

STATELESSNESS and REFUGEES as a GLOBAL PROBLEM;  
TURKISH REFUGEE POLICIES

by

Elif Özmenek

THE DEPARTMENT OF  
POLITICAL SCIENCE AND PUBLIC ADMINISTRATION  
BILKENT UNIVERSITY  
ANKARA

August, 1998

HV  
640.4  
.T8  
096  
1998

**STATELESSNESS and REFUGEES as a GLOBAL PROBLEM;  
TURKISH REFUGEE POLICIES**

**The Institute of Economics and Social Sciences  
of  
Bilkent University**

**by**

**Elif Ozmenek**

*İncisinden Değil, Kanmıştır.*

**In Partial Fulfillment of the Requirements for the Degree of  
MASTER OF ARTS IN POLITICAL SCIENCES AND PUBLIC  
ADMINISTRATION**

**in**

**THE DEPARTMENT OF POLITICAL SCIENCE AND PUBLIC  
ADMINISTRATION**

**BILKENT UNIVERSITY  
ANKARA**

**August, 1998**

## **ABSTRACT**

### **STATELESSNESS and REFUGEES as a GLOBAL PROBLEM; TURKISH REFUGEE POLICIES**

ELIF ÖZMENEK

Department of Political Science and Public Administration

1997-1998

The contemporary debates in political science involves the challenges of statelessness to the existing system. The relationship between a state and its citizens in the modern liberal democratic idea is based on all citizens needed to belong to a state both to ensure their protection and acquisition. However, the view fall short in explaining when this organic tie breaks. Refugees are a failure of the state system and a challenge to it. This thesis tries to explain the refugee policies in Turkey by contextualizing it with reference to the points raised by global refugee problem and transitions that occurred in Turkey parallel with the rest of the world.

## ÖZET

### **Küresel Bir Sorun Olarak Ülkesizlik ve Mülteciler; Türkiye'nin Mülteci Politikaları**

ELIF ÖZMENEK

Siyaset Bilimi ve Kamu Yönetimi Bölümü

1997-1998

Bu çalışma Türkiye'nin mülteci politikalarını, soğuk savaş döneminden sonra ve küreselleşmeye bağlı olarak değişimini siyaset bilimi literatüründeki ülkesizlik ve güvenlik tartışmaları ışığında anlatmaya çalışmaktadır. Tartışmanın ana öğelerini dünyadaki mülteci rejimi ve Türkiye'nin bu rejimdeki yeri ve problematik konumu oluşturmaktadır. Mülteciliğin, Türkiye'de ve dünyada değişen güvenlik anlayışı içinde nasıl vatandaşlık ve kimlik sorunu haline dönüştüğü tarihsel ve teorik bir analizle açıklamaya çalışılmaktadır.

BİRLEŞMİŞ MİLLETLER  
MÜLTECİLER YÜKSEK KOMİSERLİĞİ



UNITED NATIONS  
HIGH COMMISSIONER FOR REFUGEES

Telephone:(312)439 6615 - 18  
Fax : (312) 438 2702  
E-mail : turan@unhcr.ch  
PÖ Box : P.K. 5, 06551 Ankara

Branch Office In Turkey  
17 Abidin Daver Sokak Çankaya  
06550 Ankara

Full Name:  
UNHCR File Number:

Date:

Your application for refugee status has been carefully considered by our office against the refugee criteria contained in the 1951 Convention relating to the Status of Refugees and the Statute of the Office of the High Commissioner. You were required to show a well-founded fear of being persecuted based on any one or more of the five grounds contained in the 1951 convention viz., race, religion, nationality, membership of a particular social group, or political opinion.

Events narrated by you do not show that you suffered or should suffer treatment of such a gravity as to amount to persecution under the Convention. You have not been able to substantiate your fears of being so persecuted with any credible incidents, or with any documentary or other evidence which would prove that those fears are well-founded.

We regret to inform you that,

after carefully examining your application you have been found not to meet refugee criteria.

after carefully examining your application in this second review you have not been found to meet the refugee criteria.

You are therefore not a person of concern to UNHCR. As a result , we have closed your file and we are unable to assist you. Please be informed that your case may only be reopened if you submit new elements which were not previously known in the attached form within three months.

This does not affect your temporary asylum application with the Turkish authorities as that is a separate procedure.

Yours sincerely

**NATIONS UNIES**  
**HAUT COMMISSARIAT**  
**POUR LES REFUGIES**



**UNITED NATIONS**  
**HIGH COMMISSIONER**  
**FOR REFUGEES**

**Délégation au Turquie**

Cable Address : HIÇOMREF ANKARA  
Telephone : 4396615/4396616/4396617/4396618  
Fax : 90-312-438 27 02  
Postal Address : 407. Ankara

**Branch Office in Turkey**

17 Abidin Daver Sokak  
Çankaya - Ankara

...../...../ .....

...../...../ .....

**TO WHOM IT MAY CONCERN**

For purposes of identification, this is to certify that Mr./Ms./Mrs./  
a/an national is a refugee recognized by  
the United Nations High Commissioner for Refugees according to the Resolution 428 (V)  
The UN General Assembly of 14 December 1950. He/she is accompanied by his/her family  
members listed below.

Assistance programmes arranged by UNHCR may be extended to this person and the  
named family members if he/she/they are also listed on current beneficiary lists.

**İLGİLİLERİN DİKKATİNE**

Bu yazı kimlik tesbiti için geçerli olup uyruklu Bay/Bayan  
'in Birleşmiş Milletler Genel Kurulu'nun  
14 Aralık 1950 tarihli 428 (V) sayılı kararı'na göre Birleşmiş Milletler Mülteciler Yüksek  
Komiserliği tarafından mülteci olarak kabul edildiğini belgelemek amacıyla düzenlenmiştir.  
Kendisine refakat eden aile bireylerinin isimleri aşağıda yer almaktadır.

BMMYK tarafından yürütülen yardım programlarından bu kişi ve aile bireylerinin yararlanabilmeleri isimlerinin listelerde yer alması durumunda mümkündür.

Eşi/Spouse :

Çocukları/Children :

Yours Sincerely/Saygılarımızla

**Important Note :**

- \* This is not a residence permit for foreigners such documents can only be obtained from the Turkish Government. Temporary asylum applications are always to be decided by the Turkish Government.
- \* Bu bir oturma izni değildir, yabancı uyruklular için bu gibi belgeler sadece Türk makamlarından temin edilebilir. Geçici sığınma başvuruları hakkında daima Türk Hükümeti'nce karar verilir.

## ACKNOWLEDGEMENTS

This work owes a lot to Jeremy Salt who always motivated me with moral and academic support at all stages. He read the manuscript in various drafts and made invaluable suggestions which improved the quality of my work.

I am also grateful to Ahmet Icduygu who supervised my work from the beginning and provided me academic support as well as a truthful fellowship. He allowed me to use any resource open to him.

I appreciate the help of the United Nations High Commissioner for Refugees, Ankara Office. During my four months of internship there, I received the greatest pragmatic knowledge on the refugee issue. Especially, I would like to thank Metin Corabatir and Sasha D. Wood for their moral support.

This work also owes a lot to my classmates; Asli, Isik, Ozge, Metin and Hakan whose friendship highlighted my year. Their support and help can not be underestimated.

My greatest debt of gratitude is to Ozgur. Without his patience and encouragement throughout the project it would have been much harder for me to complete this work.

