

Vulnerability leading to mobility: Syrians' exodus from Turkey

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Abstract

Turkey has been a stage for human mobility for many years, yet it did not have a comprehensive migration and asylum regime until recently. Being the worst refugee crisis of the last decades, the Syrian crisis actually had an impact on developing such a regime of which the Law on Foreigners and International Protection (LFIP) is a crucial element. The LFIP provides temporary protection to the Syrians in Turkey. However, it is recently observed that more and more Syrians are leaving the country. Examining their exodus, the present article is seeking answers to the question of "Why are the Syrians desperately trying to leave Turkey?" Two arguments are put forth in the article. First, Turkey's new migration and asylum regime has not been able to decrease the refugees' vulnerability because of its "expectation of temporariness". Secondly, it is argued that Turkey's "new asylum regime" is in fact "not that new" due to the fact that asylum-seekers coming from non-European countries have been provided a de facto temporary protection. The article reveals that the Syrian refugees are vulnerable in many fields mainly because they are subject to a protection regime marked by temporariness. As the regime is putting them in limbo, they are leaving Turkey. Turkey's new asylum regime appears not that new after all.

Keywords: Refugee crisis; Turkey; Syrians; temporariness; vulnerability.

Introduction

Having triggered the worst refugee crisis of the last decades, the war in Syria has left almost 12 million people in desperate need of humanitarian aid (International Committee of the Red Cross, 2015). There are 7.6 million internally displaced persons (IDPs) while over 4 million people have taken refuge in Syria's immediate neighbours-Turkey, Lebanon, Jordan and Iraq (UNHCR, 2015).¹ Among these countries, due to its open border policy, Turkey has received the largest number of Syrian refugees.² Registration

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¹ Fleeing from atrocities, the first group of Syrian Arab Republic nationals sought refuge in Turkey by crossing into the province of Hatay on April 29, 2011.

² At that time, the government expected that the Assad regime would soon collapse and it estimated that a 100,000 Syrians would stay for 2-3 weeks (Erdoğan, 2014). Thus, in October 2011, it declared an open-door policy towards the refugees fleeing Syria (Kirişçi, 2014b). By the

process continues but the Turkish government estimates that the number of registered Syrian refugees will rise to 2.5 million by the end of 2015 (European Commission, 2015).³

Migrants, asylum-seekers and refugees are not new for Turkey. The country has always been a stage for human mobility. However, since the late 1970s, it has increasingly become a destination country for asylum-seekers besides being a transit country for irregular migrants. These developments resulting in the transition of migration dynamics in Turkey created the need to have a comprehensive migration and asylum regime. Responding to this need, the new *Law on Foreigners and International Protection (LFIP)*⁴ came into force in April 2014. The recent Syrian refugee crisis has accelerated the introduction of the new law, and with its new asylum regime and institutions, Turkey has been trying to cope with this crisis.

However, the number of Syrian refugees, who leave Turkey for Europe, has increased substantially in the recent months.⁵ Half of the refugees (411.567, sea arrivals only) arrived in Europe in the summer of 2015 is made up of the Syrians. They either sail from Turkish coasts to Greek islands or cross Turkey's borders with Greece and Bulgaria (UNHCR, 2015a; FRONTEX, 2015; Kingsley, 10/09/2015). According to UNHCR Greece (2015), 70% of the 258.365 persons, who have arrived on the Greek islands in 2015 (January-August), were Syrians.⁶ The islands received 190.511 refugees only in three months (June-August) and almost all of them have arrived from Turkey (UNHCR (08/09/2015), UNHCR Greece, 2015; Kingsley, 14/08/2015; Sabah, 14/08/2015). The perils of the sea journey- shipwrecks with many missing and dead persons- do not deter many Syrian refugees, who, determined to take this journey at all prices, are waiting at the Turkish coasts (Yackley, 19/08/2015; Gazete Vatan, 05/09/2015). In line with these developments, this study seeks answers to the question of 'Why are the Syrian refugees desperately trying to leave Turkey?'

In trying to answer this question, the article argues that though Turkey has put strenuous efforts with its new migration and asylum regime, laid by the

help of the policy, Turkey has allowed Syrians with passports to enter the country freely and treated those who may have entered without documents in a similar way; it has guaranteed the principle of non-refoulement; offered temporary protection and committed itself to providing the best possible living conditions and humanitarian assistance for the refugees (Kirişçi, 2013).

³ By August 2015, UNHCR (2015) reported that there were 1.938.999 registered Syrian nationals in the country.

