developed countries has become illegal migration. The end of labor immigration policies and tightening asylum procedures resulted in most of migrants enter Europe illegally. The reaction of Western European states to that phenomenon became firstly the attempts for regularization of the illegal population and then increasing punishment for illegal actions of both migrants and employers (Sassen, 1999). As soon as the Iron Curtain fell down and the Yugoslavian war has begun, Western European states took measures for preventing massive influx and took the first step to build the 'European castle'. These measures were regulating legal framework for asylum seeking

to limit the asylum claims, giving Yugoslavian refugees as a temporary status instead of a permanent one, stricter visa requirements and controls, directing refugees to Central European countries such as Poland, Hungary and Czech Republic as 'safe third countries, rejecting the asylum claims of people that were subject to political violence practiced by other actors than states like the case of Taliban in Afghanistan and the increased collaboration between other European states to fight against massive population influxes (Castles and Miller, 1993).

According to Saskia Sassen (1999) the primary reasons of illegal immigration to Europe are as follows: First, the firms that employ foreign workers was started to be discouraged, but it did not prevent these firms from continuing to employ foreign workers even though now they were illegal. Second, the firms sought for flexibility in labor costs to decrease their production costs and the most flexible workers were illegal workers that were ready to work for wages under the minimum rate. Hence, illegal migrants contribute to informal economy which is a fact that eventually creates a continuing flow of illegal migrants who are needed and absorbed by the informal economy. Eric Hobsbawm (1990) asserts that the increasing illegal population flows to developed countries despite endless efforts to prevent them can be accepted as sign for the collapse of the nation state. Actually, the attempts for blocking the migration flows by tightening policies will naturally continue ending up in an increase in illegal movements as long as the informal economy is able to accept new comers.

Integration policies for migrants are another issue that is going under transformation recently especially in Western Europe. Traditionally, there are three main ways for integration policy which can be defined as assimilation, differential exclusion and multiculturalism (Abadan-Unat, 2002). Assimilation policy is the oldest form of integration policies that were used by the USA for many years in the name of the 'melting pot'. Differential exclusion was used as an alternative method that is nothing more than a softening version of assimilation. By the mid 20th century, assimilation and exclusion policies were abandoned by many states because of their strict formulas and lack of respect to diversity. Multiculturalism has become the new agenda for most of the developed states in the late 20th until the very beginning of the 21st century. Multiculturalism means the respect for other cultures, ethnicities and identities to exist in harmony and equality. Before the anti-immigrant trend, multiculturalism was the primary integration policy for most of the European Union member states. Yet, beginning from the 2000s, multiculturalism policies tended to leave their places to old-fashioned assimilation policies. The reasons behind this regress are basically the same reasons with the tightening migration policies. Increasing levels of unemployment and uncertainty opened the path for growing hostility towards migrants. The great disaster in September 2001 provoked Islamophobia in the Western world.

France and Netherlands are two examples to show the changing attitudes in Europe (Abadan-Unat, 2002). After World War II ended, France

found itself in a desperate need for labor due to its growing industry. Depending on its colonial ties with Tunisia, Algeria and Morocco; it imported significant numbers of migrants after the war. Despite never being a perfect performer of multiculturalism and despite the strict territorial exclusion of migrants in the cities; France was welcoming all kinds of migrants until the 21st century. Nonetheless, especially after the Sarkozy government, France strictly tightened its immigration policy. Family mergers were prevented by the imposition of high charges and requirements. The language capability was started to be evaluated in order to obtain 'full absorption' and the permanent residence right that was given to migrants who were settling in France more than 10 years was abolished. In 2005, the murder of a Maghrebi migrant in the suburbs by the police forces resulted in civilian upheavals that continued more than three weeks.

Netherlands, on the other hand, was previously known as a multicultural country with high tolerance to ethnic, religious and cultural diversities (Abadan-Unat, 2002). It offered dual citizenship, freedom to establish religious or ethnic organization, communities or groups for many years. It was the occurrence of two violent incidents that have marked the turn in these policies. The first incident was a murder. In 2004, the head of a small political party, Pim Fortnyn was shot in the street after giving a speech in a radio. He was disliked by Muslim groups because of his homosexuality and opposition to migration flows from Islamic countries. Therefore the murderer was considered to be a radical Muslim. Although the murderer turned to be a

green activist instead of a Muslim, tension between Muslim migrants and Christian local public has increased.

The second incident has been the murder of director Theo van Gogh by a Muslim because of his movie that was criticizing Islam in November of 2004. After the murders and disorder in the streets, the already existing attempts for tightening migration policies have become successful and the Dutch government abolished the mother language lessons to foreigners that were given in public schools. It also prevented the new arrivals of migrants by regulating family mergers like France. Moreover, it obliged all foreigners to go to integration courses with paying the tuition fee.

The attempts of Greece to prevent international migration flows have been different from France's or Netherlands' sanctions. Since most of the migratory movements directed to Greece are irregular, Greece's stance has been improving the border control mechanisms by getting help from FRONTEX, the EU's Border Management Agency. In October 2010, Greece requested the European Commission to deploy the Rapid Border Intervention Teams from FRONTEX at the Turkey-Greece border (UNHCR Turkey, 2011). In January 2011, it even announced that building a 12 km fence along its border with Turkey in the Evros region is negotiable. There is already a readmission agreement between Turkey and Greece that requires the sending of migrants and asylum seekers to Turkey that entered Greek territories illegally through Turkey. What is important on the Greek side is the violation of some crucial humanitarian principles on behalf of improved border

controls. In 2010, forty four people were drowned in the Aegean Sea while trying to pass the Greek borders (UNHCR Turkey, 2011).

The excessive control over the boundaries may lead people running away from persecution suffer and be abused by the smuggling organizations. In line with these developments, the European Court of Human Rights decided on a case that readmission of an asylum seeker to Greece under the Dublin II Regulation was a violation of Article 3 and Article 13 of the European Convention of Human Rights since Greece had certain deficiencies in its asylum procedure and living and detention conditions in Greece were inappropriate for asylum seekers and refugees (UNHCR Turkey, 2011).

After 2005, there has been a decline in the number of total refugees in the world. In 1992, there were 18 million refugees all around the world, it was peaked at 27.4 million in 1994; but this number was reduced to 9 million in 2004 which is the lowest number for the past quarter century (UNHCR, 2006). The total number of Afghan asylum seekers in Europe declined by 83% between 2001 and 2004, Iraqi declined by 80% between 2002 and 2004. The decline was partly due to a decrease in the armed conflict at the beginning of the 21st century compared to 1990s. The number of ethno-national wars is at minimum since the 1960s. There has also been a drop in the number of dictatorships. Large scale voluntary repatriations are organized. 3.4 million refugees from Afghanistan have turned back home until 2005 while over 1 million turned back to Bosnia and Herzegovina. Moreover, the latest trend in many countries of prolonged conflict like Burundi, Uganda and

Sri Lanka is not to migrate internationally but rather to move internally for a short period of time. Restrictive asylum policies in rich countries may also be a reason behind the decline in asylum claims in rich countries. There are direct pre-entry measures like occupational or visa and passport requirements as well as indirect post-entry measures like status determination policies, recognition rates, detention and withdrawal of welfare benefits (UNHCR, 2006).

2.3. Future Challenges

In fact, all of the developments that are discussed in Chapter 1 are interlinked. Apparently, ‘closing gates’ is now becoming the new policy for the developed states where the increasing volume of population flows led to xenophobia and even racism. Anti-immigrant sentiment is observable both in state policies and in public behavior. While the first world is opening up their borders for the movements of goods and capital, they are trying to do the exact opposite when the movements of people are concerned. However, despite their efforts, ever increasing global economic integration simultaneously results in more displacements whether voluntarily or not by also increasing the ‘fear’ of migration. The fear of migration is the fear of modern men dates back to the American experience in the nineteenth century when the new-comers were to be blamed for the increasing unemployment levels (Sennett, 1998). Since that time and even before till now, states systematically take measures to stop unwanted migratory movements.

Nonetheless; although states want to prevent immigration flows, humanitarian concerns put a limit to the brutality level of apprehension or deportation policies and leave the asylum policies as the only remaining tool for them to control the movements. As the Western European example – which can be defined as the European Union example also since these states are now trying to develop a unified foreign and security policy- shows us; the policies, concepts and even the definitions in the international migration area are subject to political and economic influence. Therefore, it is not possible to analyze migratory movements without any reference to political conjuncture.

Recent trends seem to prevail in the near future along with the occurrence of new challenges. These challenges would be the threat to the very nature of nation states by damaging the homogeneity, requiring more people to migrate as the intra structures for migration get stronger and necessitating establishing broader transnational communities and networks across border. In addition, tightening asylum policies and increasing hostility towards international migrants may increase the tension between the North and South and East and West. These developments will take place in a world where the globalization puts great downward pressure on wages and incomes in developing countries (Massey and Taylor, 2004). Therefore, making suggestions for the establishment of an efficient policy framework for international migration including illegal migration and asylum is a vital necessity for future world.

CHAPTER 3

INTERNATIONAL MIGRATION: THE TURKISH EXPERIENCE

Although Turkish territories have been the lands of diverse migrations for centuries, Turkish Republic is now facing systematic mass migratory flows unlike the past experiences. This chapter analyzes the history of international migration in Turkey, the existent legislative framework on international migration and asylum, migration politics and recent trends observed in these areas including the discussions on the making process of Law on Foreigners and International Protection and the refugee flow from Syria.

3.1. History of International Migration in Turkey

Turkey has been dealing with international migration since the foundation of the Republic. The first massive population movement occurred in 1923 as a result of population exchange agreement with Greece. After 1923 until World War II, the country witnessed individual migrants in and out most of whom were Turkish nationals or Muslims abroad, especially from Balkan countries like Bulgaria and Yugoslavia. However, it was not until the adoption of the First Five Year Development Plan -covered the years between 1963 and 1967- that Turkey experienced a systematic and programmed population

movement. The First Five Year Development Plan included a suggestion for exporting labor power to Western Europe in order to stabilize labor market by decreasing the supply. In that regard, it is possible to claim that migration policies were being used as governmental tools for controlling the nature and size of the population (Abadan-Unat, 2002). Labor trade agreements with Western European countries especially with Federal Germany became the main drive of the migration movements in Turkey in the 1960s. Almost fifty years after the agreements, we can observe that there are over 4.5 million Turkish citizens over the five continents of the world, over 3 million of whom is located in Europe which is the fact that led experts classify Turkey as an emigrant country until the 1980s. (Abadan-Unat, 2002). It was 1998, when for the first time the number of foreign workers officially entering Turkey -which was 25.000- was equal to the number of Turks going abroad (Martin et al, 2001).

According to official numbers announced by the Turkish Ministry of Interior, from the establishment of Turkey in 1923 to 1997, more than 1.6 million immigrants came and settled in Turkey almost of whom came from former Ottoman territories such as Greece, Bulgaria, Yugoslavia and Romania (Kirişci, 1996). The reason why Turkey has not been known as an immigration country despite the existence of 1.6 million immigrants, is probably because these people had rather Turkish or Muslim identities and were granted Turkish citizenship easily as soon as they settle in Turkey. Most of them were successfully assimilated as ‘muhacirs’ in the Turkish society. Besides, Turkish

society had already a heterogeneous ethnic characteristic which also helped establishing a smooth incorporation process. When the Turkish Republic was founded in 1923, over twenty percent of the population had a *muhacir* background (Zürcher, 2003).

However, with the changing dynamics of international migration systems and asylum policies; the traditional nature of immigration flows into Turkey had changed dramatically. UNHCR Turkey reports in the last 20 years, over 2 million refugees fled to Turkey most of whom are from Iran, Iraq and Bulgaria not necessarily having the Turkish-Muslim identity (İçduygu and Toktaş, 2005). The distinct characteristic of the two immigration trends is that while *muhacirs* were being supported by the Turkish state to immigrate until 1970s, recent immigrants are mostly unwanted (Erder, 2000).

Recently, Turkey is also known as a migration receiving country. The first mass influx that Turkey faced occurred after the collapse of the Shah in Iran in 1979. Right after the revolution, Turkey enabled Iranians to enter the country without a visa and stay for a period of 3 month in Turkey as tourists (Kirişci, 2000). Although the exact numbers are not known, a member of the Turkish Parliament claimed that the total number of Iranians that benefited from this arrangement between 1980 and 1991 was about 1.5 million (Latif, 2002). Nevertheless, even though the Turkish government was eager to accept Iranians temporarily, it was not enthusiastic about welcoming large numbers of Iranians permanently not to offend Iran (Latif, 2002). Therefore the majority of Iranians that entered Turkey was encouraged to move to third countries.

The second major flow of migration came from Iraq as separate surges in certain periods of time. The first one occurred in 1988, when the war between Iran and Iraq ended. After the Halabja massacre on 17 March 1988, at least one million Kurds were displaced either by Saddam government or by their own will. Almost 60.000 Iraqi Kurds crossed borders to seek for asylum in Turkey (Latif, 2002). However, these people were not given refugee status but rather were welcomed as “temporary guests” or “asylum seekers” and were settled in refugee camps near the border with Iraq in Diyarbakır-Yenikent, Mardin-Kızıltepe and Muş-Yenikent. This was mainly because Turkey was not giving refugee status to people outside of Europe due to geographical limitation. Moreover, security problems were considered since this period coincided with the rise of the terrorist activities of separatist Kurdish group PKK in Turkey. With the pressure of international institutions that opposed Turkey’s attitude towards these refugees, Turkey was forced to find a humanitarian solution to that problem. Eventually the compromise became to create a safe haven for the Kurds above the 36th parallel in Northern Iraq and encourage voluntary repatriation. By 1992, the total number of refugees in Turkey had been decreased to 19.500 (Latif, 2002).

The third flow took place during the Gulf crisis when Iraq occupied Kuwait. This influx included especially professional foreigners in this country. As a result of the conflict, between 2 August 1990 and 2 April 1991 7.489 Iraqi citizens sought for asylum in Turkey 1800 of whom was the Iraqi military personnel (Latif, 2002).

The last and the largest migration flow from Iraq happened after the ‘Desert Storm’ operation against Iraq which began on 17 January 1991. The Shiite in the south and the Kurds in the north both rebelled against the Saddam regime. The reaction of the Saddam regime became harsh. When the military forces crushed the Shiite rebellion in the south, northern Kurds began to flee to Turkey and Iran with fear. The Turkish National Security Council reported that the number of refugees entered Turkey was above 200.000 (Latif, 2002). The actual number was close to 500.000 according to unofficial records. Although the number was high, the inflow was similar to prior experiences. However, this time security concerns were peaked and as a senior Ministry of Foreign Affairs official claimed that since those refugees constituted a threat to our security, Turkey closed its borders with Iraq and announced that it would use military intervention to prevent the refugee flow if necessary. Turkish Minister of State, Kamran İnan stated that “Turkish government decided not to repeat its mistake in 1988” (Latif, 2002).

The military failed to follow the decision due to the fact that the area along the Iraqi border was inhabited by population who has strong ethnic and family ties with the refugees. The sympathy towards refugees put a domestic pressure on government to change its policy (Kirişçi, 1991). The key to solution was again set as to create a safe zone in Iraq with the international guidance. After the suggestion of Turgut Özal for creating the zone, more than 400.000 refugees had returned to their countries within five weeks which was

an extraordinary speed that may have been accelerated by security fears (Latif, 2002).