I can never forget Balim and Deniz who are the joy of my life.

I am more than thankful to my mother Aylin and my father Varlik who not only supported me with this work but with everything I do.

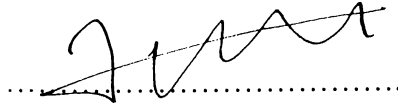
Responsibility for the final result rests in the usual place.

I certify that I have read this thesis and in my opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in Political Science and Public Administration.



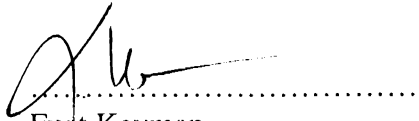
Meltem Muftuler  
Assistant Professor

I certify that I have read this thesis and in my opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in Political Science and Public Administration.



Ahmet Icduygu  
Assistant Professor

I certify that I have read this thesis and in my opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in Political Science and Public Administration.



Fuat Keyman  
Assistant Professor

Approval of the Institute of Economics and Social Sciences





## TABLE OF CONTENTS

ABSTRACT.....	iii
ACCEPTANCE and REJECTION FORMS of UNHCR.....	iv
ACKNOWLEDGEMENTS.....	v
TABLE of CONTENTS.....	vi
INTRODUCTION.....	1-7
CHAPTER I- REFUGEES and THEIR CHALLENGES to the EXISTING SYSTEM	
1.1 The Complexity of the World Refugee Problem: Its scope and Scale.....	8-10
1.2 Refugee Movements as a Paradigm.....	10-14
1.3 The Promise of Liberal Internationalism.....	15-18
1.4 The Concept of the Refugee in Transition and Establishment of an International Refugee Regime	
1.4.1 Legal Approach (1920-1935).....	19-22
1.4.2 Social Approach (1935-1939).....	22-23
1.4.3 Individualistic Approach (1940-1950).....	23-26
1.4.4 United Nations High Commissioner for Refugees.....	26-27
1.4.5 Alternative Approaches.....	27-29
1.5 UNHCR and Challenges of Refugees to the Existing Order.....	29-31
CHAPTER II- The REFUGEE ISSUE AND TURKEY	
2.1 Turkey as a Refugee Producing Country.....	34-37
2.2 Turkey as a Country of Asylum.....	37-39
2.3 Categorization of Refugees and Refugee Policies of Turkey.....	39-42
2.3.1 Conventional Refugees .....	42-43
2.3.2 National Refugees.....	44-48
2.3.3 Non-Conventional Refugees.....	48-53
2.4 UNHCR in Turkey.....	53-58

2.5 Turkey as a Transit Country .....	58-62
CHAPTER III- SECURITY, IDENTITY and REFUGEES; The 1994 REGULATION of TURKEY .....	63-65
3.1 Rethinking Security in the Post-Cold War Era.....	65-68
3.2 Historical and Theoretical Analyses of Identity and Refugees; Securitization of the Refugee Policies in Turkey.....	68-76
3.3 The 1994 Regulation.....	76-81
CONCLUSION.....	82-86
BIBLIOGRAPGHY.....	87-92
APPENDICES	
The 1994 REGULATION of TURKEY.....	93-102

## LIST OF TABLES

1. Major Refugee Sending Countries to the EU.....	35
2. Number of Refugees in Turkey since 1945.....	38
3. Number of Asylum Seekers in Turkey by Country of Origin 1983-1997.....	51
4. Number of Refugees Resettled From Turkey by Country of Origin 1987-1997.....	54
5. Number of Refugees Resettled From Turkey.....	55
6. Resettlement Criteria mentioned in UNHCR Handbook.....	71
7. Decision Making Bodies in Some Western Countries.....	81
8. Security Incidents in Turkey.....	82

## LIST OF FIGURES

1. A Model for the Study of the World Refugee Problem
2. A Model for Paradigm of International Migration
3. The Dialectics of Security

# INTRODUCTION

## REFUGEES GO HOME!!!

### THEY WOULD IF THEY COULD

The Princes of Sacrifice return  
as rain in a drought year,  
The Princes of War return  
as sores on the faces of politicians  
The Princes of Betrayal return  
impaled on the swords of their friends  
But the Princes of Exile never return

Richard Shelton

The refugee question is by no means a new one, for human history is full of episodes of people forced to leave their homes. The myths demonstrates that already in antiquity, protection was given to the persecuted foreigners. Abraham, the father of the Hebrews, Mohammed, the prophet of the Muslims and Christ, the messiah of the Christians were forced to leave their places of residence because they were considered to be subversive and dangerous. In the 15<sup>th</sup> century the expulsion of Jews and Moors by the Spanish Crown and the ongoing wars between Protestants and Catholics in the 16<sup>th</sup> and 17<sup>th</sup> century, created millions of refugees. Nevertheless, the breakdown of big empires and creation of nation-states constructed new definitions and new realities about the refugees. Refugees have always existed, but with the changes in political organizations their protection became a question of specific solidarity and of political interest.

From the late 19<sup>th</sup> century and early 20<sup>th</sup> century onwards, the refugee concept underwent a tremendous change with the transitions in political organizations. This period of time marked a change from ad hoc responses and selective solidarity to a universalisation and institutionalization of the refugee problem: Especially after the

1980s, one of the most topical subjects in the political science literature has been the question of the statelessness. The debates revolving around topics such concepts as “multiculturalism”, “dual-citizenship”, “citizenship to the aliens”, “naturalization” “identity politics”, “international humanitarian norms” despite differences among them have at their center a challenge to the foundation of the nation-state.

The ideal type of political organization, the nation-state, led to a presumption of state legitimacy when the state represents a community, based on descent or civic assent or shared political values that claims a right to persist.<sup>1</sup> In such a system, individuals needed to belong to a state both to ensure their protection and acquisition and to permit the system of states to ascertain which particular state has responsibility for (or control over) which persons.<sup>2</sup> The whole system was based on the rules of membership. Citizens belonged: all others were aliens. The reconsideration of the refugee concept came with the new nation-state concept because the normative ideal of one nation in one state did not coincide with the reality of multinational states. Along with that nationality did not imply any specific type of state (monarchy, parliamentary democracy), and there was always room for disagreement about the preferred organization of state, economy and society. Above all a nation’s capacity to sustain a modern state was not guaranteed at all.<sup>3</sup>

The assumption that countries ought to be organized as nation-states brought about more refugees. Furthermore, being homeless and stateless, refugees created a challenge to the nation-state system. They were usually the outcome of a political

---

<sup>1</sup> Keely, Charles. “How Nation-States Create and Respond to Refugee Flows” in *International Migration Review*. No:4 Vol:30 (1996), 1046-1066.

<sup>2</sup> Arendt, Hannah. *The origins of Totalitarianism*. (NY: Harcourt Brace,1951), 287-298.