⁴ Full text of the law: http://gocdergisi.com/kaynak/2013_yabancilar_ve_uluslararasi_koruma_kanunu.pdf

⁵ According to UNHCR (2015a), compared to the figures in the same months of 2014, refugee arrivals by sea tripled in July and quadrupled in August this year. Similarly, FRONTEX (2015, 12) notes that compared to the previous quarter, there has been a 219% increase of detected 'illegal border crossings' at EU's land borders in three months between April and June 2015.

⁶ These Greek islands are Lesbos, Chios, Samos, Leros, Agathanisi, Kos, Tilos, Symi and Kalymnos (UNCHR Greece, 2015).

LFIP, it has not been able to decrease the Syrians' vulnerability as the regime applied to them is marked by the 'expectation of temporariness', which has become the primary push factor leading their further mobility to Europe almost in the guise of an exodus. In that sense, it is also argued that Turkey's 'new asylum regime' turns out to be 'not that new' as asylum-seekers coming from outside Europe have been provided a *de facto* temporary protection (See also Soykan, 2012).

To discuss these arguments, this timely article is built on an analysis of related legislation (The LFIP and its by-law Temporary Protection Regulation (TPR)), its application, reports released by NGOs and government authorities, secondary literature on migration and asylum regime in Turkey and recent news articles. The article is composed of three parts. In the first part, Turkey's asylum regime is examined with a focus on the LFIP. The aim in the second part is to show the Syrian refugees' vulnerability. The third part is about the 'expectation of temporariness' of the Syrian migration to Turkey which actually increases their vulnerability.

Turkey's Migration and Asylum Regime and the LFIP

Besides being a country of emigration and a transit country and/or "a waiting room" for the irregular migrants who intend to continue to Western Europe and North America, Turkey has increasingly become a destination country for the asylum-seekers since the 1990s (Erder, 2000: 251). The change in dynamics of migration created a need – in fact an urgent one – to have a comprehensive migration and asylum regime in Turkey, which relied mainly on two legislative documents until the adoption of the LFIP in 2013. While the Law on Settlement of 1934 (revised in 2006)⁷ determined the main rules of immigration and asylum, 1994 Regulation⁸ was the first national legislation about the asylum claims in Turkey. In addition to these, the UN Convention Relating to the Status of Refugees (known as the 1951 Geneva Convention) and its updating 1967 New York Protocol, to which Turkey has been party by maintaining a 'geographical limitation', have set the basic principles of refugee protection in Turkey.

⁷ 1934 Law on Settlement was the third legislation that dealt with the population movements to or from the young Republic. The first legislation was the 1923 Population Exchange Law (Law No. 368) (http://gocdergisi.com/kaynak/1923_368sayili_mubadele_kanunu.pdf) and the second one was the 1926 Law on Settlement (Law No. 885) (http://gocdergisi.com/kaynak/1926_885sayili_iskan_kanunu.pdf). 1926 Law on Settlement was succeeded first by 1934 Law on Settlement (Law No. 2510, dated 14 June 1934) (http://gocdergisi.com/kaynak/1934_2510_settlement_law.pdf) and later by the 2006 Law on Settlement (Law No. 5543, dated 19 September 2006), (http://gocdergisi.com/kaynak/2006_5543_sayili_iskan_kanunu.pdf).

⁸ 'Regulation No. 1994/6169 on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum From Another Country', http://gocdergisi.com/kaynak/1994_BakanlarKurulu_Yonetmelik_kitlesel_akinlar_yonetmelik_bakanlar_kurulu_ResmiGazete_30Kasim1994.pdf

Until the entry into force of the LFIP in 2014, the migration and asylum regime of Turkey, laid down by these legislations and the Convention with its updating Protocol had three main codes of conduct: giving priority to the people of Turkish descent in migrating to Turkey; granting refugee status to the asylum-seekers coming only from Europe and granting only temporary protection to those coming from non-European countries (Latif, 2002; Kirişçi, 2003; Suter, 2013). In other words, Turkey had a two-tiered asylum policy-the first one applied to European asylum-seekers and people of Turkish descent, and the second to non-European asylum seekers, who would file two asylum claims; one with the UNHCR and the other with the Turkish government (Suter, 2013). Yet, as Kaya (2008: 3) notes, persons coming from the east are given a specific status, namely *de facto* status and they are internationally protected. In line with this practice, Turkey granted temporary protection to Iranians, Iraqi Kurds, Bosnians and Chechens in the 1990s. They either returned to their countries, moved further to third countries or the ones, who were considered to be of Turkish descent, acquired Turkish citizenship (Kirişçi, 2003; Erder, 2007).