Apart from Iran and Iraq, other important emigrant countries for Turkey became Balkan countries like Yugoslavia and especially Bulgaria. During the early 1950s a massive migration flow was directed from Bulgaria to Turkey. A larger wave took place in 1989 due to the government policies of Bulgaria towards Turks resulting in more than 240.000 refugees flew to Turkey many of whom became Turkish citizens afterwards (Latif, 2002). The Yugoslavian migration took place between the years 1946 and 1970 and 182.505 people moved to Turkey many of them were Turks and Muslims to whom the communist regime was hostile (Kirişci, 1996). Later, Yugoslavian war in 1992 created another influx bringing 20.000 Bosnians to Turkey and Kosovo war in 1999 resulting in 8.300 refugees to seek asylum in Turkey (UNHCR, 2000).

Ahmet İçduygu (2005) states that there are four distinct periods of irregular immigration to Turkey which are the 'fertilization period' between 1979 and 1987, 'maturation period' between 1988 and 1993, 'saturation period' between 1994 and 2000 and finally 'degeneration period' since 2001 due to the decrease in the number of irregular migrants. However, this classification is debatable according to some scholars, since they claim the latest period beginning from 2001 represents a maturation period rather than a degeneration period because of the improved migration networks in the host

society and structural migration practices that are developed through a long period of time (Danış et al, 2009).

3.2. Recent International Migration Trends in Turkey

In a world in which mobility has become one of the most distinct characteristics, migration has increased both in volume and frequency. Moreover it has also changed in nature, form and composition. Castles and Miller (1993) argue that today, movements of people are “globalizing, accelerating, diversifying and feminizing”. The traditional classification of migration seems no longer to be hold. Recently; political migration and economic migration seem to be intertwined (Yükseker and Brewer, 2010). The traditional classification of migration consists of groups of economic migrants such as permanent migrants, temporary contract workers, temporary professional workers, illegal workers; and political migrants such as asylum seekers and refugees (Appleyard, 1991). New types of migrations emerged with the forces of globalization such as transit migration which has been the primary form of migration in Turkey (Abadan-Unat, 2002; İçduygu, 2006; Pusch, 2010).

The most common type of migration directed towards Turkey is transit migration headed from especially Middle Eastern, Asian and African countries to Europe recently. Transit migration only entered the international migration discourse in the early 1990s (Düvell, 2008). It is a form of irregular migration that is headed towards the European Union countries with a transit country included that is whether one of the Baltic states Poland, Hungary and

Romania; southern Mediterranean countries Morocco, Tunisia, Libya and Turkey or Eastern neighbors such as Ukraine, Russia and other Caucasus countries (Düvell, 2008). Up to present, it has been a European concept which is occasionally seen in South and East Asia, South Africa and Latin America (Düvell, 2008). It is also strongly connected with EU member states' asylum and migration policies that are getting tighter and stricter each year (Düvell, 2008, Abadan-Unat 2002). Tightening asylum policies in Europe lead refugees and illegal immigrants seek for alternative options for temporary residence before they enter Europe. According to Franck Düvell (2008), transit migration even became sort of a war cry directed at transit countries which are expected by European Union countries to keep unwanted migrants off their territories but fail to do so.

Transit migration is practically known as the other name of the illegal migration. Usually, transit migration is done illegally with the support of human traffickers and smugglers. Since it is directly connected with international crime organizations and migration policies, it is easily politicized making the task for collecting objective data more difficult (İçduygu and Toktaş, 2005; Düvell 2008). Moreover, due to the very own nature of the irregular migration, the exact numbers about such type of migration is very hard to estimate.

It is asserted that the official numbers that keeps the record of asylum applications announced by the UNHCR only reflects 2% of the total immigrants in Turkey (İçduygu and Toktaş, 2005). Considering the magnitude

of the issue, International Organization for Migration prepared a report for transit migration in Turkey in 1995. It stated that *'thousands of migrants from the developing world who enter Europe are using Turkey as a transit area on their way to their preferred destinations'* (IOM, 1995: 4). According to this report, most of the immigrants in Turkey are young men without visas or passports traveling with human smugglers only 8% of which intends to stay or apply for asylum in Turkey (IOM, 1995). For the transit migrants, Turkey is more like a 'waiting room' than an ultimate receiving country (Erder, 2000). However, unlike what the name evokes, transit migration is a long process. People usually spend months and years in the transit countries without knowing when to leave (Yükseker and Brewer, 2010). This means even though transit migrants come to Turkey for a short period of time, they may spend more time than they had predicted.

Transit migration is not the only type of immigration that is directed to Turkey. The most common current illegal migrants that are settled in Turkey may be classified under two main categories:

1) Transit migrants:

- From Middle Eastern countries like Iran and Iraq
- From Asian countries like Afghanistan, Pakistan, Bangladesh and Sri Lanka
- From African countries like Somali, Nigeria and Congo

2) Shuttle migrants:

- From East European and Balkan countries like Romania, Moldova, Bulgaria, Ukraine and Georgia

(These migrants mostly engage in suitcase trade and service sector especially as housekeepers, child and elderly keepers, sex workers and entertainers in hotels and amusement parks and have ties with their country of origin.)

Shuttle migration is not a typical example of conventional illegal migration since the members of this type of movement do not leave their countries of origin once and for all, but shuttle between their countries of origin and residence (King, 2002). Turkey met with shuttle migration in the early 1990s after the collapse of the Soviet Union. When the Iron Curtain fell, former member states faced severe economic difficulties and therefore resulted in emigration out of these countries. Turkey was one of the countries of destination and experienced a specific type of migration which was labeled as 'suitcase trade' migration. This name basically referred to the method of migrants which was filling their suitcases with Turkish goods and then selling them in their countries to make economic profit. What made suitcase trade to be considered as a type of illegal migration was the common visa violations. These people entered Turkey with tourist visas with no work permits and usually violated time limitations. Suitcase trade became very profitable in the 1990s and two third of the 3 million people who checked in to Turkey from Eastern Bloc countries in these years were assumed to be suitcase traders

(İçduygu and Toktaş, 2005). Suitcase trade had a great volume that attracted interest from government and finance sector in 1990s and even got itself a place in the official balance of payments records since s study showed its profitability for Turkish economy (Erder, 2010).

The volume of suitcase trade started to decrease in the late 1990s after the golden age between 1992 and 1996, due to the big economic crisis in Turkey and the efforts to document these financial activities officially (Danış et al, 2009). However the migration flow from Eastern European countries and ex-Soviet Bloc members continued. When the suitcase trade became relatively unprofitable, migrants searched for other economic opportunities in Turkey (Erder, 2010). This led to an increase in the number of foreign sex workers, housekeepers, child and elderly keepers and people working in the entertainment sector that became visible in the late 1990s and 2000s. There is a gender division of labor in this particular market for foreign workers. While women are employed in the sectors above, men usually are employed in construction and agricultural sectors (Erder, 2010).

At first, it was believed that most of these migrants were women because of their visibility in the media, however it turned out that there were immigrant men even as much as the women (Erder, 2010). Shuttle migrants usually migrate on their own; without the help of interference of any national or international crime organizations (İçduygu and Toktaş, 2005).

The reasons of why Turkey is preferred as a transit country are several. Pusch and Wilkoszewski (2010) claim that the collapse of the Soviet

Union, conflicts and upheavals in the Middle East, geographical position and a relatively liberal legal framework compared to European Union member states makes Turkey a perfect choice for transition purposes. The tightening asylum policies of European Union member states have been another factor (Erder, 2010). The presence of a huge informal sector that enables illegal migrants work during their residence may have also played an important role (İçduygu, 2010).

Table 1: Reasons for Targeting Turkey

Reasons	REASONS FOR TARGETING TURKEY				
	Iran	Iraq	Nationality Afghanistan	Africa (various)	Other
Adjacent country	76.9%	84.6%	14.3%	10%	20%
Low travel cost	15.4%	61.5%	57.1%	20%	40%
Presence of UN agency	38.8	15.4%	42.9%	0	0
Low cost of living	0	46.25	28.6%	30%	20%
Relatives	30.8%	23.1%	0	0	20%
Friends	0	38.5%	0	20%	60%
No visa requirements	0	7.7%	0	0	0
Familiarity	15.4%	46.2%	0	0	40%
Onward migration	0	23.1%	14.3%	20%	40%
Work	7.7%	23.1%	0	20%	60%
Ease of border crossing	46.2%	30.8%	42.9%	0	40%
Ease of obtaining visa	0	0	0	8.3%	0
By error	0	0	0	45.5%	0

IOM (2003), retrieved from:

http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/mrs_12_2003.pdf

Moreover Turkey has been used a transit country for many years for many refugees and migrants from different origins which has constituted various migration networks. The existence of rooted migration networks is also

another factor that worked in favor of Turkey to be chosen as a transit country (Abadan-Unat, 2002; Erder 2010).

Although the exact numbers about the volume of the immigration is not known since it is mostly illegal migration, it is assumed that almost 400.000 persons migrate permanently or temporarily to Turkey annually (İçduygu and Toktaş, 2005). The figures are controversial and there is a wide interval of often cited numbers which covers between 150.000 and 1.000.000 (İçduygu, 2006; İçduygu and Kirişçi 2009). It is even asserted that there are over 2 million illegal migrants in Turkey (Narlı, 2005). Martin, Midgley and Teitelbaum (2001) claim that there are 3 to 4 million foreigners living in Turkey half of whom are being Iranians. The numbers of asylum seekers in Turkey according to the UNHCR are shown at Table 2 below:

Table 2: The number of asylum seekers in Turkey

Asylum Seekers by Age, Gender and Country As of 29.02.2012											
Country	0-4		5-11		12-17		18-59		60+		Total by Country
	F	M	F	M	F	M	F	M	F	M	
AFGHANISTAN	109	99	138	189	161	233	486	613	14	23	2065
IRAN	58	59	88	84	79	97	873	1224	52	52	2666
IRAQ	175	176	207	245	213	228	912	1288	67	73	3584
SOMALIA	28	31	37	27	56	46	175	159	4	3	557
OTHERS	75	128	85	87	69	87	398	675	11	6	1608
TOTAL F/M	445	493	555	632	556	691	2844	3959	148	157	-
GRAND TOTAL	938		1187		1247		6803		305		10480
	<small>F=Female, M=Male</small>										

[http://www.unhcr.org.tr/uploads/root/2012_asylum_seekers_eng\(1\).pdf](http://www.unhcr.org.tr/uploads/root/2012_asylum_seekers_eng(1).pdf)

The estimated range of volume shows great inconsistency between different studies. Nevertheless, the most cautious assumptions indicate that Turkey is now a migration receiving country considering it is greater than 100.000-200.000 persons per year just as much as the traditional immigrant countries like the United States and Canada receive.

Collecting data for international migration including asylum, transit migration and illegal migration is hard because of its very own nature (Bilsborrow et al, 1997). There are no exact regulations for keeping migration records. Countries may choose to organize statistics about the migrants according to their citizenship status, entry records and visas, residence permits, the duration and purpose of their stay and the birthplace (Bilsborrow et al, 1997). However, none of the methods is able to give a perfect insight about the volume and nature of the migration. The same problem is observed in Turkish migration statistics. Official numbers underestimate due to the fact that transit and illegal migration is very common in Turkey. In fact official records seldom reveal the truth since the illegal migration is the main form of immigration in Turkey. The only data that is able to give an insight about the size and volume of the illegal migration is collected through the detected illegal immigrant statistics of the Turkish National Police.

Nevertheless, Turkish statistical data are poor not only because of the difficulty of the task, but also because of the lack of integrity and coordination among the institutions and organizations that collect data for international migration (İçduygu and Toktaş, 2005). There is not a national system that is

designed for collecting migration data. Ministry of Labor and Social Security, Ministry of Foreign Affairs, Ministry of Interior, Turkish National Police have been among the governmental institutions that kept records for migration. These institutions used to collect data for their own institutional purposes; therefore their methods did not meet international requirements for official migration statistics.

With the beginning of the EU harmonization process, Turkey assured that the unification and transparency of data collecting process will have been achieved before the full membership and prepared an action plan about migration and asylum in the year 2005. Now the foreign citizenship and population statistics are kept by General Directorate of Civil Registration and Nationality which operates under the authority of the Ministry of Interior since 2008; asylum and illegal migration statistics are kept by Turkish National Police through the help of the PolNet database since 2009 and the work permit statistics are kept by the Ministry of Labor and Social Security. General Directorate of Civil Registration and Nationality statistics are published every year since 2007 while the statistics on asylum and illegal migration that are kept by the Turkish National Police are declared to be announced until 2014 gradually in order to provide transparency. Population census, visa and passport records are also used for data collection. After the enactment of the Foreigners and International Protection Law, the Directorate for Migration will be responsible for keeping the records and creating the statistics.

3.2.1 Syrian Case

The most recent mass refugee flow to Turkey has started in the summer of 2011 and is still continuing. Due to the latest political upheavals that triggered a civil war in Syria, by the beginning of April 2012, over 20.000 refugees from Syria entered Turkish territories and the numbers have increased on a daily basis.

Son of Hafez al-Assad, who ruled Syria for 30 years from the 1970 Syrian Corrective Revolution until his death, Bashar al-Assad has been the president of Syria. After his father's death in 2000, he was appointed as the leader of the Syrian Ba'ath party and was elected as the president with no opponent by collecting 97.2 per cent of the votes. In 2007, he was chosen as the president for another seven years again with no opponent candidate now by collecting the 97.6 per cent of the total votes. Having Alawite roots, during his governance he was accused of practicing human rights abusive actions towards the Sunnis of Syria. Even though the violence towards Sunnis dates back to father Assad's era, to the Hama massacre in 1982, the restlessness increased in Syria especially after 2011 when 'Arab spring' has begun and the social and political unrest became evident in all over the Arabian peninsula.

Public uprisings against Bashar al-Assad began in Syria on 26 January 2011 and continued with increasing in frequency and violence by turning into a civil war. The demands of the rebels were the resignation of Assad and the collapse of the Ba'ath government that has been ruling the country for almost

half a century. Nevertheless, Assad government did not meet the demands of the protestors and in the spring of 2011, the armed conflict has begun.

Since 2011, 10.000 to 13.000 people have been killed according to the United Nations and many more were injured and imprisoned. Thousands of people fled to neighboring countries like Jordan, Lebanon and Turkey. It is this environment that created the latest mass refugee influx from a Middle Eastern country to Turkey. The total number of refugees that have crossed the Syrian-Turkish border and settled in five refugee camps that have been established in the border city Hatay is assumed to be over 20.000 from summer 2011 until April 2012.

According to official statistics of Prime Ministry Disaster and Emergency Management Presidency, as of April 16, 2012; 24.056 Syrian citizens have been in Turkey, 7.249 of which stay in Hatay, 5.897 of which stay in Gaziantep (Nurdağı-Islahiye), 9.225 of which stay in Kilis and 1.629 of which stay in Şanlıurfa. On April 15-16, 77 Syrian citizens voluntarily returned home while 111 other came in. The total number of coming Syrians until April 16 has been 39.072 while the number of returnees is 15.016. 57 people have been in hospital 40 of whom being injured. Education is also provided for Syrian citizens, there are 35 classes of preschool, primary and secondary education for 805 people, 420 girls and 385 boys. The activities of Prime Ministry to provide education to 3.561 children in Kilis are in progress according to Prime Ministry Disaster and Emergency Management Presidency press release on 16 April 2012.