<sup>3</sup> Keely, “How”, 1046.

decision taken by nation states but its consequences expanded beyond nation states, creating both domestic and international conflicts in terms of humanitarian norms and self interests of sovereign nation states.<sup>4</sup>

Moreover, in the last decade of the 20<sup>th</sup> century dramatic political, economic, social and cultural changes have occurred in the entire world and put an end to the era of relative stability and certainties which characterized the period of the Cold War. On going ethnic wars in the Eastern Europe, the changes in the former Soviet Union, the political reunification of Germany and the institutional growth of European Union have raised important problems about citizenship status not only for minorities but also for all forms of transit and migrant labor and the refugee problem which has created a new crisis of stateless people in the contemporary political system created a regenerated interest.<sup>5</sup>

Economically the globalization of capitalist economy has deepened the economic gap between the wealthy minority and the poor majority. The growth of a more integrated global economy, rapid increase in the number of the states with a large variety of regimes and global communication and transportation systems turned the refugee concept into a more complex problem.<sup>6</sup> Socially, exclusion, mobility and dislocation have created greater discrimination, racism and xenophobia. Culturally, tendencies towards uniformity within globalization sustained by incredibly fast

---

<sup>4</sup>Ibid., 1052.

<sup>5</sup> Bryan Turner. "Contemporary Problems in the Theory of Citizenship", in B. Turner ed. *Citizenship and Social Theory*. (London: Sage Publications, 1993).

<sup>6</sup> Weiner, Myron. "The Global Migration Crisis" in ed. Wang Gungwu, *Global History and Migrations*. (Colorado: Westview Press, 1997).

technological developments are counterbalanced by the resurgence of claims of cultural specificity and by the assertion of increasingly restrictive cultural identities.<sup>7</sup>

The complex matrix of spatial redefinition involved in global restructuring concerns international migrants and refugees in two related ways: as objects of structural change and as participants in global restructuring.<sup>8</sup> As an object of structural change the refugee concept needs a deeper elaboration in terms of new realities and new definitions; as a participant of global restructuring the issue needs to be analyzed in terms of the problematic relationship between the state and membership to a state.

The notion of the refuge as we understand the term today is unable to fulfill the corresponding speed of the integrated global order. The link between the territory, governance and identity is eroded at the national level and is not replaced by an equivalent set of institutions and shared symbols elsewhere.<sup>9</sup> Within this erosion identity becomes a crucial part of survival. The states survive if they are sovereign. So a triangular relationship between nation, identity and sovereignty occurs on the continuum of survival. Security means survival. People in the West started to question xenophobia, racism and discrimination that exists in their societies. Much of opposition comes from a concern for national identity. This concern appears in the forms of security. At this point identity becomes a security question, where it becomes high politics as well.

---

<sup>7</sup> Ed by Martiniello, Marco. *Migration, Citizenship and Ethno-National Identities in the European Union*. (Vermont, USA: Ashgate Publishing Company, 1995).

<sup>8</sup> Pellerin, Helene. *Globalization Theory and Practice*. "Global Restructuring and International Migration: Consequences for the Globalization of Politics."

<sup>9</sup> Laffan, Brigid. "The Politics of Identity and Political Order in Europe." (*Journal of Common Market Studies*. 1996, Vol. 34, No 1).

Within the certainties of the Cold War refugee policies were irrelevant. It was highly a political issue. First, the Jews and then the denationalized Russians were the subjects of restructuring the bipolar world order. From 1920s till the 1970s the refugee problem was argued at an internal level for the West as it was producing refugees. From the beginning of the 1950s until mid 1960s Western countries applied the 1951 Convention definition only to Jews and Europeans who were running away from Communist regimes. From the early 1970s onward the refugee problem for the West became an externalized problem as the resettlement of Jews and Communist regime victims was solved among the Western countries. The shift from internal to external sphere for Western European countries occurred in the early 1970s. After then the refugee problem started to be discussed at a supranational level on the basis of being an external problem to the West. Especially after the 1980s the fading of military threats caused other types of threats to become more clear. Statelessness involving larger numbers of people tended to arise in a number of different circumstances. While Europe was maintaining more rigid limitations on its borders and 80 percent of the world's refugees having fled from one poor country to another poor country<sup>10</sup>, the revitalization of the refugee concept became crucial.

The overall panorama of the refugee situation indicates a shift from politicization of the issue to militarization. Militarization of the refugee policies does not mean military is the central actor but rather means it is framed by militaristic approaches which brought the securitization of the issue by all means.

In 1995, the office of the United Nations High Commissioner for Refugees (UNHCR) announced that there are approximately 18.2 to 27 million of international

---

<sup>10</sup> Ed. Peter W. Van Arsdale. *Refugee Empowerment and Organizational Change*. (Arlington: American Anthropological Association, 1993).



refugees under its mandate, and another 24 million are estimated to be displaced within the borders of their own countries.<sup>11</sup> These figures offer an opportunity to examine the refugee problem as a paradigm which reflects and problematizes the modern construction of an international system of states which is premised on an understanding of the world as divided into legally equal, sovereign states, where sovereignty is taken to mean the legal right to govern demarcated portions of the globe.<sup>12</sup>

Refugees are a failure of the state system. By questioning the state of origin/citizen relationship, legitimacy of a system and its exercise of sovereignty over its citizens is big challenge to the state system.<sup>13</sup> The result appears to be a logical contradiction: “solution” of the “refugee problem” within the existing system of states threatens the first principle (state control over admissions) of that system.<sup>14</sup>

As a matter of fact, although it is a common problem to humanity, the study of the refugee problem is still at an initial stage. The main objective of this study is to try to put the refugee problem as a paradigm and to evaluate the link between complex matrix of refugee situations and its historical and discursive roots. Turkey as a nation-state is a unique case in the international refugee regime. Though it is a signatory of the 1951 Geneva Convention it is one of the two countries who did not remove the geographical limitation applied to non-Europeans. In this work it will be argued a

---

<sup>11</sup> Ucarer, Emek. *Immigration into Western Societies and Problems and Policies*. Ed. M Ucaer, D.Puchala. (UK: Biddles Ltd.,1997).

<sup>12</sup> Arendt, Hannah. *The Origins of Totalitarianism*. (NY: Harcourt Brace,1957), 287-298.

<sup>13</sup> Carens, H.Joseph. “States and Refugees: A Normative Analysis” in *Refugee and International Relations*, ed. Howard Adelman. (Toronto: York Lanes Press, 1991).

<sup>14</sup> Aleinikoff, Alexander. “State-centered Refugee Law: From Resettlement to Containment” in *Mistrusting Refugees*, ed.Valentine Daniel and John Knudsen. (CA: University of California Press, 1995).

nation-state's refugee policies and how the refugee issue turns into a complicated problem due to its exercise of sovereignty.

In the first chapter, there will be an examination of the refugee issue as a paradigm and challenges of it to the existing system. An integral element of this analysis is the formation of an international refugee regime and the shift occurring in the approaches to issue.

The second chapter, will be a historical overview of Turkey both as a refugee producing country, country of asylum and transit migration. Turkey's uniqueness is an illustrative example to the complexity of the refugee situation occurring all around the world.

The third chapter, examines the refugee issue with a security dimension. By using the 1994 Regulation of Turkey as an analytical tool the study will try to illustrate a nation-state's concerns and interests on a humanitarian issue.

## CHAPTER I

### **Refugees and Their Challenges to the Existing System**

Once they had left their homelands, they remained homeless; once they had left their state; they became stateless; once they had been deprived of their human rights, they were rightless; the scum of the earth

Hannah Arendt

#### ***1.1 The Complexity of the World Refugee Problem : Its Scope and Scale***

The cumulative world number of post World War II refugees can be estimated at around 80-90 million. After the 1950s, numbers remained for a long time at the level of 2-4 million, with only slightly long-term growth trend. This fairly stable trend was broken with the Bangladesh war of independence in 1971-72. Almost 10 million refugees fled from Bangladesh. In the second half of the decade the annual total average reached 6-7 millions. The steady growth led the numbers to reach 20 million at the end of 1970s.<sup>15</sup> Decolonization and independence wars occurring in the Third World countries gave way to a continuous increase in the number of the refugees.