As an outcome of strenuous efforts, the LFIP was adopted in 2013 and it entered into force a year later. The Law is significant in the sense that it is the first inclusive and updated act about migration-related issues and it has introduced a new framework for refugee protection. In addition to clarifying the groups of people that are going to be granted protection, the Law guaranteed *non-refoulement*, determined the conditions of the asylum process, namely application and status determination and designated the Directorate General for Migration Management (DGMM) to handle the asylum process.

In many respects, the Law has strengths, such as “expanding Turkey’s protective scope towards forced migrants” or bringing institutional mechanisms necessary for migration and asylum policy-making (Soykan, 2012: 41; Açıkgöz and Arıner, 2014). However, for many reasons, it is questionable whether it represents a transformative and mentality changing process in migration and asylum management in Turkey. Most important of all, the Law does not only “maintain geographical limitation by creating an alternative category of refugees, i.e. ‘conditional refugees’”, but it also concretizes Turkey’s two-tiered asylum policy by inserting this term and its definition into the Law. Article 62 defines conditional refugee - simply as a refugee from a country outside Europe - and notes that ‘conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country’. This statement makes it obvious that the refugees coming from non-European countries are expected to leave in the long term. In line with this expectation, “refugees, conditional refugees and subsidiary protection beneficiaries as well as persons under temporary protection or humanitarian residence permit holders are not entitled to the right of transfer to a long-term residence permit” (Art. 42) and makes these persons’ permanent legal stay in the country unthinkable.

As noted in the introduction, the Syrian refugee crisis has accelerated the adoption of the LFIP. In the face of such a massive refugee movement, the policy-makers acknowledged the urgency of introducing an updated and a comprehensive act about all aspects of migration and asylum. After the Law entered into force in 2014, the government adopted the Temporary Protection Regulation (TPR) on October 22, 2014 by taking Article 91 of the Law as it is basis.⁹ Instead of refugee or conditional refugee status, the TPR grants all registered Syrian nationals and stateless persons from Syria only temporary protection. It provides the rights of access to health, to education, to social assistance and to the labour market. However, as the implementation of many of these rights such as access to the labour market and education are to be clarified by the relevant Ministries in the future, the framework of the temporary protection remains unclear. As discussed below, this uncertainty makes Syrian refugees in Turkey more fragile and vulnerable.

The Vulnerability of Syrians and Their Main Concerns

The Syrian refugees have various needs and they are vulnerable in many respects. Among them shelter and housing comes in the first place (Erdoğan, 2014). Currently, there are 25 camps in the country offering accommodation to only 262,134 people with leaving more than 1.6 million Syrians outside (Göç İdaresi Genel Müdürlüğü, 2015). The camps set up by the Turkish government are relatively good in terms of the quality of shelter and services provided. However, they were set up at a time when it was expected that the regime in Syria would soon collapse and that refugees would return to their homes in a short period of time. As the war is in its fifth year at the time of writing, the conditions are not so favourable any longer. As a matter of fact, the camp residents have many complaints about the conditions, and these complaints increase with the winter. Moreover, majority of the Syrian refugees in Turkey are living outside the camps. Compared to the camp refugees, the ones living in urban areas are faced with tough conditions. With the influx of refugees, a housing shortage has emerged resulting in an increase in rents across the country. In line with this, they come across with problems in finding housing not only in the border cities but also in big cities.

Apart from shelter and housing, the issues of access to labour market, education and healthcare are problematic as well because although TPR has clarified the rights and obligations of Syrians receiving temporary protection, it “falls short of providing an explicit right to work, education and social assistance” (Ineli-Ciger, 2015: 32). The lack of such explicit right has increased Syrian refugees’ vulnerability. To start with the right to work, Article 29 of the TPR notes that “Principles and procedures regarding the employment of persons benefiting from temporary protection shall be determined by the Council of Ministers upon the proposal of Ministry of Labour and Social Security after receiving the opinion of the Ministry.” The Regulation

⁹ TPR replaced an unpublished Ministry of Interior circular from March 2012.

continues by clarifying that the individuals with temporary protection IDs can apply to the Ministry of Labour and Social Security (MoLSS) to obtain work permits to work in those sectors and geographical places determined by the Council of Ministers (CoM). In line with the TPR, the MoLSS has submitted a draft law on the employment of foreigners in Turkey (TBMM, 2015). As the draft is still being worked on, it is difficult to say that Syrian refugees have legal access to the labor market in Turkey.¹⁰ According to the labor statistics provided by the Ministry of Labor and Social Security), the number of Syrians, who were able to obtain work permits since the crisis has begun, is very low: 118 Syrians in 2011; 220 in 2012, 794 in 2013 and 2541 in 2014 (Çalışma ve Sosyal Güvenlik Bakanlığı, 2015). Although the number has considerably increased in 2014, it is still low.