Since February 2012, the former Secretary General of the United Nations and the 2001 Nobel Peace Prize recipient Kofi Annan has been appointed as the United Nations Arab League Envoy of Syria. In order to end the ongoing violence in Syria, he has developed a plan covering six points that are:

- 1) Commitment to work in accordance with Envoy,
- 2) Commitment to stop violence,
- 3) Provision of humanitarian assistance to the areas that are influenced by violence,
- 4) Ensuring the repatriation of people that are displaced by violence,
- 5) Ensuring freedom of movement in country for journalists,
- 6) Ensuring the freedom of legal association.

Assad Government had declared that it accepted Annan's plan. However, although the plan required Syrian troops to be withdrawn from the cities until April 10th and cease fire until April 12th, the Syrian government did not fulfill its promise. Therefore the refugee flee to Turkey seems to continue. The chairman of Turkish Red Crescent Ahmet Lütfi Akar states that over 300.000 refugees could come to Turkey even though Turkish facilities could only welcome 40.000 and he adds if this scenario takes place, Turkey has to get help from other international organizations (Milliyet, March 16, 2012). The emphasis on the need for help is visible in the declarations of Turkish officials. Minister of Foreign Affairs Ahmet Davutoğlu declares that Turkey welcomes

all the refugees from Syria but if the Syrian refugee flow to Turkey continues at this volume and pace, Turkey has to be helped by international institutions like United Nations (BBC Türkçe, April 6, 2012).

This thesis does not attempt to make an elaborate analysis of Syrian-Turkish relations or Syrian politics. Nevertheless, a brief summary of the recent development is needed in order to understand all the facets of the issue. Turkish response to Syrian government has been harsh. Turkish Prime Minister Tayyip Erdoğan has made several calls to Bashar al-Assad to leave his place in the government and declared that Turkey would not hesitate to take measures. Turkey also declared that it would accept every single person from Syria without looking for official requirements and has kept its borders open since the very beginning of the dispute.

There are five refugee camps in Hatay and a container camp in Kilis. The first camp was Yayladağı camp that was established in April 2011. Altınözü, Reyhanlı are the other camps that were opened due to increasing number of refugees chronologically. Contrary to former experiences, Turkey did not try to prevent the entrance of Syrian refugees to Turkish territories. Not all the asylum seekers entered Turkey without legal documents; Syrians with appropriate legal documents are allowed to stay in Turkey for consecutive three months.

According to media, the food, clothes and health provision in the camps is sufficient. Nevertheless, the social exclusion of refugees is troublesome. It is claimed that the interaction of the camps with the outside

world is limited; guests and reporters are hardly allowed to get in while none of the NGOs has been able to get the permission to visit the camps. For instance, a representative of Amnesty International from London, Neil Sammonds, was not allowed to enter camps even though Amnesty International has made all the necessary official applications (Kılıç, March 13, 2012). Even the committee of Parliamentary Assembly of the Council of Europe that consisted delegates of Sweden, UK, Italy and Holland was prevented from making investigation on July 26th, 2012 (Kılıç, March 13, 2012). Turkish officials explain the reason of this practice is the protection of refugees against Syrian intelligence services and claim that there is nothing wrong going on in the camps. Still, it seems refugees are not satisfied with this procedure since on the June of 2011, a hunger strike in Yayladağı camp was launched to protest social exclusion and isolation (Bianet, June 17, 2011).

On the political level, there is the tendency of politicians to call asylum seekers as ‘guests’ (Kılıç, March 13, 2012). This definition is misleading because first of all, there is no such legal category for political guests. Not having a legal status is another obstacle for the refugees who have already gone through a lot. Besides, they do not have the right to seek for asylum individually until the conflict in Syria is resolved. The pressure of the media and NGOs led authorities to use ‘temporary protection’ term for what the people in camps in Hatay and Kilis experience. In fact, there is a special category in the international literature called ‘prima facie refugees’ for people who have been subject to political violence and fled to other countries in such a

short time making it impossible for these countries to conduct personal interviews. For these reasons, this study prefers to call Syrians in the camps as refugees even though they are not legally called as refugees.

There are some rumors that another problem about the refugee camps in Turkey has been the violation of non-refoulement principle. Non-refoulement is a general principle in international law that also applies to international refugee law and is accepted as a principle in the 1951 Convention that forbids the relegation of the victims of persecution to their persecutors. Turkey is accused of sending some Syrian refugees that have been creating trouble in camps to their countries without their consent (Kılıç, March 13, 2012). It is asserted that there is camp in Hatay Kuyubaşı that is not seen in official records but is used as a penal colony for the ones being rebellious or difficult in other camps. Although this claim is not confirmed by authorities, it is claimed that people that are sent to this camp, which is 1 km away from the nearest settlement, is made leave Turkey even though they do not want to do so (Radikal, February 20, 2012; Milliyet, February 20, 2012). There is also another claim that two of the high ranked generals from Syrian army, Hüseyin Mustafa Harmuş and Mustafa Kassum, have been literally sold to Syrian government by the members of Turkish intelligence service in exchange for 100.000 USD (Kılıç, March 13, 2012). But it is crucial to be suspicious about these assertions since none of them has been proven to be true.

The suggestion of Turkish officials as a solution to refugee problem has been establishing a buffer zone on the Syrian-Turkish border again like the

cases in 1989 and 1991. According to the Adana Agreement, there is a 5 km security line between the Syrian and Turkish territories and the plan was to establish an independent zone in this area. There were some attempts to put this plan in action in İdlip and Ceveli Caviye locations by the governments. Nevertheless, this plan does not seem to provide a long term solution to the problem as it did not in past experiences. What Syrians demand from Turkey is provision of rights including the right to abode. Chief clerk of Local Coordination Committees of Syria (a secular group that is participated in Syrian uprising against Assad), Menhel Beris, claims that Turkish government does not fulfill its promise to take care of Syrian refugees and what it does is exactly following what the United States imposes it to follow (Radikal, March 25, 2012).

The establishment of a buffer zone out of Turkish territories is also wanted by Turkish government to escape from tension between Syrian and Turks in Hatay. A report that was prepared in February of 2012 by Turkish National Parliament Human Rights Inquiry Committee states that Turkish nationals in Hatay are not fully satisfied with the presence of refugee camps in their cities, because they claim refugees “attack people, harm vehicles and shops, sell the food supplies given to them in camps, work illegally in local businesses and engage in theft” while ethnic differences also increase the tension between them (Milliyet, February 19, 2012).

Since the beginning of the Syrian refugee flow to Turkey, there have been made several assertions, claims, suggestions or ideas through media and

political organs. Even though the environment is still too uncertain to enable us make predictions and inductions, it seems that Turkey's attitude towards massive refugee flows since the 1980s has not changed much as the same suggestions for solution are still made even though they have already been proven to be ineffective. The failure is again appears to be the lack of an appropriate effective asylum system that take all kinds of emergencies like the very recent case into account and suggests permanent solutions.

3.3. Turkish Asylum System and International Migration Legislation

Turkey is one of the countries that ratified the 1951 Convention Relating to the Status of Refugees. Today, this convention and the protocol that develops it are still the most important pieces of documents that regulate the refugee status and determine the universal norms for refugee law. First of all, the convention makes the definition of a refugee which was given in the introduction part. Then it declares the liabilities of states to refugees, liabilities of refugees to the receiving states and the circumstances that put an end to the refugee status like repatriation or expatriation.

The convention was prepared after the foundation of the United Nations High Commissioner for Refugees (UNHCR) in 1950 which was established to help displaced Europeans during the World War II and then to disband itself after the resettlement. Therefore the 1951 Convention included a geographical and time limitation which only covered the European citizens. However, it did not take long for countries to understand the problem was not

intrinsic to Europe or World War II but rather a universal issue that is not to be solved in short time. In 1967, another meeting was held in Europe and the Protocol Relating to the Status of Refugees was accepted. This protocol abandoned the time and geographical limitations and accepted a universal refugee policy. Turkey also ratified the 1967 Protocol; however, although it abandoned its time limitation, it preserved its geographical limitation.

The reason of the preservation of the limitation was the anti-communist ideology of the Turkish government at that date and more importantly, the fear of Turkey being an immigrant country and a buffer zone between Europe and the Third World due to its geographical closeness to the emigrant countries (Danış, 2004; İçduygu and Kirişci, 2009). Today Turkey is among the only remaining countries that maintain a geographical limitation together with Monaco, Congo and Madagascar (İçduygu and Kirişci, 2009). According to this limitation, Turkey does not accept non-European refugees within its borders. (It is important to note that ‘European countries’ refer to member countries of the Council of Europe, not the countries of the continent Europe. In this sense, the citizens of Georgia, Armenia or Azerbaijan are accepted as European citizens.)

The UNHCR is represented in Turkey by two offices in Ankara and Van. Since Turkey does not accept non-European refugees, it serves as an intermediary between refugees from Asia, Middle East and European countries. Asylum seekers that come to Turkey apply to the UNHCR or any police offices, reporting that they seek asylum, then wait for their application to

be considered and whether to be accepted as a refugee or not. If they are the citizens of European countries, they may seek for asylum in Turkey; but if they are not, they wait for the UNHCR to contact third countries about their asylum demand after their asylum claim is found legitimate. They have the right to stay in Turkey until their application is pending. When their application is accepted they can wait until a third country welcomes them in certain cities called 'satellite cities' that are determined by the Turkish Ministry of Interior. Sometimes some NGOs make small payments or offer some accommodation options. Healthcare is provided and paid by the Turkish state if the asylum seeker does not have resources.

By the time 31.12.2011, the UNHCR Turkey indicates that there are 25.429 people of concern 10.964 of whom are asylum seekers and 14.465 of whom are refugees (Obtained from UNHCR Turkey website). Among these people, 5077 are from Afghanistan, 4611 are from Iraq, 2414 are from Iran, 842 are from Somali and 12.485 are from other countries. It could be seen that most of the asylum in Turkey are from Middle Eastern, Asian and African countries and therefore are not eligible to be accepted as refugees in Turkey. Almost all of the refugees indicated in statistics wait for the third country asylum options abroad especially in the European Union countries. As it can be understood from the procedures and legislations that are explained above, Turkey does not have a direct asylum and migration policy and a legal framework. Although it receives a considerable amount of migration; until

1994 it did not even have any special direct regulation about the migrants and refugees (Kirişci, 1995).

The first direct legislative regulation of Turkey is the *Bylaw on the Procedures and the Principles Related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum from a Third Country (Türkiye'ye İltica Eden veya Başka Bir Ülkeye İltica Etmek Üzere Türkiye'den İkamet İzni Talep Eden Münferit Yabancılar ile Topluca Sığınma Amacıyla Sınırlarımıza Gelen Yabancılara ve Olabilecek Nüfus Hareketlerine Uygulanacak Usul ve Esaslar Hakkında Yönetmelik)* that was enacted in November 1994. In the year 2005, the legislation about the migration and migrants were to be found included these laws and regulations: Turkish Citizenship Law (Türk Vatandaşlık Kanunu), Turkish Law of Settlement (İskan Kanunu), Passport Law, 1994 asylum regulation and work permits (İçduygu and Toktaş, 2005).

The 7th (1996-2000) and the 8th (2001-2005) Five Year Development Plans accepted that Turkey was both an emigrant and immigrant country and decided to make legal arrangements about the issue (İçduygu and Toktaş, 2005). A draft was prepared in the year 2000 by the Turkish Ministry of Labor and Social Security to make the ministry only authority to issue work permits. In 2003, “The law about the work permits of foreigners” (Law no. 4817) was enacted and the penalty for employing illegal foreign worker was increased. This legislation amendment was also a part of the EU harmonization process that took start in 2002.

Turkey's being a transit country makes its policies important also for the members of the European Union. Europe has been trying to tighten its own asylum system recently and turn itself into a 'castle' to which entrance is really hard (Abadan-Unat, 2002). In that sense, Turkey and other transit countries are under the pressure of the EU to change their asylum and migration policies. EU required Turkey to lift the geographical limitation and adopt a fully-fledged national asylum system in the EU harmonization process. EU is even trying to get Turkey ratify a readmission treaty which would make possible EU member countries to send back illegal migrants that have transited Turkey (Kirişci 2007). In turn, Turkish government also tries to get other countries from where the transit migrants come from sign similar agreements (Kirişci, 2007).

In the National Action Plan 2005, Turkey promised to abandon the geographical limitation until the year 2012; however she has not fulfilled her promise yet. On the contrary, with the pressure of more and more migrants each year from Middle East, Africa and Asia that are not able to enter Europe and stay in Turkey instead, she is even trying to tighten its asylum policy, at least in practice (İçduygu and Kirişci, 2009). For instance, the penalties for human smuggling have been increased and border surveillance technologies and methods are improved. Border control mechanisms are trying to be improved also because of the pressures of the European Union. According to the new agenda of member states which aims at decreasing the immigration volume into their territories, they also pressure neighboring countries to strengthen their border controls to prevent transit migration. In the European

Council Presidency meeting in Seville during 21-22 June 2002, Turkey was hardly criticized for not effectively controlling its borders (Danış, 2004).

Between the years 1995 and 2007, Turkey got approximately 3500 to 4000 asylum application per year according to Foreigners Department of the Turkish Ministry of the Interior. During this period, more than 50.000 asylum applications were made 25.000 of which were accepted as refugees (İçduygu and Kirişci, 2009). 28.963 applications were made by Iranian and 16.972 applications were made by Iraqi citizens according to the 2007 statistics of MOI Foreigners Department (Obtained from MOI website). Between these years (1995-2007), Turkish authorities apprehended more than 336.000 illegal migrants 123.508 of whom were from Iraq, 44.525 of whom were from Afghanistan, 26.327 of whom were from Iran, 20.683 of whom are from Bangladesh, 15.901 of whom are from Somali, 13.064 of whom are from Palestine and 9.527 of whom are from Syria (İçduygu and Kirişci, 2009). In 1995, the official number of apprehensions was 3.600, in 2000 it was increased to 65.600 and in 2009, it was decreased again, to 19.618 (Martin et al, 2001). According to 2005 statistics, Turkey has the third place among the countries which has the largest number of detected illegal migrants after Moldova and Greece (Lordoğlu, 2010).

Considering the volume of illegal migration, the number of people who are able to get refugee status in third countries remains small. 1262 in 2005, 1609 in 2006 and 2667 in 2007 were sent to third countries with the help of the UNHCR (Özbay, 2011). The annual number of asylum seekers from

Turkey to industrialized countries was about 26.600 in 1994 (Coşkun and Türkyılmaz, 2009). It fluctuated between 1994 and 2003, but it did not fall under 20.000. Recently total number of application has fallen down, but this observation is not specific only to Turkey. Asylum applications to developed countries have decreased because of the hardening asylum acceptance procedures. In 2005, the world has seen the lowest number of refugees on the world for the last 25 years (UNHCR, 2006). The United Nations High Commissioner for Refugees Antonio Guterres claims this was partly because of the decrease of refugee producing crises and conflicts, but mainly because of the tightening asylum policies of developed countries (UNHCR, 2006). Therefore it is not surprising to observe that Turkey also got affected from this universal trend as a neighbor country of the ‘European castle’.