Since the 1980s, refugee distribution around the globe became more uneven. Today, Asia has 45-55 percent, Africa has 45-35 percent, the total Third World share has been in the range of 80 to 90 percent in this uneven distribution. Of the many global political issues that increasingly occupy international political decision-makers and theorists, the world refugee problem became perhaps one of the most complex ones. It is a problem of individuals, but it also manifests itself in various forms on societal, governmental and international levels. It is a humanitarian and moral issue, a

security issue, development issue as well as being an environmental and natural resources issue.<sup>16</sup> As Hakovirta displays in Figure 1, the world refugee problem is an analytical structure that is composed of seven elements and their mutual links which are complex systems of factors rather than single variables as each arrow representing a variety of influences (Harto Hakovirta, 1993).

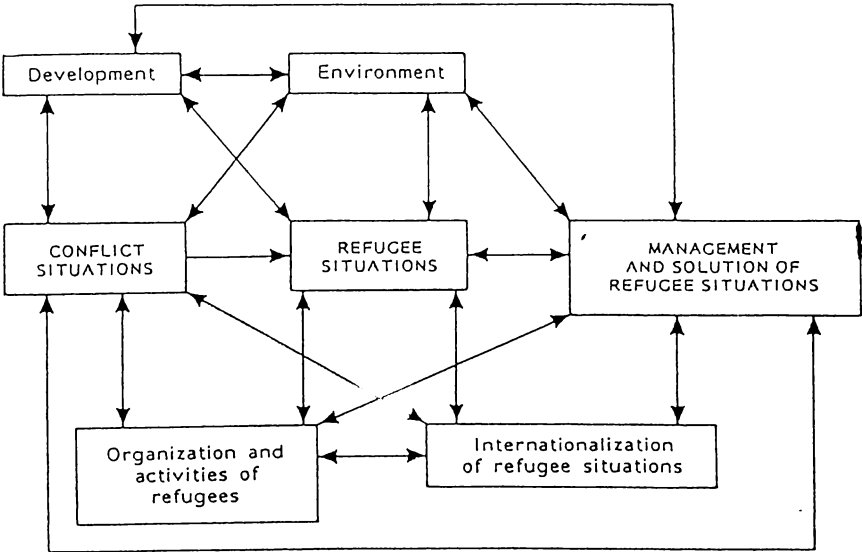


Figure 1: A Model for the Study of the World Refugee Problem

Refugee situations are outcomes of conflict situations in which violence and persecution is used. This conflict can be between different states, parties, sects or any opposing entities. Any organization and activities opposing to the dominating power creates a conflicting situation and ends up with the enforcement of the minority, not necessarily numerical, to leave the conflict. Once the refuge is taken then it becomes a common problem of humanity. Therefore international protection is required for the solution. As well as being a challenge to the nation-state refugees become a challenge

<sup>15</sup> Hakovirta, Harto, "The Global Refugee Problem: A model and Its Application." *International Political Science Review*. (1993), Vol.14/No: 1, pp:35-57

<sup>16</sup> Ibid., 34.

to the nature, inequality and unfairness. The clearer understanding of this complex issue comes with model building and putting the issue as a paradigm.

### ***1.2 Refugee Movement as a Paradigm***

As Hakovirta explains when the refugee problem is looked at from an analytical perspective the issue gets more dimensional and problematic. The principles that underpin the global refugee regime, and its conception of migration flow, from the general principle of the sanctity of human life and from a liberal understanding of the freedom of individuals to move freely. However, another principle which stayed intact and contradicting to this understanding, is the state sovereignty; according to which states ultimately decide who may cross their borders.<sup>17</sup>

The 19<sup>th</sup> century's dominant political structure, the nation-state model, emerged in Europe and became the principal political model because of the dominance of European powers and liberal political theory played a crucial role in shaping central political concepts. It came to a point that concepts like identity, democracy, security, community are all applied to the nation-state and had a liberal understanding in it.

According to the liberal democracy, citizenship is the capacity for each person to form, revise and rationally pursue his/her definition of good. Liberal democratic notion of citizenship grounded on the premise of universality implies that all individuals are given the same formal/legal rights regardless of gender, race, ethnicity,

---

<sup>17</sup> Ucarer, Emek M., "The Global Refugee Regime: Continuity and Change." *Bogazici Journal*. (1996), Vol. 10/No: 1-2, pp:5-29.

religion or class.<sup>18</sup> However, this approach falls short of being useful to deal with the cases when the links between the citizen and the state breaks and the individual become a refugee in search of a homeland. Since to see the relationship between nation-state and refugee problem as an external one where the challenge is applied to the nation-state is impossible; rather we face an internal relationship where nation-state thinking permeates our political thinking.<sup>19</sup> Liberal democracy has been criticized due to its implication of universality, and the turn of the self/citizen into an 'unencumbered' abstract entity. This abstract self/citizen allows for an 'instrumental' community in which individuals express their previously defined interests which takes people to be distinct from their ends. This unencumbered self is carried with the liberal approach to the refugee issues. The misconception of the refugee components of this liberal approach has been compounded by a semantic confusion. There is no dispute over the definition of an asylum-seeker as a person claiming asylum on the basis of refugee status. Thus a refugee is an asylum-seeker if his claim to refugee status has been found valid.<sup>20</sup>

According to the de jure definition of refugee status used by the United Nations (1951 Convention and 1967 Protocol) and adopted by various countries in determining eligibility for admission a refugee is:

'Any person who 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.'<sup>21</sup>

---

<sup>18</sup> Gencoglu, Funda. National Identity, Citizenship and Pluralism in Turkey: The Turban Question. *Unpublished Master Thesis* at Bilkent University, (1997).

<sup>19</sup> Laffan, Brigid, "The Politics of Identity and Political Order in Europe." *Journal of Common Market Studies*. (1996), Vol. 34, No. 1.

<sup>20</sup> Gurtov, Mel, "Open Borders: A Global-Humanist Approach to the Refugee Crisis." *World Development*. (1991), Vol.19/No: 5, pp:485-496.

<sup>21</sup> The 1951 Geneva Convention relating the Status of Refugees.

The common denominator for a refugee from the Conventionalist perspective is the sense of loss of control over one's own fate which makes them to be distinct from their ends. This loss of control over one's end involves fundamental questions of free will and agency. So the problem starts from the very beginning: who is credible for being a refugee is the critical question.

There are five markers that are incorporated into the Convention define the loss of control over his/her end which puts the refugee issue at the center of critics to liberal approaches.

The first one is alienage; the applicant must be outside his/her country of origin involuntarily and must not be a dual or multiple national.

The second one is genuine risk; there must be an objective data and/or clear and credible testimony of the claimant.

The third is fear of persecution; there must be a core human rights violations due to the state failure.

The fourth is affiliation that leads to persecution; belonging to a race, ethnic background, social group or political organization causes fear of persecution.

The final one is the need of protection; the claimant must show she/he needs and deserves international protection.

These points systematically differentiate refugees from other forms of voluntary migrants amongst whom economic factors are assumed to be predominant. All these question traces the issue back to a liberal critique of the self. Is a refugee movement free will action or is it a loss of control over his/her end?