The access to education, which is problematic as well, comes in the second place. According to the Turkish national law, "all children in Turkey, including foreigners, have the right to receive primary and secondary school education free of charge" (UNHCR, January 2015: 4). The latest circular (Circular on Foreigners' Access to Education (No. 2014/21) was adopted in September 2014. According to this circular and the TPR, registration with the Turkish authorities is a pre-requisite to have access to education. In addition, the Syrian children have to provide a document: a residence permit, temporary protection identification document or the Foreigners' Identification Card to enrol in school. In the absence of these documents, the children may be enrolled as 'guests'. However, there are several problems in schooling of the Syrian children in Turkey. The main one is the language barrier. The medium of instruction is Turkish in primary and secondary schools. In addition to Turkish schools, temporary schools that teach in Arabic with a modified form of Syrian curriculum have been set up in the camps and the cities with a high number of Syrian settlers. However, these schools offer only an unofficial document, which states the students' attendance and successful completion of the school year (Seydi, 2014). In the light of these, it is thought that very small number of Syrian children could have access to education in Turkey.

Lastly the access to health services, which is also reported to be problematic, needs to be noted. TPR provides all registered Syrians access to healthcare system in theory (October 22, 2014). DGMM expresses that since the entry into force of the TPR, the conditions are getting better. It notes that the Syrian refugees are able to seek healthcare and the costs for their treatments are paid by the Disaster and Emergency Management Presidency [*Afet ve Acil Durum Yönetimi Başkanlığı* (AFAD)] (Göç İdaresi Genel Müdürlüğü, 2015). Similarly, AFAD (2014) notes that the 'guests' in the

¹⁰ It should also be underlined that there is no guarantee of government authorities giving such a permit (Ineli-Ciger, 2015: 33). In addition, the CoM has the right to limit the access of temporarily protected persons including the Syrians to certain sectors, professions or geographical areas (TPR, Art. 29 (2)).

camps have uninterrupted access to the health services. However, NGOs report a different picture about the issue. While Amnesty International (2014: 19) reports that they are “unable to access healthcare”, World Health Organization (2014:1) attracts attention to the “increased risk of communicable diseases, potential health service access limitations and an increased number of patients requiring psychosocial support” for the non-camp refugees in Turkey. Moreover, although the Turkish government provides primary health services and vaccination campaigns for the children in the camps, a report of the Turkish Medical Association underlines a series of problems caused by the absence of specialised medical services and language barriers (Türk Tabipler Birliği, 2014). Moreover, according to Art.27 (1-b) of the TPR, “Patient contribution fee shall not be collected for *primary* and *emergency* health services and the respective treatment and medication [emphasis added].” It means that the Syrian refugees are provided only primary and emergency health services for free and this is a very important point for criticism.¹¹

The Syrian “Guests” are expected to be temporary

Turkey has introduced a new law, with a new but a robust institution, DGMM, the government mobilized AFAD and other charity organizations and it seems to be trying to cope with the Syrian refugee crisis. The question of why Syrian refugees still have these vulnerabilities after four years of their flight to Turkey cannot be explained by only the misleading estimates, volume and pace of the movement. Their flight to Turkey is in its fifth year, but the Syrian refugees are still vulnerable in many respects because the regime applied to them is marked by temporariness.

First of all, the government declared an open-door policy but the Syrian refugees have been called as ‘guests’ from the moment they set their foot in Turkey. Despite the calls from academia and the NGOs, the government officials and agencies have continued to use the term ‘guests’. The title of the latest AFAD report is a concrete example of this approach: ‘*Population Movements from Syria to Turkey: Being Guests in Fellow Territories*’ (AFAD, 2014). All speeches made by the government officials, all reports released by the government authorities have reminded or connoted the ‘expectation of temporariness’ of the Syrian migration to Turkey. In fact, this approach, which has long been held by Turkey towards the refugees coming from countries outside Europe, has been concretized by the introduction of the TPR. In line with the expectation of temporariness, the Syrians are not granted refugee status but provided temporary protection. This status grants them the right to stay in the country but not the right for transition to long-term residence permit and it does not entitle its holder to apply for Turkish

¹¹ The basis of this provision is the European Union Council Directive of 20 July 2001 which is criticized for limiting health services to persons receiving temporary protection only with emergency health services (Çelik, 2015: 118).