3.3.1. How Does the Asylum Procedure Work in Turkey?

In Turkey, all issues related with asylum are assessed within the jurisdiction area of the Ministry of Interior. According to Article 4 of Passport Law No: 5682, asylum claims are evaluated by the Ministry of Interior. The Law No: 5683 states that it is also the Ministry of Interior that decides for refugees and asylum seekers where to live. The organizational organ of the asylum and international migration in Turkey is the Department of Foreigners, Borders and Asylum (Yabancılar Hudut İltica Dairesi Başkanlığı) operates in General Directorate of Security under the authority of the Ministry of Interior. On the local level, the operations are run by Provincial Security Directorates and Branch Offices for Foreigners (Yabancılar Şube Müdürlüğü).

When an asylum seeker passes Turkish borders with or without the required official documents, he has the right to apply for asylum in Turkey within 10 days according to regulation. Late applications are only accepted after negotiations if a valid excuse exists. It was 5 days before 1999, but was increased to 10 days in 1999. Today a time limitation for reporting the asylum claim does not exist due to a penalty given by the European Court of Human Rights. The applications can be made whether directly to the UNHCR or to the Turkish National Police which plays an intermediary role between the asylum seeker and the UNHCR.

The main entrance point of asylum seekers in Turkey is the city of Van (İçduygu and Toktaş, 2005). The convenient geography for border violation, the prevalence of informal economy, its being on the center of highway networks and the ethnic and family ties between illegal migrants and local people make Van the most preferred spot for entrance (İçduygu and Toktaş, 2005). Considering that, there is a UNHCR office in Van which was opened in 1995. The asylum procedure in Van follows these steps respectively: the applicants apply directly to Security Directorates or to the UNHCR office. The UNHCR office writes a letter of application to the governorate. Governorate sends the application to Foreigners and Passport Department (Yabancılar ve Pasaport Şube Amirliği). Foreigners and Passport Department takes the statement of applicants and fills in two application forms. Two interviews with the applicants are conducted by the provincial governorates. While the first interview aims at collecting personal information, the second

one investigates the applicants' reasons for asylum. After the interviews are done, forms and statements are sent to the Ministry of Interior. The Ministry of Interior may consult other ministries like the Ministry of Foreign Affairs or international organization like the UNHCR during the assessment process of applications.

If the Ministry of Interior finds the application appropriate, it gives a special residence permit to the applicants that enables asylum seekers live in Turkey. According to Article 17 of the Law Number 5683, asylum seekers are placed by the Ministry of Interior and cannot leave their determined cities of residence. If one is accepted by the MOI as a refugee from non-European countries who waits to be accepted by third countries are sent to central Anatolian cities called 'satellite cities' that are distant from borders in order to prevent border violations before negotiations with third countries are finished. If the application is not accepted by the Ministry of Interior, the asylum seekers are informed about the process and given 15 days period of time to leave the country or apply for objection. If they choose to object to decision, their files are assessed again. If the rejected applicants leave the country and make another application within a short period time (within three months) and are rejected again, they are deported by the governorates and security forces. However, if they bear the risk of facing the persecution when they are sent to their countries, they are given a special foreigner status to enable them stay in Turkey according to Humanitarian Considerations (İnsani Mülahazalar).

85% of the people who enter Turkish territories travel with human smugglers and trafficking (Obtained from interview with a scholar from Police Academy, April 2012). Yet contrary to general belief, human smugglers usually operate within small networks without being part of international crime organizations; their profit margins are smaller and punishments are less severe compared to other smuggling activities like drug smuggling business. According to the observations of security officers in Van, smugglers usually get 800 dollars to transfer people to Van and get another 200 to transfer them from Van to İstanbul (İçduygu and Toktaş, 2005). The people who enter Turkey illegally especially are the citizens of Iran, Iraq, Pakistan and Somali (Obtained from interview with TNP official, May 2012). However, true information about their origins and identity is very hard to get since they usually travel without visas and passports or they destroy them after passing the borders due to the fear of being deported. If the trespassers are caught by police, they can claim to be asylum seekers. If they do so, the police send them to the UNHCR, otherwise they are deported.

The police department in Van defines its duty about these migrants as to prevent them pass the borders and if they fail to prevent, to catch them as soon as possible without allowing them to travel to the other cities of Turkey (İçduygu and Toktaş, 2005). The chief of the department states that the attitude of public towards migrants is also negative because they work illegally for very low wages which eventually results in a total decrease in wages and when they

are not able to work, engage in theft and smuggling activities (İçduygu and Toktaş, 2005).

Asylum seekers have the right to work; nevertheless since work permits are very hard to get, in practice they do not work. In official statistics, there are only two asylum seekers that work in Turkey from non-European countries (Obtained from interview with TNP official, May 2012). That is mostly because asylum seekers do not have a direct work permit. Work permits are given only to employers in case they specifically address their intention to employ which asylum seeker and why they want to employ them. In other words, an employer who owns a Chinese restaurant may employ a Chinese migrant or asylum seeker if he indicates he needs a ‘Chinese’ employee particularly. An asylum seeker is only hired if and only if s/he is indispensable because of his/her very nationality, ethnicity, race or religion. In abilities-capabilities terminology, this practice means; although they are able to work, they are incapable of working. According to official statistics, there are only 2 asylum seekers from non-European countries that work in Turkey (Obtained from interview with TNP official, April 2012). That piece of statistics makes us infer that most of the asylum seekers work illegally in Turkey to make for a living.

While Van is the entrance point for illegal migrants and asylum seekers, Istanbul is the exit point and the most preferred city of residence. 33% of illegal migrants are caught in Istanbul (İçduygu and Toktaş, 2005). Why Istanbul is chosen is that it is appropriate for both land and sea transportation

and has the capacity to absorb illegal working. However, accommodation and working options in Istanbul are very limited. Moreover, the reactions of the police and the authorities are inconsistent since the legal framework about the migrants is not exactly known (İçduygu and Toktaş, 2005). 99% of the illegal migrants who want to leave Turkey for European or other developed countries travel with the smugglers (Obtained from interview with scholar from Police Academy, April 2012).

Although people from countries outside Europe are not accepted as legal refugees in Turkey according to geographical limitation principle; according the Article 6 of the 1994 Asylum Regulation, all the asylum seekers in Turkey have access to social aids, health provision, education and labor market regardless of their countries of origins that is ensured as a right by the 1951 Convention and 1967 Protocol.

3.3.2. The Draft Law on Asylum and International Migration: Foreigners and International Protection Law

As mentioned above, there are some attempts to regulate Turkey's legal framework about the issue recently. Since 2008, all the authorities and institutions that operate within the area of international migration and asylum work in collaboration to prepare the first asylum law and to improve the former foreigners law of Turkey. Initially, two law drafts named "Asylum Law (İltica Yasası)" and "Foreigners Law (Yabancılar Yasası)" were intended to be prepared. Later this plan was put into action by the preparation of a unified draft combining Asylum Law and Foreigners Law named "Law Draft on

Foreigners and International Protection (Yabancılar ve Uluslararası Koruma Yasa Tasarısı)’ that was prepared during 2010 by the Bureau of Asylum, Migration and Administrative Capacity operating under the jurisdiction of the Ministry of Interior and made public in January 2011. The Bureau also consulted the Council of Europe and the other administrative and executive organs of the European Union during the preparation process. During the conduction process of this research, the draft was pending in the Prime Ministry to be discussed and approved in the Turkish Grand National Assembly and was assumed to be enacted until the end of 2012. On 3 May 2012, it was transferred to Assembly and is expected to be amended within a short period of time.

The draft law significantly improves the current living conditions of refugees and asylum seekers in Turkey by setting standards for asylum procedure; providing subsidiary protection status, safeguards to ensure the access to every kind of rights for the asylum seekers, and necessary institutional framework to implement and improve the appropriate asylum regime in Turkey (UNHCR Turkey, 2011). First of all, it will establish a system that automatically gives the right to benefit from health provisions for recognized asylum seekers. Today, there is an indirect system that necessitates asylum seekers to get a transfer document from the police offices and then to get treatment from the hospitals. Work permits are even harder to get as it is discussed in detail. It also aims at easing the procedure for getting work permits. Hence, if accepted, the draft law will be first direct asylum law of

Turkey and will operate in favor of refugees and asylum seekers compared to today's legislative set-up.

One of the most important improvements that the draft proposes is the establishment of a general directorate for migration under the Ministry of Interior. The civilian bureau will operate with a capacity of 3000 trained and qualified personnel to conduct policies and also will be responsible for the execution of all kinds of the procedures related to international migration that are currently the concern of the Turkish National Police and the UNHCR. Necessary consultation and training will be obtained from the TNP and the UNHCR during and after the establishment process.

Foreigners and International Protection Law has directions for regulating the asylum procedure of people coming from outside Europe. Up till today, 1994 Bylaw has been the only legal document that regulates the status of non-European refugees and asylum seekers which does not have clear instructions about the procedure. The law will organize the process and set up some rules to clarify the steps to follow for asylum seekers and classify these asylum seekers as 'conditional refugees' which is actually a concept that is absent in universal literature or legal framework. Still, although the law will adopt some features in order to be in accordance with universal principles about asylum; the geographical limitation will not be abandoned. Asylum seekers from non-European countries will continue to be rejected as refugees in Turkey.

New law also includes integration policies for all kinds of international migrants including asylum seekers and refugees. The fifth section of law consists of clauses on harmonization. It guarantees the establishment of a department of integration and communication within the body of General Directorate which will design and pursue integration policies. This will improve the life quality of asylum seekers and migrants; since up until today, Turkey did not have any official legislation policies and migrants and asylum seekers rather experienced *de facto* integration. Nevertheless, some officials from several international and non-governmental institutions find the clauses on integration part insufficient and vague and criticize law makers by preferring the word ‘harmonization (uyum)’ instead of ‘integration (entegrasyon)’ because of political reasons which will be discussed in detail in Chapter 4.

3.4. Migration Politics in Turkey

It is crucial to re-emphasize that Turkish legislation did not have any specific regulation about refugees, asylum seekers or illegal migrants until 1994 and the first law on the issue is prepared in 2011. The lack of interest for establishing the necessary legal structure was strongly tied to dominant ideological and political goals of the republic.

In the history of modern Turkish Republic, modernity and the nation building processes are intertwined (Ahmad, 1993). Migration politics is also directly linked to the nation building process and is subject to all historical transformations that these processes have come through (İçduygu, 2010).

Ahmet İçduygu (2010) analyzes three distinct periods for migration politics that were shaped by mainly;

- 1) 1923-1950: Nation state building
- 2) 1950-1980: Deepening modernization
- 3) 1980 to present: Globalization

International migratory movements do not occur in a political vacuum. Mass migration is a product of modernity which is either created by expanding capitalist markets or never ending demand of industrialized economies for cheap labor (Piore, 1979; Sassen, 1988; Massey, 1994). It is strongly connected to the market. In fact, Massey and Taylor (2004) claim that it is an integral part of the expansion of global market and trade. Therefore globalization had a massive impact on migration (Castles, 1998). It is not only the economic migration that is affected from the forces of globalization, but also political migration has been affected since the countries with badly functioning economies also tend to produce more political conflicts (Marfleet, 2006). With the forces of globalization; new types of migration emerged, the volume of migration has increased since the opportunities and therefore possibilities to migrate increased, it became harder to control immigration and the distance between the definitions of existing types of migration has been blurred (Koser, 2007).

International migration in Turkey is not independent of global trends. However, Turkey's approach towards the issue has seemed to be rather rigid and conservative when compared to contemporary migration politics. Turkey's

goal for nation state building in 1920s and 1930 was the establishment of a homogenous, coherent society with citizens of Turkish descent. Therefore it did not welcome any members of other nations as refugees or migrants except the ones with Turkish nationality. The Settlement Law that was accepted in 1934 indicated that in order for a person to be accepted a legal migrant; one must have Turkish nationality. This law was amended in 2006; however, that proposition was not changed (Kaiser, 2010). This shows that the conservative national concerns still prevail that are explained by security reasons (Kaiser, 2010). The preservation of geographical limitation is another indicator to show Turkey's reluctance to accept refugees and asylum seekers.

Labor legislation is also designed to keep foreign workers out of the Turkish labor market. Turkey did not ratify the 1949 Migration for Employment Convention nor the 1975 Migrant Workers Convention that were both prepared by International labor Organization. Since Turkey still considers itself as an emigrant country, its legislation mostly covers only the Turkish nationals outside the borders of Turkey (Erder, 2010).

All the foreign residents in Turkey are liable to The Law Concerning Residence and Travels of Foreigners in Turkey (Yabancıların Türkiye'de İkamet ve Seyahatleri Hakkında 5683 Sayılı Kanun) that was enacted in 1950. According to this law, there is no right of habitation for foreigners in Turkey. In other words, foreigners cannot have permanent residence permits no matter how long they have been residing in Turkey. Residence permits are given for at most five years that have to be renewed before the expiration date. The

residence permits are not given through pre-determined evaluation mechanisms but rather depending on individual decisions; for example the condition that requires claimants to behave in accordance with Turkish customs and traditions cannot be evaluated objectively (Kaiser, 2010).

Until 2003, certain occupations were legally banned for foreigners by the Law Number 2007. Today, even though the ban has been abolished some restrictions still prevail. The limitations that specifically address foreign workers are against the 23rd article of UN Universal Declaration of Human Rights and the Ankara Agreement that was signed with the EU. Before 2003, work permits were given by individual employers for two years at most, a specific governmental institution was not authorized to regulate and control the permits. The Law number 4817 authorized The Ministry of Labor and Social Security as the only institution responsible for the status of foreign laborers. Actually, the amendment was prepared to prevent informal economic activities practiced by foreigners and to attract only a certain kind of foreign laborers into Turkish economy (Pusch, 2010; İçduygu, 2010) It could be seen that this certain type of foreign workforce that is encouraged to enter Turkish labor market is the professional workforce. Unqualified laborers are not very welcomed that this lack of enthusiasm is explained by high rate of unemployment in Turkey (İçduygu, 2010). In fact, the regulations amended in 2003 were made under the pressures of trade unions which were against the promotion of foreigner workers in the domestic economy and were aimed at decreasing the participation of foreign workers in the informal sector in order

to decrease the domestic unemployment level rather than promoting the legal framework in favor of the immigrants. The status of migrants and foreigners in the labor market is not discussed much, since the unemployment of the national citizens is given much more importance (Pusch, 2010). This law charged 2500 TL from the employers of the illegal foreign workers; however, it did not establish the legal framework to support the participation of the foreigners in the formal sector who are excluded from the informal sector.

Today, only 13-14% of the people with residence permits also have work permits. Between 1998 and 2000, 40% of migrants that had work permits were professional workers. By the end of 2006, foreigners with work permits only constitute 0.2% of the total employees in the cities (Lordođlu, 2010). Considering the enormous magnitude of the informal economy in Turkey (according to the data published by Turkish Statistical Institutions in 2004, 48.2% of the male workers and 74.4% of the female workers in Turkey are employed in the informal sector), this is a fact that leads us to think there are many migrants employed in the informal sector with or without official residence permits.