The situations which give rise to large refugee movements and requests for asylum include external or civil wars, political unrest, the expulsion of ethnic minorities, displacement of populations, human rights violations, oppressive state

regimes, etc. are all interconnected economically, socially and politically, as in the case of Haiti, where political repression and economic underdevelopment go together, Ethiopia where political pressures and war combined with famine have cause massive flight (Dowty, 1987). From a sociological point of view the distinction between the “economic” and “political” distinction is the wrong path distinction because the population movements do not constitute random events but form distinct patterns (Zolberg, 1986).<sup>22</sup>

Refugee movements are usually represented as ‘forced’ ‘involuntary movements’. However, as A.H. Richmond suggests, it could be more appropriate to recognize a continuum at one end of which individuals and collectives are proactive and the other reactive.<sup>23</sup> Instead of making a solid sharp distinction between voluntary and involuntary as he illustrates the resulting paradigm of international migration in Figure 2 it is more appropriate to see the problem as a continuum. The vertical axis represents decision-making of a continuum from maximum to minimum autonomy. The horizontal axis represents the interaction of economic and sociopolitical forces, reflecting that they come full circle as internal and external state powers converge.

In the complex social matrix of international migration ‘Convention refugees’ are the prototypical political migrants. At the opposite extreme to those who qualify as ‘Convention refugees’, on the basis of their demonstrated fear of persecution, are those politically motivated proactive migrants who fall into the category of ‘spies’,

---

<sup>22</sup> Richmond, Anthony H., “Sociological Theories of International Migration: The Case of Refugees.” *Current Sociology*. (1989), Vol.36/No: 2, pp:7-25.

<sup>23</sup> *Ibid.*, 16.



'terrorists' or 'defectors'.<sup>24</sup> When it is looked overall within the emphasis of refugees one thing has remained intact: the legal thinking based on state-centered values.

Although many contradictions occur within the definition of the Convention refugees this does not prevent governments from making a de jure distinction between 'Convention' refugees and others, refusing asylum to those who do not meet the strict criteria of the UN Convention.

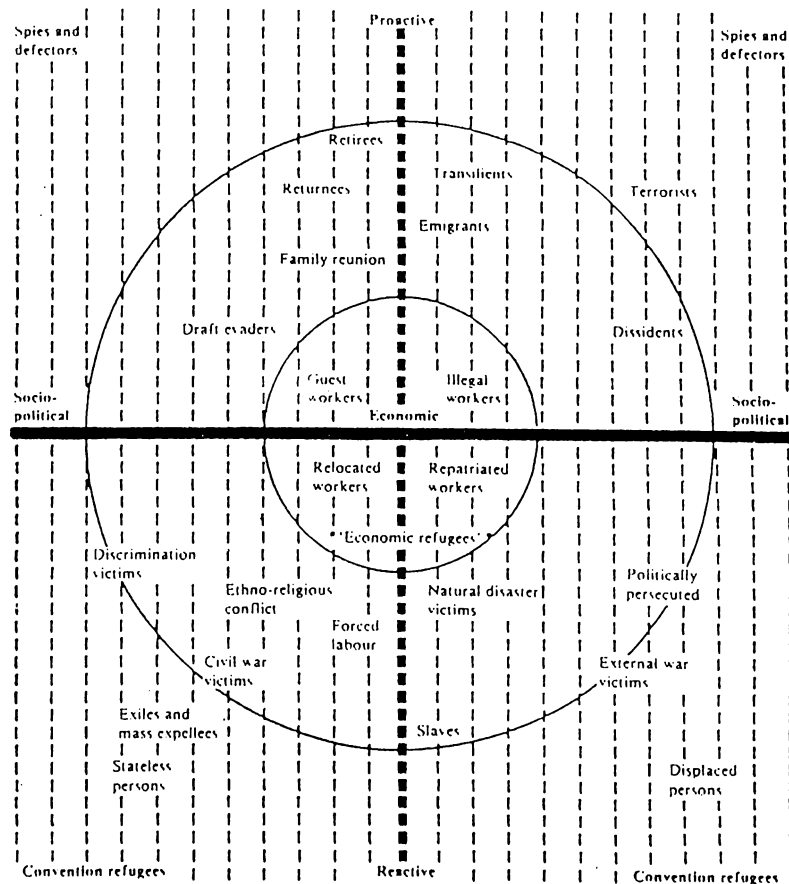


FIGURE 2: A Model for Paradigm of International Migration

As Giddens (1984) notes, the emergence of state-based societies also alters the scope and pace of history by simulating secondary contradictions. The provision of international law and the UN Convention on Human Rights, which provides the right to leave a country leads to the closing borders and increasingly restrictive immigration and refugee policies.

<sup>24</sup> Ibid.

### ***1.3 The Promise of Liberal Internationalism***

The realist school of international relations are characterized by growing interdependence which renders unilateral solutions suboptimal and ineffective in the face of collective problems (Keohane and Nye, 1989). Such managing of interdependence takes the form of setting objectives, making rules, and agreeing upon collective action which became to be called regimes in international relations literature.<sup>25</sup> “Regimes are principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area” (Krasner). The regime literature offers three alternative explanations of how regimes form: self-generation, negotiation and imposition (Young, 1983). Regimes, however, do not have any enforcement on nation-states and change over time and across issue areas. How and why the strength of regimes change, or the actors’ compliance with the regimes’ depends on various components, and vary over time. This has been an issue of central concern to those who wish to assess regime strength.

The Public International Unions, the League of Nations, and the UN are the attempts of nations states to find optimal and effective regimes for collective action. The designers of these institutions all believed that liberal international institutions could create an increasingly prosperous and peaceful world. In *Industrial Organization and Industrial Change*, Craig Murphy argues that both liberal internationalism and world organizations are products of the industrial age. Although liberalism appeared a century before the first modern factories, liberal internationalists

---

<sup>25</sup> Ucarer, Emek M., “The Global Refugee Regime: Continuity and Change.” *Bogazici Journal*. (1996), Vol. 10/No: 1-2, pp:5-29.

honor men of the generation who built those factories.<sup>26</sup> Murphy argues that three characteristics of the industrial age have convinced the followers of Adam Smith and Immanuel Kant that global governance eventually would be needed if peace and prosperity are to be realized. The first characteristic is the propensity of capitalist industry to outgrow any government. The second is the link between capitalist industrialism and a republican polity. The third is international civil society - both public institutions, including the rule of diplomacy and the growing corpus of international law. Murphy illustrates that Comte (1798-1857) argued that the affairs of state, domestic and international conflict could be minimized when prosperity assured, Bentham (178-1832) put forward the argument for limited, purpose-oriented international agreement fostering international commerce, and with it, industrial innovation, prosperity and peace and Keynes in 1920 introduced his *Economic Consequences of the Peace* by reminding Europeans of what they enjoyed before the Great War; it was an epoch of continent-wide prosperity (for the privileged few) maintained by what he referred as the 'delicate organization' of international institutions. By these illustrations Murphy comes to a line of argument that all those arguments became the key justification offered first for the Public International Unions, later in the League of Nations and the UN. Keohane, in his work on international institutions argues that the longer history of world organizations demonstrates that it is not just national governments that must benefit but also a sufficient powerful coalition of social forces within and across national societies.<sup>27</sup> What is important here, from Kant's day and throughout the 19<sup>th</sup> century, is that the actors of the coalitions were almost always Europe's aristocracy and the cosmopolitan

---

<sup>26</sup> Murphy, Craig. *Industrial Organization and Industrial Change*. (NY: Oxford University Press, 1994).

bourgeoisie whose interests were to be served by the proposed international institutions.<sup>28</sup>

Coming from this point of view Murphy looks at the three stages in the growth of International Organizations. First, the Public International Unions; second is League of Nations; and third, the United Nations. Murphy argues that there is one common point in the three stages of international organizations: the ones who benefit the most from international regimes are those who founded them.