citizenship (Article 25, TPR; 22/10/2014). TPR authorizes CoM for everything, including the conditions for extending and ending the temporary protection. As temporarily protected 'guests', the Syrian refugees are precarious about their presence and future in Turkey (Özden, 2013). Furthermore, the DGMM, which is responsible for issuing the regulations concerning the rights and obligations of persons who receive temporary protection (LFIP, Art. 91 (2)), is in fact still developing. It has not yet issued any important regulations that define the main lines of temporary protection. Accordingly, as Bidinger (2015) notes, "uniform, concrete policies regarding Syrians in Turkey remain elusive". Similarly, as İçduygu *et al.* (2013) highlight, there is a need to clarify the protection standards. In addition, the steps Turkey has taken in terms of outlining the rights and obligations of persons receiving temporary protection are very few and this is paving the way for uncertainty on the side of Syrian refugees.

It would be unfair to say that the government fails to provide shelter and housing to 85% of the Syrian refugees in Turkey because of its mistaken early estimates about the collapse of the Assad regime and the volume of refugee movement to Turkey. Again, it would be misleading to argue that the government fails to find a way to provide education to the Syrian children because of the volume of the movement and the medium of instruction in Turkey. According to Seydi (2014), in line with the early estimates about the temporariness of the Syrian migration to Turkey, the Ministry of National Education prepared itself only to offer schooling to 'the guest students' within the camps in Arabic in line with the Turkish curriculum (Seydi, 2014). However, by mid-2012 when the number of Syrian refugees had already risen to half a million, the then Minister of National Education Ömer Dincer (Dünya Bülteni, 31.07.2012) was explaining that the aim was to "take care of the education needs of the Syrian children in the camps without adopting an encouraging attitude for the stay of their families in Turkey."

More than 85% of the Syrian refugees are non-camp refugees and as they run out of the savings they brought with them, they work in all kinds of jobs (Özden, 2013: 7). According to ORSAM and TESEV (2015), more than 200.000 Syrian refugees are already working in the informal economy. As they do not have work permit, they work without social security under exploitative conditions with putting their lives at risk. As Genç and Özdemirkıran (2015) note, in Istanbul, they are paid half and sometimes one third of the minimum wage. Though the draft law on the employment of foreigners in Turkey is still pending, Faruk Çelik, Minister of Labor and Social Security, tells Reuters (07/08/2015) that there are no plans to grant work permits to Syrian refugees under a general programme:

"There cannot be a general measure to provide them with work permits because we already have our workforce ... we are trying to educate and train our unemployed so they can get jobs in Turkey. [...] It would be unfair to take away their jobs and give them to refugees."

Conclusion: Temporariness and Vulnerability leads to further mobility

In all these respects and many others, the Syrian refugees are discontent about their status in the country. They “remained unsure of what they could expect in terms of support from the Turkish authorities and how long they would be welcome” (Amnesty International, 2014: 20). Most of the Syrian children cannot take proper education, men and women cannot work formally, they are exploited in the labour market, they will not be able to apply for permanent residence permit and they will not be able to apply for citizenship. At least this is the case according to the TPR. They have been able to escape from the war, but many of them are now in limbo in Turkey.

Thus, many Syrians do exactly the same what their predecessors – all other non-Turkish asylum-seekers coming from a non-European country, primarily Iranians, Iraqis, Afghans – have done in the past. They leave. Before our very eyes, they take the help of human smugglers, put on life-jackets and they leave Turkey almost in an exodus. The reason is that they simply cannot settle or stay in the long run. It is not because of the temporary protection regime. It is because of the main understanding which lies beneath the migration and asylum regime and its management.

Until the adoption of the LFIP in 2013, 1934 Law on Settlement and immigration and asylum practices accompanying it, restricted the right to migrate and settle only to people of Turkish descent and culture. Similarly, the maintenance of ‘geographical limitation’ to the 1951 Geneva Convention and its Updating Protocol fits nicely in this picture because only those refugees escaping from European countries (if there are any) are recognized as refugees or, in other words, formal long-stayers in the country. In these respects, though Turkey has a new law with a new institution with many migration experts, it is difficult to say that there has been a transformative and mentality changing process in migration and asylum regime in Turkey. The “characteristics of a closed society”¹² and the understanding beneath it persist. Although the physical borders are open, the societal and mental borders are closed.

That is why the Syrian refugees are called as guests, expected to leave soon; that is why the regime applied to them is marked by expectation of temporariness, which prevents their settlement and increases their vulnerabilities thus leads them for further mobility to Europe. In this regard, as that mentality is still there, it can be concluded that the LFIP and the TPR are not that new.

¹² See Erder and Kaşka (2012: 118) and Erder (2007) for further discussion.

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