Integration is also done through old-fashioned assimilation policies. Turkish government does not support multicultural policies that would enable migrants and refugees enjoy the same rights with Turkish citizens without having a 'Turkish' identity. Besides, there is not an official, structured integration policy at all. According to Maja Korac there are two main theoretical approaches to integration of migrants, which are cultural integration

and structural integration (cited in Daniş et al, 2009). Cultural integration is the practical change observed when different societies co-exist in the same place while structural integration refers to the institutional integration achieved through the help of social protections and policies that are given and conducted by state or institutions. In Turkey, refugees and migrants do not get a systematic formal assistance to achieve cultural or structural integration. Therefore, they have to trust on their own cultural, social and financial capitals in order to ensure a segmented, de facto integration usually with the help of their social networks (Daniş et al, 2009; Daniş, 2010). In this sense, the social and economic heterogeneity of Turkey, especially Istanbul, provides migrants to sustain and develop incorporation models through social networks built upon ethnic, religious, cultural and linguistic ties (Daniş et al, 2009).

Asylum mechanisms for acceptance and rejection are not well-determined, financial sources are not sufficient. Asylum applications may take a long time depending on the origin and personal state of the applicant. Developed countries usually tend to accept asylum seekers with relatively higher education levels, younger and healthier personal states (Obtained from interview with UNHCR official, May 2012). The negotiations for the remaining ones usually take several years and the acceptance rate is highly dependent on international political tendencies. Countries may be reluctant to accept refugees from areas that have been witnessing never-ending conflicts. For example, after the American intervention in Iraq in 2003, when the asylum application peaked, the UNHCR decided to freeze applications from Iraq until

a resolution was made (Daniş, 2010). Another example of arbitrary practice is the attitude towards Iraqi Turkmens by the Turkish UNHCR office. The asylum application to third countries acceptance rate in among Iraqi Turkmens in Turkey is very low due to the UNHCR implementation that classifies Turkmen application as 'non-urgent' since they experience positive discrimination. However, Iraqi Turkmens are also not accepted as refugees in Turkey and since 2003, it has been really difficult for them to get residence and work permits (Daniş, 2010).

The ones of whom applications are not accepted by the third countries are theoretically apprehended, but in practice they continue to stay in Turkey since the financial resources for deportation purposes are not sufficient (Lordođlu, 2010; Yüksekler and Brewer, 2010). Apprehension of unauthorized immigrants takes place rarely, since the police forces have to bear the costs. The rest has to work illegally, the living conditions are harsh. A study conducted on African migrants in Istanbul in 2005 revealed that the most important problem of Africans in Istanbul was of financial nature (Yüksekler and Brewer, 2010). 31% stated they engage in small financial activities occasionally, 13% worked in small ateliers, 10.7% sell goods in bazaars, 7% got social aids. Social aids are not regular and satisfactory; the wages are below the market levels (Yüksekler and Brewer, 2010).

Most importantly, Turkish authorities do not want to be directly involved in migrant's problems and needs because of the fear of illegal migration's becoming institutionalized and Turkey's being accepted as an

immigrant country in the international arena (İçduygu and Toktaş, 2005; İçduygu, 2010). Immigration is seen as a security problem that is trying to be solved by the security forces. Governorates of districts and provinces at the borders choose not to deal with refugees directly except for the cases of death.

Turkish governments' approach to the issue has always been pragmatic and political instead of humanitarian. There is not a fully fledged legal or practical system that enables migrants and refugees enjoy all kinds of social and political rights that are determined by international arrangements and agreements. Migration politics in Turkey is highly politicized and securitized that even the statistics on the volume of the migration flows is used for pragmatic political reasons. In the 1990s, former prime-minister Tansu Çiller mentioned in a speech that Turkey was 'feeding hungry Armenians without any obligation' after a conflict with Armenia about the 1915 incident (Rutishauser, 2010). 'The immigrant issue' is still kept as a political tool in order to be used in the case of necessity. An AKP member of the parliament and former Minister of Foreign Affairs, Yaşar Yakış, suggested in 2006 to deport '70.000 illegal Armenians' as a reprisal to France's draft bill about Armenian genocide (Rutishauser, 2010). In fact, the exact number of the Armenian population in Turkey who are employed as illegal workers is not known; most probably Yakış's estimation is a speculative claim. These cases prove us that Turkish authorities continue to accept immigrants as passive objects to be fed or deported instead of active subjects that are beneficiaries of any human rights.

Besides, there are also economic concerns which may have played a role in reluctance of authorities in developing policies for the immigrants. According to Michael Piore's (1979) dual labor market theory of which we could find the traces of Arthur Lewis' (1954) dualistic development theory, labor market is segmented into two distinct sectors which are the first sector that contains high skilled and prestigious jobs that are desired by domestic labor force and the second sector that is constructed by the unwanted, low skilled, dirty or hard jobs which are not preferred by domestic labor and therefore has to be done by low status migrants. This theory implies that irregular migrants may also help economies reduce their production costs by meeting the demand for undesirable jobs with low paid, temporary, irregular migrants. However, whether Turkish authorities wanted to sustain the flow of irregular migrants according to economic concerns for decreasing production costs has not been proven yet.

3.5. Conclusions

International migration is subject to a structural transformation with the forces of globalization and Turkey is being affected by these global pressures as a both immigrant and emigrant country. Although previously known as a net emigrant country, due to the social and political restlessness and economic underdevelopment in neighboring countries and tightening asylum policies of European Union member states, Turkey has now being receiving a considerable amount of immigration since the 1980s.

Nevertheless, despite the presence of significant migratory inflow, Turkey still lacks a legal framework neither to control and manage the movements nor to guarantee the access to fundamental rights and needs for asylum seekers and migrants. In 2011, the first asylum law of Turkey named Foreigners and International Protection Law has been prepared to avoid confusions and disorder stemming from the legal loopholes. The preparation process itself is progressive, yet the security concerns stemming from strong nation state reflexes seem to be preserved.

CHAPTER 4

INSTITUTIONAL FRAMEWORK IN TURKEY:

A QUALITATIVE STUDY

This thesis makes use of in depth interviews to provide a deeper and more extensive insight about the present situation of Turkish legislation and politics on asylum and international migration. All of the interviews are conducted in April and May 2012 with officials, experts, bureaucrats and academics from several governmental and international institutions like Ministry of Interior, Turkish National Police, Ministry of Foreign Affairs, the UNHCR and from several non-governmental organizations. Interviews were semi-structured that included only a few general questions about the practices, jurisdiction scope and duties of each institution beforehand. More specific and detailed questions were posed during the interviewing process. Interviews are analyzed in a specific chapter in order to enable the readers to make the comparative analysis of the opinions and practices of different institutions with regard to migration politics. Since there is not a single state strategy of the Turkish Republic to fight against illegal migration or to apply asylum policies; the opinions, positions and ideologies of institutions in Turkey are different and even sometimes contradictory which eventually result in tension. This chapter

tries to examine such differences and to detect whether the tension stemming from these contradictory opinions is affective on the policy making processes of the Turkish Republic. The questions about the recent process of law preparation have been used as a tool for determining the contradictions and stances.

4.1. Institutions in Turkey

The institutions that are involved in the issue in Turkey are governmental institutions such as Ministry of Interior, Ministry of Foreign Affairs, and Turkish National Police; international institution such as United Nations High Commissioner for Refugees and several non-governmental institutions. In depth interviews are conducted with experts from all of these institutions and scholars from Police Academy, Koç University and Boğaziçi University. Interviewees from the institutions are kept anonymous in order to provide a unified and coherent representation of each institution.

4.2.1. Turkish National Police

The Turkish National Police (TNP) which operates under the jurisdiction of the Ministry of Interior (MOI) is the most important institution for all kinds of migratory issues since it is the primary practitioner of the policies, rules and regulation. In this regard, informally, the Turkish National Police is the executive body of Turkish migration politics. Department of Foreigners, Borders and Asylum (DFBA) operating under the TNP is one of the 30 departments of the TNP that is responsible for the status determination

of refugees, detection and deportation of illegal migrants, keeping the statistics of refugees and international migrants and management of repatriation centers. The stance of the Turkish National Police about the issue is inferred through the help of interviews with officials from Department of Foreigners, Borders and Asylum and academics from the Police Academy.

Today, the TNP is responsible and authorized at almost every level of the international migratory movements that are headed towards Turkey. It is responsible for keeping track of the illegal migrants that enter Turkish territories and to captivate and deport them if necessary. It is also the governmental institution that is authorized to determine whether an asylum seeker has the refugee status or not. These two duties are interlinked that all the captivated illegal migrants are informed that they may claim for asylum and if they do so, security forces interview with them to identify their true status. If one asylum seeker is rejected to be a refugee or an illegal migrant is captivated without claiming asylum, the TNP is again responsible for the deportation procedure. The deportees are welcomed in repatriation centers (geri gönderme merkezleri) -which used to call guesthouses (misafirhaneler)- that are managed and run by the police. The police contacts with the countries of origin of the deportees and require their embassies to prepare a travelling pass for them. If the deportee has financial resources, he/she pays for his/her journey, but if he/she lacks financial resources –at most of the cases this is observable- the police finances the journey.

According to TNP officials, the most difficult task about the issue is to identify the true status of illegal migrants; to understand whether they meet the requirements to be accepted as a political refugee or they make false asylum claims bearing primarily economic concerns instead of political ones. All the interviewees emphasized that many asylum seekers make false statements about their situation. An interviewee from Police Academy states that:

“Asylum seeking is now used as an illegal migration method. In some cases even conversion is used a migration strategy. For example Iranian Shi’ite claim for asylum in Turkey for economic reasons but claiming that they are Christians and running away from Shi’ite persecution in Iran (Interviewee from Police Academy, April 2012).”

Another interviewee from the Department of Foreigners, Borders and Asylum says:

“Asylum claims are problematic since people do not always tell the truth. For example, last year the statistics showed that there were many deportees from Myanmar. In fact, most of the people claimed that they were from Myanmar were lying. They report Myanmar as their country of residence, because there is no embassy of Myanmar in Turkey. If an embassy of countries of origin does not exist in Turkey, the deportation becomes almost impossible since we cannot contact with their countries and send them there (Interviewee 1 from the DFBA, April 2012).”

The problems related to deportation procedure are not only limited to false statements. Some difficulties are experienced in sending back citizens of certain countries that illegally reside in Turkey. On a day I had been in one of the DFBA offices for an interview, the officials in the office were dealing with a problem with the Bangladeshi government. The problem was about the deportation of some Bangladeshi people residing illegally in Turkey. They said that some governments like that of Bangladesh behave reluctant to accept their citizens engaging in illegal migration. They mentioned that the Bangladeshi state has such a low income level that is not able to welcome back its own citizens and even proposes Turkey not to catch them and let them travel Europe illegally (Interviewee 1 from the DFBA, April 2012). There were 211 Bangladeshi people who are detected as illegal migrants at that day, none of whom wanted to go back to their countries. A senior official from the bureau said that there were even some suicidal attempts to prevent deportation.

The Bangladeshi case can be adduced as an example for the existence of humanitarian problems that the illegal migrants face. Interviewees admitted that deportation procedure in Turkey have certain deficiencies. That is because all the related tasks are done by the police officials which simply cannot be fulfilled only by them. There are 25 ‘repatriation houses (geri gönderme merkezleri)’ in Turkey 4 of which were under construction during the interviews with a total capacity of 2000 people. This number indicates a low

capacity considering in 2011, 44.000 people were caught and sent back to their countries as in 2010, this number was 32.000 (Interviewee 2 from the DFBA, May 2012). In Ankara and Erzurum, two repatriation houses are being built with the financial support of the EU both of which has a capacity of 700 people. An interviewee reported that:

“Police does all the work you can imagine related to repatriation houses, like an ‘inn-keeper’. There are sick, there are pregnant women in these houses. Management of the repatriation houses should be carried out by a civilian authority, but the police undertakes the duty simply because nobody else volunteers to do it (Interviewee 2 from DFBA, May 2012).”

The TNP provides two meals a day at a cost of 6 TL to people in repatriation houses. The meals are prepared with convenience foods all of which are easy to be served, prepared and consumed. An interviewee mentions that it is not easy to prepare meals for the people in the houses who also need proper meals at least once a day since the only responsible agents are policemen. Even more, they had problems with the catering agency because of the price of the meals. 6 TL a day is very cheap that they claimed it is not very easy to continue serving food at that cost.

The problems of international migrants and asylum seekers do not only arise from deportation which is a situation only occurs in case they are

classified as illegal migrants, say the TNP officials. Migratory activity towards Turkey is harsh and painful regardless of one's status if he/she is not a regular migrant or tourist; but a refugee, asylum seeker or an illegal migrant. Another controversial issue that disturbs officials is the existence of readmission agreements. They claim that the Ministry of Foreign Affairs' attempts for signing readmission treaties are harmful both for Turkish state and for migrants. Sending migrants back is a long and difficult process that necessitates careful evaluations and assessment.

60 % of the border violations take place at the east border while 20 % is from the south (Interviewee 1 from DFBA, April 2012). Most of the migrants coming from east pass the borders on foot across the mountainous landscape and mostly at harsh climatic conditions. An interviewee reports that migrants come from warmer countries to Turkey with bare foot and ragged clothes without exactly knowing the severity of the conditions. Grievously he gives the example of an asylum seeker who was caught by the security forces while trying to pass the eastern border of Turkey could not be registered simply because the police could not take his fingerprints due to his gangrenous and frozen fingers (Interviewee 2 from DFBA, May 2012). The officials said that there was also a considerable amount of deaths during the illegal entrance or exits but the police did not keep the statistics of deaths.

Trusting on their statistics, DFBA thinks that the EU's assertion that states over 400.000-500.000 people transgress EU borders through Turkey is

wrong. DFBA office asserts that the true number of illegal migrants residing in Turkey cannot be much bigger than the official statistics which is around 30.000-40.000 every year. However, an interviewee from the Police Academy whose professional specialization is illegal migration, asylum and border protection thinks that there is over 1.000.000 illegal migrants that are currently residing in Turkey waiting for transit migration or planning to stay for longer in Turkey.

In DFBA officials' opinion, most of the illegal migrants in Turkey are transit migrants intend to go Europe. That information is collected through the statements of deportees. An unpublished study of the Police Academy reports that 85% of the illegal migrants get help from the smugglers to enter Turkish territories while the number increases to 99% when the migrants tend to leave Turkey for European countries (Obtained from interview with scholar from Police Academy, April 2012). Smugglers operate through certain international networks; although they do not have the true characteristics of international criminal organizations like a hierarchical set-up or high profit margins, they operate as small scale criminal networks. This information reveals that there exists an illegal migration network including smugglers and mediators in Turkey that is built to enable transit migration to Europe.

However, with increasing border controls of Europe by the help of FRONTEX, this trend may be reversed in the near future. Due to increasing control mechanisms at the sea, transit migrants prefer to use Edirne as the exit

point instead of Çanakkale, Muğla and Balıkesir which were the most preferred cities before the 2008-2009. There are attempts to strengthen the control of entrance at the land frontiers to prevent the transit migration which constitutes a crucial problem for the EU member states for last decades. This very nature and the type of the migration –that is the transit migration- is the reason why Europe puts pressure on Turkey to decrease the level of illegal migration. Nevertheless, according to security forces due to the mountainous landscape and the presence of terrorism at the eastern border, it is not possible to control the entrances but only the exits. In that regard, Turkey has a unique border control mechanism since it is usually the entrance what the states try to control because it is less costly.