Today's global Keynesian admonishes the reluctant wealthy power to see their own interest in finding collective solutions to global problems, Social Darwinism, laissez faire, international law and intellectual leadership of the developed countries stayed the creed of global and regional efforts.

A refugee regime has developed through time in response to immense refugee crises. However, inceptions and content have been heavily influenced by the political climate at the time of their negotiation, the parties involved in the crises and the individuals involved in the crisis.<sup>29</sup> As UN High Commissioner Sadako Ogata observes, "[I]t was in Europe that the institution of refugee protection was born, it is in Europe today the adequacy of the system is being tested."<sup>30</sup>

With this prelude in mind it is essential to review the formation of an international refugee regime and transition of the concept when the world refugees

---

<sup>27</sup> Keohane, Robert. *After Hegemony: Cooperation and Discord in the World Political Economy*. (N.J: Princeton, 1984).

<sup>28</sup> Ibid.,34.

<sup>29</sup> Ucarer, Emek M., "The Global Refugee Regime: Continuity and Change." *Bogazici Journal*. (1996), Vol. 10/No: 1-2, pp:5-29.

<sup>30</sup> Ogata, Sadako, 'Refugees: a comprehensive European strategy,' speech given to the German UN Association and the German Association for Foreign Policy, Bonn, June 21, 1994.

today face more restrictive measures and 80 percent of them have to flee from one poor country to another poor country.

## ***1.4 The Concept of the Refugee in Transition and Establishment of an International Refugee Regime***

Refugee law as it exists today is fundamentally concerned with the protection of powerful states.

James C.Hathaway

The new realities of the modern refugee phenomenon might justify a re-evaluation of issues and definitions. Legal definitions and international conventions have evolved to include and exclude varying groups and individuals on different criteria according to the character of a particular period.<sup>31</sup>

The definition of refugee becomes a subjective exercise when the political climate at the time and the parties involved in the negotiations, the severity of the crises and the individuals in crisis change. Today's international refugee system is characterized with the "exilic bias" which is reflected in geopolitical realities (World War II refugees would not be asked to return), Cold War doctrine, and Eurocentric humanitarianism. Its transition can be summarized in six periods: Legal, Social, Individualistic, the UN and Alternative Approaches.

### ***1.4.1 Legal Approach (1920-1935)***

After World War I, refugees found themselves under increasing government restrictions. In the phase of formation of nation-states, governments quickly adopted protective barriers and closed borders to refugees. The period from 1920 to 1935 was mainly characterized with the denationalized Russian refugees and restrictionist

---

<sup>31</sup> Hathaway, J.C. "The evolution of refugee status in international law: 1920-1950." *International and Comparative Law Quarterly*. (1984), Vol:33.

policies towards them. These restrictions not only created a problem for refugees but also a dilemma between European states because of violation of the territorial sovereignty of neighboring states caused by governments pushing refugees across their frontiers.<sup>32</sup>

In 1920, Fridtjof Nansen, a Norwegian explorer, was appointed by the League as the first High Commissioner for Refugees who had specific responsibilities for Russian Refugees only. The League only met the administrative costs and the aid to the refugees because most of the League members gave neither political nor financial support to the refugee issue.

Nansen adopted a passport system for Russian refugees who were denationalized. However, governments quickly adopted this system, using it in the exchange and repatriation of massive numbers of refugees following the Greco-Turkish War of 1922. This event was a starting point for the governments to reach some agreements in creating a more stable and secure legal status for refugees but at the same time to use a humanitarian concerned mechanism for their own interests. In 1928, the members of the League agreed to accept a series of legal measures defining the status of Russian and Armenian refugees. This had a significant effect on elaborating a body of treaty law and forming a more permanent international law and institutions<sup>33</sup>.

The Nansen Office, which was founded for Russian refugees, was formally independent but since it was highly dependent on the donations of governments, the emergence of an international refugee regime was an outcome of a political agenda in

---

<sup>32</sup> Loescher, Gil. *Beyond Charity*. (NY: Oxford University Press, 1993).

<sup>33</sup> *Ibid.*, 22.

refugee-generating countries or from accruing their unwanted dissident and minority groups.<sup>35</sup>

When the Jewish problem appeared, the League established the High Commissioner for Refugees from Germany. However, since Germany was a member of the League, the members were reluctant to search for the causes of the refugee problem. This organization was set up outside of the formal structure of the League and did not receive funding for administrative expenses. The High Commissioner for German refugees, James G. McDonald, resigned after awhile. Since most governments pictured the refugee problem as an internal matter for the German government, he thought the Office had become dysfunctional due to this reluctance. McDonald in his letter of resignation put forward the key argument of the refugee problem: "When domestic politics threaten the demoralization and exile of hundreds of thousands of human beings, considerations of diplomatic correctness must yield to those of common humanity."<sup>36</sup> However, the states failed to act accordingly.

#### ***1.4.2 Social Approach (1935-1939)***

When Germany quit the League, the International Nansen Office and the High Commissioner for Refugees from Germany were consolidated in the office of High Commissioner for refugees which functioned until the end of World War II. The High Commissioner did not accept the responsibilities on behalf of the League of Nations and had no power to engage in material assistance.

---

<sup>35</sup> Goodwin, -Gill Guy S., "International Law and Human Rights: Trends Concerning International Migrants and Refugees." *International Migration Review*. (1989), Vol.23/No: 3, pp:526-546.

<sup>36</sup> *Ibid.*, 535.



In the late 1930s because of increasing Jewish pressure and the lobbying of voluntary agencies, Franklin Roosevelt called an international conference at Evian. However, this conference went no further than highlighting the reluctance of the United States and the creation of a new refugee mechanism outside the League's structure: the Intergovernmental Committee on Refugees (IGCR). In the conference none of the governments, except the Dominican Republic, were prepared to accept any significant number of Jewish refugees. Until 1946, the IGCR existed along with High Commissioner for Refugees. The IGCR's main concern was to achieve an orderly exodus of Jews.

The social approach period a test for the refugee regime which was established in the 1930s. During this period the humanitarian concerns such as protection and assistance to the refugees were put in favor of dealing with hitches within the system. The IGCR, with its social approach, was not very effective in finding a durable solution for the increasing number of refugees. In 1943, the UK and the USA called for a conference in Bermuda, but no result came out to change the rigid barriers in Europe. During this period, the refugee problem faced with Europe's dictators and in relation, it became a politicized and selective problem by governments and international organizations.<sup>37</sup>

#### ***1.4.3 Individualistic Approach (1940-1950)***

The decline in the League of Nations gave immediate way to the breakdown of the International Refugee Regime. By the early 1940s organizational growth and interstate collaboration had started to establish the idea that refugees were the victims

---

<sup>37</sup> Loescher, Gil. *Beyond Charity*. ( NY: Oxford University Press, 1993).

of human rights abuses and the world had special responsibilities. In November 1943, the Western powers set up the UN Relief and Rehabilitation Agency (UNRRA). UNRRA was not a refugee organization. It helped displaced people and only refugees with political fears.<sup>38</sup> The UNRRA's main task was identifying displaced persons and separating them into international categories and sending them back to the countries they came from with no regard to their individual wishes. Most of these people were from the USSR and East Europe and ended up in labor camps when they were sent back.