The representatives of the TNP are optimistic about the law draft which is about to be enacted although they have some concerns. An interviewee stated that the law will strengthen state's hand at the issue by re-organizing the whole system. First of all, it will form the legal basis of the procedures and practices. Today, almost all the practices are determined by several regulations or by praxis. This creates problem when a conflict is transferred to legal authorities since regulations are not always accepted as true lawful piece of documents. Interviewees tell that the lack of appropriate legal background leads to some practical and legal conflicts. For instance, in 2009, a deportee applied to European Court of Human Rights (ECtHR) since he was deported without any official statement and won the case against Turkish state (Interviewee from Police Academy, April 2012). The 19th article of Turkish

constitution states that any illegal migrants located in Turkey could be deported or arrested by the police. However, the details of the procedure are not determined by the law. Before the case in 2009, the deportation was based on customary practices. An illegal migrant could be deported without any notification or declaration of his/her rights such as right to object. The duration of his/her stay in repatriation houses was undetermined. After the court decision which stated that as against universal human rights norms, all deportees are notified officially about their status, and given a right to object to the deportation (Interviewee 1 from DFBA, May 2012). The Turkish state has lost thirteen cases due to such legal weaknesses and the new law will clear away the legal loopholes.

Security officials also find the establishment of a civilian authority progressive. They state that some asylum seekers do not apply for asylum even though they meet the criteria just because they do not want to make contact with the police due to fear of deportation or other kinds of fears (Interviewee from Police Academy, April 2012). Besides, police forces are satisfied with the transfer of responsibility to some other institution.

Nevertheless, according to them there are also some crucial weaknesses in the law draft. First of all, they are concerned that the transfer of responsibilities may create hierarchical problems. Moreover, what will be the ultimate position of DFBA with the enactment of the law is ambiguous. Now there are over 30 departments in the TNP with over 3000 people employed.

DFBA is one of these departments; however vice president of DFBA states that it is responsible over 45% of the overall work tasks. The draft will transfer all the duties of the department to General Directorate of Migration except for deportation procedures. This requires the existence of a perfect collaboration between civilian and security forces. Moreover, the details about the management of repatriation houses are not well determined in the law (Interviewee 1 from DFBA, May 2012).

When I asked what they thought about the abandonment of geographical limitation, they said that the presence of the geographical limitation is in favor of Turkish state. First of all, all the interviewees from TNP and Police Academy claimed that the Turkish state is not ready for the financial burden of the abandonment. They think that in case of an absence of geographical limitation, Turkey will have to deal with a massive migration influx from non-European countries especially from Middle East and will not be able to absorb this massive flow since its economy is not strong enough to eliminate the excess supply of labor. They also assert that the EU puts pressure on Turkey to remove the limitation because of pragmatic reasons. What EU looks for is to transfer its 'burden' to Turkey and make Turkey a buffer zone that eases the European liabilities. Last but not the least; TNP officials are afraid of the possibility of abuse of the asylum system by the illegal migrants to migrate for personal and economic reasons other than the threat of persecution.

Turkish state had promised to abandon the geographical limitation until the end of 2012 after several negotiations in National Action Plan, 2005. However, in 2012, the first asylum law draft of Turkey still keeps the geographical limitation. The interviews with the officials revealed that the Turkish state expects some compromise from the EU in order to abandon the limitation. The questions “*What will we get in exchange for the abandonment?*” or “*Will they also make some sacrifices?*” were raised during the interviews by almost all of the interviewees. For instance, an interviewee mentioned that Turkey ratifies readmission agreements if only the partner country accepts a visa exemption for Turkish citizens while another interviewee from the Police Academy stated that it was the progressive nature of relationship with the EU why the government was eager to leave the limitation before 2005. Nevertheless, as the EU negotiations process is interrupted, the Turkish government sees the abandonment of limitation as a ‘sacrifice’ that threatens its national sovereignty and security.

The approach of Turkish state to Syrian case is different than the other migratory movements. First of all, the people running away from the persecution of Assad regime is not classified as refugees nor asylum seekers since they cannot apply for asylum in Turkey until the conflict in Syria comes to an end. What they are given by Turkish state is ‘temporary protection’ that will be taken back when the tempestuous political atmosphere in Syrian state is settled down. TNP officials do not want Syrian people in Turkey to apply for asylum individually, because asylum applications of 25.000 people in one day

may harm the existing system. Even more, they find it unnecessary because they think most of the Syrians will eventually come back to their countries after the peace is established as the Iraqi experience in 1991 showed us only 1000 people preferred to stay in Turkey out of approximately 500.000 people when the conflict was resolved.

In Turkish asylum system, refugee status determination is both done by the TNP and the UNHCR. This creates a duality and sometimes tension between the institutions according to TNP officials. They are sometimes skeptic about the decisions of the UNHCR as an interviewee from the Police Academy claimed that there are cases at which illegal migrants are detected by the police, has a refugee certificate from the UNHCR, but has never applied to the TNP. Although the TNP takes the UNHCR decisions into account, an illegal migrant is not recognized as an asylum seeker or refugee unless he/she directly informs the TNP about this intent and gets the status from the MOI and the TNP. Interviewee also reported that although police directs all asylum seekers to the UNHCR, sometimes the UNHCR does not direct them to police (Nevertheless, UNHCR officials did not accept such claim and made a different explanation to the duality problem that is discussed in the following chapters).

It seems that TNP is not very satisfied with the existing asylum system and the methods for preventing illegal migration. It appreciates the efforts for

law making; nevertheless worries about the future challenges that will be posed by the weaknesses of the law.

4.1.2. Ministry of Interior (MOI)

Up till 2008, a bureau that is specifically designed for dealing with issues related to international migration within the MOI did not exist. The Bureau for Migration and Asylum (İçişleri Bakanlığı Müsteşarlık Göç ve İltica Bürosu) was established on October 15, 2008 to design and implement the Foreigners and International Protection Law and then to be abolished after the enactment. The operations in the Bureau are performed by bureaucrats from the MOI, academics from Police Academy and officials from the TNP. The Bureau operated as one of the main institutional bodies during the law designation process. The interview with the Ministry of Interior was conducted in May 2012 with a scholar from Police Academy who is authorized as an executive director in the Bureau.

According to interviewee, the law is designed according to universal principles without leaving any important issues unresolved. They have covered all the important topics, but the presence of geographical limitation was not even raised as a discussion point during the preparation process. That is because geographical limitation is no longer a hot topic in the international arena, since Turkey is a *de facto* migrant receiving country. In practice, Turkey accepts and welcomes all people passing its borders. Even though these comers are not classified as refugees, they are given the necessary amount of support

and help. Interviewee thinks that the abandonment of geographical limitation is unnecessary, since most of the asylum seekers in Turkey do not prefer Turkey as a resettlement country but rather use geographical limitation as a tool for resettling in Europe.

In his opinion, integration policies are named as harmonization policies just because the word 'integration' might be interpreted as assimilation. Turkey does not want to adopt integration policies of European countries which function as assimilation policies but rather want to be a multicultural country that respects every nation, race and ethnicity. Interviewee claims that the hospitality culture in Turkey enables all people from several countries live in harmony without facing discrimination or stigmatization. In satellite cities, asylum seekers live freely without fear of exclusion. The indicator of hospitality may be the internal migration experience in Turkey that resulted in Turkish, Kurdish, Circassian or Lazi people live in harmony despite political reorientation towards ethnic conflict. He does not accept that a 'Kurdish problem' exists in Turkey.

He thinks that the asylum seekers are not satisfied with existing conditions, because they just cannot be. What they seek in receiving countries is comfort, but comfort is something even cannot be provided by states to their own citizens. People have to seek for their own betterment. He emphasizes that the current problem of the Turkish asylum system is not related to practical issues, the current asylum procedure functions properly. However, what

compels authorities to re-organize the system is the non-existence of the legal framework. This is the reason why Turkey is condemned by the European Court of Human Rights (ECtHR) in most of the lawsuits. The lack of proper laws is mainly because of the TNP's reluctance as the operational body. Therefore the TNP should not be critical about the law since it has been the responsible body for many years but never attempted to create a legal framework.

MOI officials are optimistic about the possible migratory flows coming to Turkey. According to the interviewee:

“Migration is a blessing for the ones who are able to benefit from it. We are, as the Turkish state, not afraid of international migrants. Racism and xenophobia are Western phenomena. Now the European countries are carefully watching the Turkish law making process because they are in a desperate position. They search for a miraculous solution; but such a solution does not exist since migration is not a problematic issue to be solved. You cannot avoid from it, it is neither Europe's nor our problem. If you adopt this mentality, then things become easier.”

In short, MOI Bureau for Migration and Asylum is confident with the law that is prepared and states that the current problems related to issue are not structural problems but rather minor conflicts resulting from un-coordination

between institutions and the reluctance of some institutions, especially the TNP, to improve the existing system.

4.1.3. Ministry of Foreign Affairs (MFA)

The Ministry of Foreign Affairs is authorized to engage in diplomatic relations with foreign countries about issues related to international migration and coordinates the contacts of every domestic institution with the outside world. It is also the governmental body that designs and implements international policies and pursues diplomatic relations with other countries to make organic bonds. It is responsible to fight against illegal migration by taking measures in the international arena like ratifying readmission agreements. Traditionally, it has also the consulting and monitoring duties.

Deputy Directorate for Migration, Asylum and Visa (Göç, İltica ve Vize Genel Müdürlüğü) was established in 2008 by the unification of the departments for illegal migration, asylum and visa in one operational organ. This directorate implements policies and makes consultation for the Ministry of Interior. It supervises international projects.

Interviewee, who was a top level bureaucrat at the MFA and is one of the persons who is actively involved in the law making process, stated that after the implementation of new law, Turkey's problems relating the legal structure of the migration and asylum will come to an end since the draft is prepared according to universal standards with no deficiencies. The preservation of geographical limitation is not a deficiency, since Turkey should

definitely have a limitation to protect Turkey's national concerns. He believes that if an unconditional asylum system exists, it will certainly be abused by the illegal migrants. There are already many illegal migrants in Turkey with false asylum claims. They are falsely accepted as refugees to be sent to third countries because of insufficiency in status determination procedure. For instance, there are people seeking asylum in Turkey but cross the border more than once to visit their countries or to get appropriate legal documents. Crossing the border with no fear of persecution is enough to detect the false pretense according to interviewee since the true asylum seekers should be unwilling to go back to their countries. He states that, *"just not being able to make money does not mean you are being persecuted."*

He also insists that the illegal migration phenomenon is a result of incapability of Turkish security forces to control its borders and says:

"There are already many illegal migrants in Turkey because of the failure of controlling borders. The abandonment of the limitation will be an official way of saying "come and migrate to Turkey without any hesitation". More importantly, it would be legalizing these illegal migrants who have been unsuccessful to find a way to Europe. This is a burden that Turkey cannot accept and handle. Geographical limitation works definitely in favor of Turkey. Someday it may be abandoned, but not today."

There are also security concerns. According to confidential information of the Ministry of Foreign Affairs, the failure of controlling the asylum seeker and illegal migrant inflow is benefited by the terrorist group PKK. Guerillas from Iran and Iraq pass Turkish borders illegally to engage in terrorist activities in Turkey, but cannot be detected at the borders by the security forces.

The Head of Deputy Directorate does not agree with the comments of DFBA about the disadvantages of readmission agreements. First of all, the claims of the police are illegitimate, because agreements have not been practiced properly. Turkey has received 3000-4000 people at total by the directives of readmission agreements which constitutes an insignificant number considering the total amount of illegal migrants in the country. Besides, these people had already migrated illegally through Turkey; therefore Turkey has no other choice than to accept them. According to him, unless Turkey adopts stricter border controls, the illegal migration problem is destined to be continued. Right now the control mechanisms are insufficient and the system is corrupted considering the presence of police officers engaging in bribery at the border gates.

Moreover, he thinks that EU's pressures on Turkey to open its borders are not based on humanitarian but rather pragmatic and materialistic concerns. The idea of abandonment of geographical limitation is nothing more than a selfish demand of EU member states. When I asked about the promise to

conduct a policy without the geographical limitation in the 2005 National Action Plan, he admitted that there has never been such a plan. Since the Action Plan was prepared with the assistance of EU representatives and international organizations, such statement has been written in the plan unintentionally, but has never been considered to be implemented (actually, he said that this very statement in the plan has created problems for Turkey which will result in an investigation to be launched for the person who wrote it).

Finally, he emphasizes that Turkey does not and will not accept personal applications from mass emigrants under temporary protection since there is not such a universal principle and practice. Turkey always pays her dues for the temporary protected people as she does in the case of Syrian ‘guests’. In short, he thinks that the asylum system in Turkey does not have structural problems, but it has some practical deficiencies stemming from the malpractices of operational bodies, especially the TNP. The enactment of law will even resolve these conflicts and provide Turkey a steady foundation for policy applications.

4.1.4. Local Authorities in Kilis

The visit to Kilis was made on 14-15 May, 2012. The reason of the visit was to understand how the legal framework is put into effect at the local level and how the ‘Syrian case’ is placed within this framework in practice. The ‘container city’ in Kilis is built next to Öncüpınar Border Gate which is 8 km away from Kilis city center. It started accepting guests on 16 March and it

has a capacity of 12.000 people which has been reached on May 2012. There are 9560 people living on an area of over 318.000 m² that contains 2051 containers at total all of which has electricity and plumbing system with one bathroom and two rooms in it. The ‘city’ is operated by the Governorate of Kilis with direct funding from Presidency. The city is specifically designed for families; therefore families are given priority in resettlement. 90% of the residents are married with children and approximately two third of them are women and children.



The entrance door of the camp, photo taken by Ezgi B. Ünsal (14.05.2012).

Most of the guests are from neighboring cities of Syria to Turkey like Idlip. Most of them are the first comers to Turkish territories that spent more

than a year in tent camps of Hatay. Today, everyone who passes the Syrian border is accepted without question and is not sent back. An investigation to search for the legitimacy of the asylum claim is forbidden. There are UNHCR officials in the city but they only interview with the ones who would like to come back; to understand whether they will be under the threat of persecution or not when they go back to their country. Yet repatriation rate is low; only about 100 people went back to Syria in three months. People in the city may go out after notifying the city administrators, but must come back before the night.

As local administrators and governors specifically emphasized, it is important to note that the ‘container city’ in Kilis is not defined as a ‘refugee camp’ since its residents are not defined as refugees. The naming is important since it determines what procedure to be followed and what principles to be practiced. One of the officials in the city points out that:

“We do not use the word ‘refugee’ here. Because the moment it is said, the United Nations and other international organizations are involved. Turkey wants to deal with this issue on her own without interference. As you can see, there are no representatives of the UN here.”

In the city, which is actually and practically a camp, the international refugee laws that are determined by the 1951 Geneva Convention are not applied, but a unique practical framework is established by Turkish authorities. As the local authorities mention, this is a first time experience in the world.

The special setting is found appropriate by international agents since it is accepted as an emergency situation and emergency situations pave the path for disaster regulations.



Children, photo taken by Ezgi B. Ünsal (14.05.2012).

The camp is also unique for its physical conditions. The camp has high standards in regard to living conditions and the guests are very well kept. The inhabitants are supplied food, clothing and other basic needs as well as shelter. Food is not serviced as meals in facilities, but rather given as raw materials to enable guests cook their own meals in their containers. Containers include furnaces. Besides, first time in the world, all of the families are given credit cards with a certain amount of credit to spend according to their needs.

Turkey has used its own domestic resources to maintain the camp and never received support from international institutions or other states.



Black market, photo taken by Ezgi B. Ünsal (14.05.2012).

There are two mosques, a hospital, a kindergarden, a primary school, an elementary school and a high school, a bank, a post office, three markets and several playgrounds for children in the camp. An official states that a United Nations observer admitted he had never seen such good conditions in a camp before and continues:

“This is a prestige camp. Everything is thought to show the world Turkey is a powerful country that receives all kinds of people with open arms and is against political violence. This

camp is important to prove that Turkey is the great power of the Middle East.”



Residents of the camp, photo taken by Ezgi B. Ünsal (14.05.2012).

The visit of Prime Minister Recep Tayyip Erdoğan to container camp on 6 May, 2012 reveals that Turkish government pays great attention to what is going on in these camps, especially the one in Kilis which is the ‘prestige camp’. Interestingly one of the ways of keeping the camp prestigious is a method that was revealed by the media before. When the camp was first established, disorder and troubles were present. The solution to the problem was appointed as sending the ‘troublemakers’ to other camps in Gaziantep (Islahiye) and Şanlıurfa (Ceylanpınar) of which conditions are not as good as

Kilis. After re-placements, tension decreased since people did not want to be transferred to other camps.



Hatice and Sedran-the youngest member of the camp, photo taken by Ezgi B. Ünsal.

All in all, the physical conditions in the camp are satisfactory. The victims of Syrian government's persecution are welcomed in neat, comfortable places. They are supplied with food, medication and clothing. They have the right to leave the camp whenever they want except for the nights. Nevertheless,

it is crucial to note that the political concerns pave the path for the functioning of the camp. Moreover, using a ‘threatening’ method for establishing peace, which is the threat of transfer, is against humanitarian norms.

4.1.5. United Nations High Commissioner for Refugees (UNHCR)

This part is based on several interviews conducted with Public Information Officer of the UNHCR Turkey office in May 2012. The UNHCR office in Turkey is responsible for the protection of refugees and asylum seekers and to bring solutions for their problems. It safeguards the fundamental rights of the refugees and asylum seekers, it ensures that everyone coming to one country has the right to seek asylum if claims he/she needs asylum and monitors the asylum system to prevent malfunctioning and initiates permanent solutions for refugees like organizing repatriations or finding third countries for permanent settlement. The Statute of the UNHCR states that all the countries that are members of United Nations have to cooperate with the UNHCR. In Turkey, since the geographical limitation still prevails, the UNHCR has a unique and crucial duty which is to find third countries for refugees coming outside of Europe.

As the Geneva Convention and its 1967 Protocol declares, it is United Nations member states’ liability to accept all refugees running away from persecution. Turkey does not send back asylum seekers to their countries and conforms to the principle of ‘non-refoulement’. However; the geographical limitation shows that Turkey does not fulfill its liability and violates the second

article of Geneva Convention by sending refugees to other countries whose asylum claim is proven to be right but are from non-European countries. The role of the UNHCR office in Turkey is to find third countries for this kind of asylum seekers whose claim cannot be fully recognized in Turkey.

Before the 1990s, the International Catholic Migration Commission (ICMC) which was established by the Holy See in 1951 and is located in Geneva, was the primary institution for refugee status determination in Turkey. During the Cold War period when the volume of refugee and asylum seeker flows to Turkey was minor; it used to take asylum seekers in Rome, determine their status there and then find them appropriate countries. However, by the beginning of the 1980s, the method of the ICMC has begun to fail to meet the increasing demands for asylum due to the incredible pace of flows coming to Turkey. At that point, the UNHCR has taken over the duty of status determination for refugees in the 1980s and until the mass influxes in 1988 and 1991, it was the *ad hoc* ultimate decision maker unit about the issue. The mass influxes, however, were taken as a great problem by the Turkish government and were accepted as a threat to her national sovereignty. Therefore, after the preparation of the 1994 Bylaw, the Turkish state has undertaken the duty of status determination for asylum seekers.

1994 Bylaw was prepared without the consultation of the UNHCR. Its initial purpose was to determine the strategies for future in case of the occurrence of other possible mass flows. It was against universal humanitarian

norms according to the Public Information Officer. It clearly stated that the primary aim of the Turkish state was to prevent migratory flows at first hand. It did not guarantee some basic human rights like the right to work or it did not clearly explain and determine the steps of the asylum claim evaluation process.

Today, there is a parallel system for refugee status determination in Turkey. Although the Turkish state in the name of the MOI and the TNP has the ultimate authority to determine asylum seekers' status, practically it is the UNHCR that does the job according to universal norms and international requirements. The Public Information Officer states that, in practice, the MOI waits for the decision of the UNHCR in status determination and in 99% of the cases; it makes the same decision with the UNHCR.

Refugee status determination is a long process. The first comers are sent to the TNP after a brief registration that covers only name and contact information. Four or five weeks later, the proper registration is done by the UNHCR. The reason of this two-stage registration process is to accelerate the permanent settlement process. Since the UNHCR cannot easily find third countries for people from certain countries like Somalia and Afghanistan, two-stage registration helps identify people from relatively more 'preferred' countries and send them there without any delays.

After the proper registration, the first interview is conducted with the asylum seekers within seven or eight months. Decision is made usually after six or seven months of the interview. If the asylum seeker is accepted as a

refugee, his/her file goes to the resettlement department. The asylum seeker is sent to one of the 51 “satellite provinces” and waits for a third country to accept him/her there. As it is clearly understood from the normal duration of procedure, the resettlement process takes at least one or two years. Even the luckiest ones cannot resettle in another country before two years. In many cases, asylum claims are rejected. Then the situation of such asylum seekers gets even more ambiguous.

As the process of resettlement is too long and the work permits are very hard to get, asylum seekers’ life becomes dependent on donations of social solidarity foundations in satellite cities. Health expenses are met by the Turkish state if the asylum seeker does not have financial resources, but the process is indirect. The one has to go to police offices in the city to want a permission to go to hospital. Even if she gets the permission, she is not guaranteed to be taken care of. Sometimes she encounters difficulties in affording medication. Sometimes she cannot see a doctor.

The new law will improve the present system since it will bring a direct system instead of such indirect procedure for asylum seekers in areas of health and work. All the accepted asylum seekers will automatically benefit from the right to take medical help without any other interrogations with the enactment of law. Therefore, the UNHCR office finds the law preparation a progressive step to improve the quality of lives of asylum seekers and refugees in Turkey. Besides, they think that it also symbolizes a turn in Turkish state’s

viewpoint about the issue since the law makers were enthusiastic about the collaboration with other institutions like the UNHCR, NGOs or academicians during the process unlike the past experiences. What is more, they were ready to take measures for enhancing the system in the light of universal refugee laws and EU criteria. Therefore officials from the UNHCR actively and passionately participated in law preparation process.

Nevertheless, Public Information Officer of the UNHCR Ankara Office personally believes that Turkish asylum system could never be fully corrected as long as the geographical limitation is preserved. As the new law does not attempt to revolutionize the system, Turkey will have to continue invent new concepts to define and handle the problems. ‘Conditional refugee’ is an example of these concepts in the new law to specify refugees from the non-European countries waiting for resettlement in third countries which is not present in the universal context but specific to Turkish case. Interviewee claims that insisting on geographical limitation principle is harmful also for the Turkish state as well as it is a human rights violation for the asylum seekers. The existence of 50.000 ‘unclassified’ people 25.000 of which are being the Syrians in refugee camps and the remaining 25.000 are regular asylum seekers, is a both a humanitarian and a political and also an economic burden on the Turkish state. Today there are only 40 ‘refugees’ in Turkey from European countries that are given permission to resettle in Turkish territories. Accepting 40 out of 50.000 persons shows Turkey’s avoidance of burden sharing.

Although as long as the geographical limitation prevails, the resettlement duty for the UNHCR will continue, the establishment of the General Directorate for Migration will decrease the total amount of work tasks of the UNHCR and de-securitize the system. Authorizing a civilian authority instead of security forces which are hierarchical and closed by their very nature is revolutionary. After the full operation of this institution is granted, the primary purpose of the UNHCR may shift to monitoring, training and consulting duties from refugee status determination task.

The interviewee states that the UNHCR promotes civil society in Turkey by initiating efforts to establish organizations and by financially supporting them. For instance, it was one of the primary initiators of the establishment of Association for Solidarity with Asylum Seekers and Migrants (ASAM). It pursues close relationships also with other NGOs. Nevertheless; as officials emphasize, it is the decisions and opinions of governmental institutions that the UNHCR should take into account if it wants the asylum system in Turkey work smoothly. Therefore, it may sometimes ‘turn its back’ to NGOs in order to avoid contradictions with the governmental institutions.

The UNHCR officials do not take the blame of the TNP that accuses them for not directing asylum seekers to the TNP. Officials insist that they always direct asylum seekers to the police and the MOI. But not all the asylum seekers prefer to fulfill this obligation. First of all, they may hesitate to contact with the uniformed institutions due to their unpleasant past experiences.

Moreover, most of them do not want to be transferred in satellite cities. There are 51 satellite cities in Turkey where the recognized asylum seekers are settled. These cities like Çankırı, Konya, Isparta or Erzurum are distant from the coasts due to security reasons. Most of the asylum seekers, especially gays and lesbians, Christians and colored people do not feel enthusiastic about living in these cities because of the absence of appropriate labor market, proper integration policies and fear of being alienated and stigmatized. Most asylum seekers live in isolation without any interaction with the local people or without any work opportunities in satellite cities. This is a known phenomenon among the new comers who rather stay as illegal migrants than to be legal asylum seekers waiting for a year or two or even more in these cities. In İstanbul, they have plenteous work opportunities and also opportunities for transit migration to Europe that prevents legalization of these people.

There is the story of an Iraqi asylum seeker told by the UNHCR official which is actually a sad story that shows how the present rules and legal procedure do not necessarily enhance the lives of asylum seekers, but even sometimes deteriorate one's social and economic position. This very young asylum seeker had run away from the political and social chaos in Iraq with a righteous fear of persecution. He was a graphic designer and was also an expert in computer programs about design. Married with a child, he was easily able to find a job in İstanbul to support his family. After a while, his friends encouraged him to apply for asylum since he had the status of an illegal migrant. With their support, he applied for asylum and was sent to Çankırı.

When the UNHCR team encountered him in Çankırı he was living dependent on the aids of social solidarity foundations and was even unable to buy milk for his child because there was no industry in Çankırı for him to find an appropriate job according to his profession. This case is an example of how an active worker is kicked out of the labor market and made dependent on the social aids and turned into a ‘new poor’. Contrary to general beliefs, there are many asylum seekers in Turkey with certain professions that are valuable for the Turkish labor market. Unfortunately, these professionals are unable to perform their abilities within Turkish economy.

To summarize, the UNHCR Turkey desires the improvement of asylum seeking process in Turkey through the help of a well functioning policy structure. Therefore the new law is important for the sake of asylum seekers in Turkey although it has its flaws. There is an organic relationship between the UNHCR and governmental institutions, but the parallel system for refugee status determination creates disputes from time to time.

4.1.6. Non-Governmental Organizations (NGOs)

There are two types of NGOs that operate in Turkey. Basically, these are the right-based NGOs that fight for the rights of asylum seekers and refugees in the political sphere and aid-based NGOs that provide financial provision or consultation to asylum seekers.

In Turkey, civil society does not have a powerful voice. Before the Law number 5253 that was enacted in 2004, all the non-governmental

organizations had to take permission from the MOI and the TNP and the permissions were hard to get. Besides, it was forbidden for these organizations getting financial help from the international organizations or providing financial assistance in Turkey. These requirements and prohibitions no longer exist. Still, the assistance of non-governmental organizations to refugees is limited. An expert explains this situation by the lack of interest about the issue among media and citizens, lack of sufficient financial resources and most importantly by the lack of a civil society culture in Turkey (Obtained from interview with UNHCR official, April 2012).

There are several NGOs in Turkey that operate to provide financial, legal or other kinds as assistance or guidance to refugees. The most active NGOs are,

- Amnesty International Turkey Office (Uluslararası Af Örgütü Türkiye Şubesi)
- Association for Solidarity with Refugees (Mültecilerle Dayanışma Derneği, Mülteci-Der)
- Helsinki Citizens Assembly (Helsinki Yurttaşlar Derneği)
- Association for Solidarity with Asylum Seekers and Migrants (ASAM) (Sığınmacı ve Göçmenlerle Dayanışma Derneği, SGDD)
- Human Rights Association (İnsan Hakları Derneği)

- Human Rights Research Association (İnsan Hakları Arařtırmaları Derneđi)
- Human Rights Agenda Association (İnsan Hakları Gündemi Derneđi)
- Association of Human Rights and Solidarity with Oppressed (İnsan Hakları ve Mazlumlar İin Dayanıřma Derneđi, MAZLUMDER).

In 2010, five NGOs, namely Amnesty International Turkey, Helsinki Citizens Assembly, Association for Solidarity with Refugees, Human Rights Association and Human Rights Agenda Association cooperated and established Refugee Rights Coordination to act collaboratively. Nevertheless, still the NGO activity in the area of international migration in Turkey is limited mostly because of financial constraints.

This section includes in depth interviews with activists and officials from Amnesty International (AI) and Association for Solidarity with Refugees (Mülteci-Der) conducted on May 2012. Amnesty International is a worldwide human rights organization with more than 3 million supporters and members in more than 150 countries. Amnesty International Turkey has a special office for refugee rights based in Ankara. The interview was conducted with the Coordinator of refugee rights office. The other interview was conducted with the Board Chairman of Association for Solidarity with Refugees (Mülteci-Der).

The Refugee Rights Coordinator of AI believes that the NGOs working for the rights of refugees and asylum seekers have voice, at least as much as the other NGOs operating in Turkey. Especially for the last five or six years, they have started to show their presence and stance on the issue.

Both officials agree that the Turkish state's approach to the issue is rather pragmatic. The chairman of ASR claims that the governments had stayed ignorant or indifferent about the issue till now, since the asylum seekers did not have the voting rights. Besides, security concerns were the main driving force of the policies. In fact, Turkish state did not have any policy framework until the establishment of the Bureau in the MOI to prepare a law. Before that, the policies were just the sum of individual practices of police officers.

Police officers were both the practitioners and constitutors of the policies which were inevitably resulting in humanitarian crises frequently. The purpose of the police was not to protect the rights of asylum seekers, but rather to protect the order in Turkish territories. Therefore, they aimed at discouraging asylum seekers from coming Turkey instead of welcoming. Considering that, the establishment of the legal framework is vital for the improvement of human rights movements in Turkey. NGOs classify the law preparation process positively unique since it was the first time that the state officials paid attention to demands of civil society. During the whole process, several meetings were held including civil society officials, bureaucrats,

academics and experts. NGOs were able to declare their demands and wishes in these meetings.

After all, Turkish state preserves its securitized stance. The chairman of Mülteci-Der asserts that in order the Foreigners and International Protection Law to be described as a reform, it should have offered revolutionary improvements like the abandonment of the geographical limitation. The purposes of the law preparation are not purely humanitarian or reformist. The AKP government's and Prime Minister Erdoğan's ambitions for making Turkey a superpower in Middle East have been effective on the decision to revolutionize the area. The pressures of EU and the decisions of the ECtHR were other factors that increased the desire of law makers to prepare a law immediately. Hence, the reformist efforts of Turkish state on the subject are substantially stemmed from political agenda. As long as the geographical limitation is preserved, all the 'reforms' are nothing else than giving a temporary supportive help to the unwanted guests, says the chairman.