When the Cold War began after World War II the refugee issue turned into a major East-West controversy. The question of repatriation especially and the status of refugees became a political issue within the UN in terms of causing ideological conflicts between West-East. These conflicts also gave way to disputes over whether UNRRA was obliged to provide assistance to displaced people who refused repatriation. The Eastern Bloc thought that assistance should be given only to displaced people who returned home whereas the Western countries insisted that each individual should be free to decide whether or not to return home. The post-1945 world order has to be investigated because of its influence on current interpretations of migration and refugees. This period is often referred to as Pax Americana, a more or less coherent system where political, ideological and economic structures were interconnected to provide stability at the world level. Politically American hegemony was founded on military superiority and on political-diplomatic activity in various regions of the world. Ideologically, the liberal democratic model of society, defined as participatory democracy based on individualism, was gaining influence in the

---

<sup>38</sup> Ibid., 155.

world.<sup>39</sup> The United States remained strongly critical of UNRRA operations because of its repatriation policies and rehabilitation programs. The US had a belief that UNRRA actions consolidated Russian political control over Eastern Europe. Since the US was providing 70 percent of UNRRA funds, it was not very difficult to replace UNRRA with a new International Refugee Organization (IRO). IRO's goal was to deal with resettlement rather than repatriation. A system of refugee selection and determination was established to deal with migrants associated with the military and ideological structures of Pax Americana.<sup>40</sup>

The UN General Assembly from the very beginning had concerns over the formation of the IRO because it would create additional tension between East and West. The Soviets on the other hand wanted to keep UNRRA. The US proposed that refugee organizations only dealt with specific group of refugees but the governments had never attempted to find a general definition of the term refugee. For the first time, the international community made refugee eligibility dependent on the individual rather than on the group (*prima facie*).

However, the political agenda of the East-West relations set the tone of politics for the day. When the situation in Czechoslovakia deteriorated, the IRO's program expanded and the refugees started to be perceived as symbolic and of instrumental use in the Cold War between East and West. The United States, sponsoring two thirds of IRO's cost, played the leadership role.

Under US leadership, resettlement was put forward as a practical solution. Labor recruitment at this stage was also an important criterion in the resettlement process. For a while refugee problems showed a great decline until a series of East-

---

<sup>39</sup> Pellerin, Helene. *Globalization Theory and Practice*.

West crises occurred such as the explosion of the first Soviet atomic bomb, the Berlin blockade, the victory of Mao Tse-tung in China and the Korean conflict. These events brought some counter American and Soviet reactions, like the Truman Doctrine, the NATO and Marshall Plan versus Comecon as the central economic organization for East European Communism and Warsaw Pact.

The tension between two poles as well as the saturation point for the Western governments' need for foreign labor and US concerns for the IRO institutionalizing the refugee problem as an indefinite responsibility of the overseas countries and perceiving IRO as an economic burden changed the US attitudes towards IRO. The US strategy through economic assistance of the Marshall Plan made it easier for governments in Europe to absorb the remaining refugees, but the US authorities came to believe that American national interests could be served better by relying on bilateral, regional, or even international arrangements outside UN system.

#### ***1.4.4 United High Commissioner for Refugees***

Even though the US preferred bilateral and regional arrangements Europe's approach to refugee solution was in favor of a global refugee regime. In addition, in 1950, when the United Nations Relief and Works Agency for Palestine Refugees in the Near East was established, the need for an institution which would deal with all the refugee problems once again came to the fore. The discussions took place within the UN General Assembly and the UN Economic and Social Council from 1948 through 1950 regarding the creation of a new international refugee organization.

In 1951, the United Nations High Commissioner for Refugees (UNHCR) was replaced the IRO. In the beginning, the UNHCR was set up as a temporary

---

<sup>40</sup> Ibid.

organization but in the process it became the leading agent of the UN in dealing with refugees, with the main goal of “providing international protection” for refugees and seeking “durable solutions” to their plight.

First the UNHCR defined refugees in terms of the 1951 UN Convention relating to the status of refugees as:

‘Any person who, as a result of events occurring in Europe before January 1951 and 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.’<sup>41</sup>

This definition of the 1951 Convention was extended with the 1967 Protocol to post 1951 events and non-Europeans. Only a few countries maintained the geographical limitation, which meant that a nation state accepted this definition with a reservation that excluded non-Europeans from recognition as refugees.

Asylum policy was all the more liberal since in the prevailing climate of ideological confrontation, eastern European refugees were greeted with sympathy and were able to blend easily into the host population because of common cultural affinities. In fact, until the end of the 1950s, the refugee problem was an intra-European movement from East to West.<sup>42</sup>

#### ***1.4.5 Alternative Approaches***

After World War I, the mass flow of people from states that could not protect their citizens led the League of Nations to arrange international protection and assistance. This concern gradually shifted from population transfers to repatriation in

---

<sup>41</sup> The 1951 Geneva Convention relating the Status of Refugees.

<sup>42</sup> Jean, Francois. “The Plight of the World’s Refugees” in *World in Crisis* ed. by Doctors Without Borders (NGO). (NY: Routledge Press, 1997).

Europe and then, when the forced repatriation to Iron Curtain countries became unacceptable, changed quickly to overseas settlement schemes. After the mid-1950s the attention shifted to the Third World where refugee production increased because of ideological revolutions and civil wars.<sup>43</sup>

In the early 1960s, wars of national liberation and the first conflicts in the newly independent states of Asia and Africa began to provoke important movements of refugees. From the early 1970s onwards, most European states added new elements to the question of asylum as the characteristics of the particular era changed. Closing the borders to non-European immigrants while increasing the pace of European integration led to stricter and more limited interpretation of the 1951 Convention. Although the scope of the 1951 Convention expanded to *de facto* refugees to encompass the mass exodus of populations, it was still lagging behind in finding solutions to the refugee problems that occurred in Third World countries due to scarcity, natural disasters and domestic conflicts. The Organization of African Unity (OAU) in 1969 broadened the definition of refugee in the light of European actions and defined refugee like this:

‘Every person who, owing to external aggression, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.’

Yet most refugees under this definition did not go any further than to be resettled in the neighboring countries particularly in Africa. In 1984, the Cartagena Declaration which was later also adopted by the Organization of American States changed the refugee definition like this:

---

<sup>43</sup> Keely, Charles. “How Nation-States Create and Respond to Refugee Flows.” In *International Migration Review*. (1996), Vol:30, No:4. pp:1046-1066.

‘Persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed the public order.’

However, today the most acceptable definition is still the 1951 Convention definition. The fact that the USA and EU, being the most precious donors to the UNHCR’s budget brings a remarkable consideration to a view which perceives legal definitions and international conventions as mechanisms of inclusion and exclusion of varying groups and individuals on different criteria according to the character of a particular period.

### ***1.5 UNHCR and Challenges of Refugees to the Existing Order***

A short time after its establishment the UNHCR became the leading agent in dealing with refugee problems. As the major international institution dealing with refugees the UNHCR uses the mechanisms of voluntary repatriation, integration into the country of first asylum, the resettlement in a third country of asylum. To seek durable solutions the UNHCR had to work in cooperation with a variety of intermediary operating organizations and governments as well as disseminating information, advising decision-making authorities and taking a part in the determination of refugee status.