On the other hand, Refugee Rights Coordinator of Amnesty International Turkey suggests that any improvement towards a better legal framework should be classified as a positive development regardless of initial intent. In that sense, the discussions about integration policies are helpless since it should be a future concern after the implementation of law. What the NGOs should do is to lobby against geographical limitation and to protect asylum seekers' rights without questioning bureaucrats' or politicians'

concerns. According to him, it is not surprising for politicians to have pragmatic interests on the issue or for. Therefore the legitimizations of the limitation like Turkey's inability to absorb the migration flows should be considered as lame excuses; simply because a rational excuse for it cannot exist. The coordinator sarcastically points out that the rationalization attempts are contradictory with Turkey's claim of being a superpower in Middle East and explains:

“If Turkish government sees itself in a superior position which enables it to make ‘advices’ to Syrian government, then it would be a shame of it not to be able to handle the burden of refugees over a million of whom are already present in Syria. Sadly, Turkish state has money for ‘liberating’ activities, like supporting Libya with millions of dollars to overthrow Kaddafi, but it has no single coin to spend to provide basic needs for the asylum seekers in her own country.”

In short, the NGO activity in Turkey on issues relating to asylum is far from being immense. According to the chairman of Mülteci-Der, the NGOs specifically operating in that area are less efficient compared to other rights based NGOs. That is because evaluating and interpreting these issues within a rights based approach is just being acceptable in Turkey. In addition, most of the NGOs protecting the rights of asylum seekers are not established by strong, spontaneous civil society reflexes, but were founded and funded by other

institutions. For example, one of the most active NGOs, the Association for Solidarity with Asylum Seekers and Migrants (ASAM), was indirectly established by the UNHCR. Today, 100% of its funds are provided from it. Most of the NGOs are dependent on the funds coming from projects. That means they lack independent financial resources to enable them conduct studies with full effort.

The interviewees from NGOs are supportive of the attempts for law making. Nevertheless, they both agree that without a full commitment to universal humanitarian criteria, the Turkish asylum system is destined to stay inefficient and securitized.

4.1.7. Scholars

There is not an extensive amount of academic studies conducted on the Turkish international migration experience; nevertheless, there are several specialized scholars on the subject. Obviously, it is not possible to make a single analysis of the stance of academia that includes every argument in it. This section is comprised of a brief summary of the interviews conducted with two foremost scholars in the area.

The first interview was conducted with Prof. Kemal Kirişçi, from the Boğaziçi University Department of Political Science and International Relations on May 2012. Kirişçi emphasizes that the asylum policies in Turkey have been developed as de facto practices rather than structured policy systems. Before the 1994 Bylaw, the Ministry of Foreign Affairs and the

UNHCR were the primary institutions authorized to govern the asylum and international migration. After the increased frequency of mass incoming flows, 1994 Bylaw was enacted and the TNP took the control. In that regard, the massive migratory flows from the Middle East in the 1980s have constituted a milestone for the operational mechanisms of Turkish asylum system. Another turning point in the policy making practices has been the beginning of the EU harmonization process. EU harmonization process resulted in the UNHCR to be affective towards the establishment of more proactive policies again. Nevertheless; due to the stagnation in the process in the late 2000s, Turkey has returned to its ignorant position to the issue of the 1990s.

Kirişci thinks that the law draft is respectable. It is the result of the governmental authorities to re-regulate the system leaving legal loop holes behind. Nevertheless; the law making process has been somehow problematic since it has witnessed ideological and political confrontation of several institutions. The Turkish National Police often contradicted with the MOI and the MFA which were the primary law makers. The opposition of the TNP was mainly due to a power conflict rather than practical disagreements.

On geographical limitation, Kirişci asserts that preservation of the limitation is necessary for Turkish state. According to him, it enables Turkey to provide necessary support to limited amount of refugees and more importantly, it functions as a diplomatic weapon for EU membership. This assertion is also advocated by MOI and MFA officials during the interviews. Nevertheless,

Kirişçi interestingly mentions that at the beginning of the law making process, MOI authorities were not very reluctant to abandon the limitation and wonders which dynamics have re-shaped their stance.

The other interview was conducted with Prof. Ahmet İçduygu, the director of Migration Research Program at Koç University on May 2012. İçduygu asserts that the lack of asylum and migration policy in Turkey is a policy in itself since policy designation requires the acceptance of the problem at first. Turkish republic still preserves its nation state characteristics which had prevented it from admitting that it was a migration receiving country. Powerful traditions of nation state resulted in security concerns dominated, non-proactive policies. Therefore the attempt to regulate these policies within a liberal legal framework is progressive. Law preparation is also very important since it signifies that Turkey is officially declaring that it is an emigrant country. Nevertheless, the lack of comprehensive integration strategies in the law may be considered as a reflexive response not to be classified as an emigrant country in the international arena. The preservation of geographical limitation, which is a principle that should be certainly abolished according to İçduygu, is another example to show how Turkey's official approach to the issue is still dominated by security concerns.

İçduygu reminds that international migration is a highly politicized area and therefore it is not surprising to see the existence of some political and ideological tension between institutions. In addition to such political and

ideological tension, the underlying phenomenon of the institutional dispute is power struggle. The struggle for preserving or acquiring power caused tension which is so exposed that it even shaped the dynamics of law making process.

In conclusion; although the scholars had different standpoints, they both agreed that the law preparation might facilitate a progressive process towards stabilization for asylum seekers and international migrants. Moreover, they also admitted that tension among governmental institutions was present and it was affective in the dynamics of law making.

4.2. Conclusions

The most visible phenomenon what the interviews revealed is the existence of a duality between the opinions of governmental institutions and non-governmental institutions and international organizations. While the governmental institutions' approach to the issue is shaped by national concerns like security, state interest or prestige, diplomatic relations or strategies; non-governmental institutions and international organizations put more emphasis on humanitarian concerns. Therefore different standpoints and priorities create tension and contradictions between the discourses of these institutions and organizations. However, instead of being apparent and observable, the tension is concealed within the everyday practices and details. Every institution makes policy suggestions according to its own place within the political setting which eventually cause confusion about what to do or what to change in which direction. For example, institutions both suggest stricter and looser asylum

systems as well as stricter and looser border controls at the same time. The direction of change in the suggestions may be exactly the opposites of each other depending on the priorities of particular institutions. Central policy tool may be integration or it may be preventing measures.

The duality results in the present fragmental institutional framework work in decreased efficiency with plenty of policies that cannot be unified in the same objectives. Apparently; the preparation of a new law, which is actually the first law, is a progressive step towards a unified institutional system. Nevertheless, the preservation of geographical limitation or the lack of detailed integration policies leads us to think that the security and national interest discourse has outweighed the humanitarian discourse again in the Turkish political setting of migration.

CHAPTER 5

CONCLUSION

The most distinguishable feature of globalization has been the dislocation of time and space, whether intended or unintended, to distort modern state boundaries. The annihilation of boundaries led to massive population movements across cities, states and continents. Our world has witnessed many improvements in social, political or economic spheres. Nevertheless, the tendency among human beings to accept 'later' being identical with 'better' is highly misleading (Bauman, 1993, p.38). Considering the global tendencies in the arena of international migration; as time went by and as the volume of international migration increased, the migrants became more unwanted. From the perspective of migrants and asylum seekers, later is definitely not better.

In a world where the interstate relations are much more complex and deepened compared to yesterday, the problems related to international migration are growing. This may be a result of the complicating and deepening international relations per se, which raises the problem of responsibility sharing. Our lives today are fragmented and ambiguous. We have to divide ourselves into pieces of our self-being to perform ourselves. We play different

roles at work, at home, at school, at gym, at painting lessons and so on, none of which expresses true ourselves. A task is completed with the involvement of various agents with different levels of responsibility. If we do not perform well in practicing our part of the task, somebody else will bear the responsibility. The interpenetrating structure of social life makes us dependent on each other and eventually, the dependency yields a *float*ed responsibility (Bauman, 1995). This phenomenon may also apply to states. States may prefer not to get involved in the problems of the migrants and wait for other states to take action. In the end, this may lead to the corruption of burden sharing mechanisms between states and leave migrants stuck between the borders; both literally and metaphorically.

As Doreen Massey (1994) points out, there exists a power geometry within the area of international migration that while some people initiate flows some are effectively influenced or imprisoned by them. Apparently; refugees, asylum seekers and illegal migrants are the ones that are imprisoned by the strong pressures of global forces that make them leave their countries and seek for better life chances in other countries in aware of the risk of confronting human rights violations. While they escape from political violence or economic difficulties in their countries of origin, they may encounter social, territorial and political exclusion in the countries to which they migrate.

The refugee and illegal migrant problem is a humanitarian issue. Although building an abstract theoretical humanitarianism that is totally

separate from politics is not a possibility, humanitarian concerns must be the primary initiator of policy making processes. States sometimes feel reluctant to get involved in migratory problems to avoid taking the responsibility of refugees and migrants who are classified as the people of concern to their countries of origin in the traditional setting of nation states. Yet, large scale movements of people across the borders internationalize all kinds of political and humanitarian problems that were to be classified as domestic issues otherwise (Dowty and Loescher, 1996). Therefore, it is not possible for any state to be exempted from the international burden sharing of refugees or illegal migrants.

Turkey, as a bridging country, is highly affected by these global trends. The problems related to Turkish state's measures and policies on the international migration are just being discussed recently. Measures for decreasing the volume of illegal migration and discouraging asylum seekers are trying to be taken in order to prevent Turkey from becoming a *de facto* immigrant receiving country as an economy which already experiences an excess supply of labor. The area of international migration in Turkey is highly securitized and politicized; the policies are usually developed with respect to security concerns instead of humanitarian ones.

Turkey's ignorance on the issue is reflected as the lack of necessary legal organization. An asylum law does not exist; asylum procedures are operated by decrees and regulations. The first asylum law of Turkey has been

prepared in 2011 and is now pending for the enactment in the Turkish Grand National Assembly (TGNA). The law itself is a major step towards a fully-fledged, functioning asylum system. But more importantly, the preparation process of it bears great importance since it has revealed the political tension and ideological divergence between the institutions which have been shaping the migration politics in Turkey for decades. Due to the lack of coherent policy framework, asylum and migration policies have been the short-lived products of several liable institutions that are condemned to expiration along with the changing dynamics of power relations. In that regard, Turkish state's involvement in the issue has been rather indirect through the pragmatic and temporary practices of the institutions. International circumstances like the pressures of EU or the sanctions of European Rights of Human Courts were also effective in determining the policy directions together with domestic concerns and interests.

Disappointingly, the civilian efforts that make pressure on the Turkish state to adopt an effective rights-based approach towards international migrants, refugees and refugees are insufficient. The awareness level of the media and the public is very low. The murder of a Nigerian migrant, Festus Okey, by the police in Istanbul revealed the ignorance of the media and public about the humanitarian side of the issue. Festus Okey was shot by a police gun in the Beyoğlu Police Station on August 20, 2007. The police said Okey had been arrested since he was carrying illegal drugs and the death of Okey occurred unintentionally. Besides, the lawyer of the alleged criminal claimed

that Okey could have been a terrorist, since he was using an alias name (Bianet, 11 February 2008). Despite the severity of the issue, Turkish mainstream media stayed rather uninterested, although there were some media organs that tried to analyze the incident. Some newspapers supported the police's claim that the murder was a 'mistake' (Yeni Şafak, 26 November 2007). After the death of Okey, a group that called itself "Beyoğlu residents and tradesmen" marched to support the police (Zaman, 8 September 2007).

All these phenomena prove that Turkish republic does not have a rights based humanitarian approach towards refugees, asylum seekers and migrants. Moreover, the public awareness remains low. The desire for political and national gains usually outweighs the concerns for the lives of all kinds of international migrants; voluntary or involuntary. We can observe how the political objectives have shaped even the reactions towards Syrian citizens running away from the violence of the civil war. The very requirement and aim of international asylum laws is nothing more than protecting all human-beings against persecution with respect to the right to live. However, it is often used as a strategic tool by the nation states as the Turkish case indicates. The container cities and camps are built to support the claims for superiority in the Middle East, the geographical limitation is used a tactical weapon for EU membership, the whole law making process is led by power struggles between institutions.

Nevertheless, it is crucial to note that the securitization paradigm is not only present in Turkish migration politics. In a world where the refugees

and migrants are subject to *burden sharing*, it is a universal phenomenon that is intrinsic to the very concept of nation state. In the traditional setting of nation states, there is a strict definition for the ones who deserve to be ensured of enjoying rights – that is the citizen. Hence; refugee, asylum seeker and illegal migrant are the orphans of contemporary international system that are out of the protection zone of the benevolent state. The first thing to be done is the establishment of a transnational system that provides an environment enabling every human-being to enjoy all human rights regardless of any status of citizenship.

Turkey's liability in that task is to provide a legal framework respectful to human rights, immediately; which is only made sure through the abandonment of geographical limitations without any political concerns in mind. The restrictions on the labor market should be abolished and full access to basic human rights like the right for education or freedom of movement should be provided. As long as the restlessness in the Middle East is not suppressed, the refugee flows towards Turkey are very likely to continue. Therefore the absolute solution cannot be procured by indirect involvements and palliative methods, but through the acceptance of the phenomenon and developing an elaborate policy structure not only for present goals but also for future concerns. A direct involvement is needed both for the interests of refugees and migrants but also for the political concerns of Turkish state; because the legal framework that prevents foreigners from entering Turkish labor market and being accepted as legal refugees is one of the primary reasons

of why immigration to Turkey mostly takes the illegal forms. The ones that are not able to integrate legally to economic and social spheres of life in Turkey and are deprived of some fundamental rights such as the right to work are left with no other option than being illegal. The story of the Iraqi asylum seeker told by UNHCR official is the story of a new poor who is created by the Turkish state itself. There are many stories of the ‘new poor’s which give us a clue to understand why certain asylum seekers may choose to illegally migrate to other countries instead of seeking asylum in Turkey and why illegal migration and asylum cannot be separated from each other.

This study covers the contemporary global trends in international migration and Turkey’s position in the global setting with specific emphasis on the securitization paradigm and institutional framework. However, it does not cover the life experiences of asylum seekers and illegal migrants. A further study might be a deeper analysis of individual stories and personal opinions of international migrants who have been persistently ignored, but are the true victims of traditional nation state politics and the main arbiters of international bargaining on migration.

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YAZARIN

Soyadı :

Adı :

Bölümü :

TEZİN ADI (İngilizce) :

.....

.....

.....

TEZİN TÜRÜ : Yüksek Lisans Doktora

1. Tezimin tamamı dünya çapında erişime açılsın ve kaynak gösterilmek şartıyla tezimin bir kısmı veya tamamının fotokopisi alınsın.
2. Tezimin tamamı yalnızca Orta Doğu Teknik Üniversitesi kullanıcılarının erişimine açılsın. (Bu seçenekle tezinizin fotokopisi ya da elektronik kopyası Kütüphane aracılığı ile ODTÜ dışına dağıtılmayacaktır.)
3. Tezim bir (1) yıl süreyle erişime kapalı olsun. (Bu seçenekle tezinizin fotokopisi ya da elektronik kopyası Kütüphane aracılığı ile ODTÜ dışına dağıtılmayacaktır.)

Yazarın imzası

Tarih