All administrative funding is provided by the General Assembly. All funding is strictly voluntary. The implementation of a program of assistance is initiated through a formal agreement between the UNHCR and the refugee-receiving state. Thus international law and the UN provided the structural framework that gives the agency authority to act on refugee issues. Implementation of specific programs is

reliant on host government and third-party agreements wherein the UNHCR plays a predominantly coordinating role.<sup>44</sup> In theory, UNHCR is an independent, humanitarian, non-political organization. However, its position is delicate as it is financed by states which might try to exert influence to reflect their specific government policies, and it has on its Executive Committee representatives of countries which are themselves responsible for producing refugees.<sup>45</sup>

The international response to refugee flows is now primarily located in the United Nations system. Nevertheless, the UN system is founded in the nation system, in which refugee claims to protection, challenges to international law and state sovereignty are decided. To seek solution within the UN appears to be a logical contradiction: “solution” of the “refugee problem” within the existing system of states threatens the first principle (state control over admissions) of that system.<sup>46</sup>

In sum from a legal perspective the concept of refugee is closely tied to the understanding of state, state sovereignty, and membership.<sup>47</sup> The contemporary refugee dilemma comes from the point that even as the UN or regional intergovernmental organizations extend treaty protection and strengthen enforcement mechanisms, governments may still reduce the protection of refugees through different mechanisms.<sup>48</sup>

---

<sup>44</sup> Ed. Peter W. Van Arsdale. *Refugee Empowerment and Organizational Change*. (Arlington: American Anthropological Association, 1993).

<sup>45</sup> Joly, Daniele. *Refugees: Asylum in Europe?* (UK: Minority Rights Publications, 1992).

<sup>46</sup> Aleinikoff, Alexander. “State-centered Refugee Law: From Resettlement to Containment” in *Mistrusting Refugees*, ed. Valentine Daniel and John Knudsen. (CA: University of California Press, 1992).

<sup>47</sup> *Ibid.*, 25.

<sup>48</sup> Helton, Arthur. “Displacement and Human Rights: Current Dilemmas in Refugee Protection” in *Journal of International Affairs*. (1994), Vol:47, No:2.



Turkey as a signatory of the 1951 Convention stands as a unique case in the refugee problem in many respects. The rest of this study will try to analyze how a nation-state create and response to the refugee flows while evaluating the factors influencing the policy responses a nation-state.

## CHAPTER II

### The REFUGEE ISSUE and TURKEY

Without a fatherland  
the landless find  
all brown earth an insult,  
all soil rootless  
The exile is a stranger  
even to his grave

Antranika Zaroukian

Turkey is an ideal and unique case in evaluating the antagonistic relationship between a nation-state and an international refugee regime in many respects. First of all, Turkey, itself is a refugee-producing country. As Table 1 indicates, between 1985 and 1994 Turkey was the third by producing nine percent of the asylum applications in Western Europe with a total amount of 24,434 asylum-seekers. Second, although Turkey is a signatory of the 1951 Convention, it did not remove its reservation attached to the 1967 Protocol which means that Turkey excludes non-Europeans from recognition as refugees. Turkey is one of the two countries among the signatories of the Convention in keeping a geographical limitation, along with Malta. Third, Turkey is a transit country for asylum seekers. As Table 2 indicates, since 1945 Turkey has received almost 3,000,000 asylum seekers in one way or another. As Table 3 indicates, between 1983 and 1997, 242,722 people sought asylum in Turkey and 96 % of these refugees are from Iran and Iraq but as Turkey does not accept them as Convention refugees due to the geographical limitation applied to non-Europeans, the asylum-seekers can only get temporary settlement in Turkey. Most of these refugees end up resettling in Europe. Keeping this actuality in mind, the figures anticipates that almost eight percent of the European asylum seekers have a transit pass through

Turkey. Altogether the figures show that Turkey somehow plays a role in roughly the 18 percent of the total asylum seekers in Europe. Fourth, Turkey itself is a country of mass influxes. Since the Geneva Convention is not very clear on the right to asylum en masse, Turkey had to deal with the mass influxes according to the measures it took when in three consecutive years almost a million refugees from neighboring countries entered Turkey. Fifth, Turkey's geopolitical position has been extremely important in the area. It is in a critical point to be a buffer zone in population movements from Asia and Africa to Europe. Sixth, Turkey creates internal displacement. According to the United Nations, targeted groups who by virtue of the nature of their selective and collective mistreatment are deemed "convention" refugees are often called "displaced persons", caught in the cross-currents of civil wars and other conflicts.<sup>49</sup> However, although internally displaced people are accepted as a form of refugee the United Nations High Commissioner for Refugees, and many governments, are reluctant to intervene in the domestic affairs of other states. Because of the PKK fighters and Kurdish separatism in south-eastern part of Turkey, it is known that Turkish authorities forced around two to three million civilian Kurds to leave their habitual place of residence. While some of them leave the country, most of them stay in Turkey with no international protection.

Each of these unique cases create Turkey's approach to the refugee regime in terms of bureaucratic choices, international relations, national motives and security issues.

---

<sup>49</sup> Rose, Peter I., "Tempest-Tost: Exile, Ethnicity, and the Politics of Rescue." *Sociological Forum*. (1993), Vol.8/No: 1, pp:5-22.

## *2.1 Turkey as a Refugee Producing Country*

Turkey is one of the most common countries of origin among the asylum seekers in Europe, especially after the 1980s. Approximately 264,000 Turkish nationals applied for asylum during the period 1990-1996.<sup>50</sup> As Akgunduz (1995:153)<sup>51</sup> points out the Turkish national flow to Europe can be classified into two phases: on the one hand labor migration from the early 1960s to mid-1970s; on the other from the mid-1970s onwards due to the increasing repression of Kurds and leftists. Within these two phases there are three distinct types of population movements. The first one is family reunification, the second is politically motivated migration and third is labor migration of illegal or undocumented labor.<sup>52</sup>

Politically motivated movements revealed itself with the increase in the number of Turkish nationals from a few thousand in 1975 to 60,000 in 1980 with the military coup in that year in Turkey. During the second half of the 1980s, when the Kurdish problem became really intense, the number of Turkish national asylum seekers increased promptly one more time. The peak year, with over 55,000 asylum applications, was 1989. The numbers in recent years declined to 25,000 because of the strict restrictions of European governments, as well as the need for mass migration in Europe was gone.<sup>53</sup>

However, in the early 1960s, the first Turkish refugees of Kurdish origin whose demands for economic development of the Kurdish provinces and elementary cultural

---

<sup>50</sup> Background Paper on Refugees and Asylum Seekers from Turkey. UNHCR, 1997.

<sup>51</sup> See Icduygu, Ahmet. "Refugee Pressure versus Immigration Pressure in Europe: The perspective from a Sending Country-Turkish Case" at European Population Conference for details, (1995).

<sup>52</sup> Ibid., 5.

<sup>53</sup> Eurostat (unpublished).

rights had been repressed arrived in Germany. The military intervention in 1971 caused the second wave of forced migration to Europe from Turkey. The austere measures after the coup which aimed at purging Kurdish nationalist elements and leftist activists caused many leftists and Kurds to flee to Europe.<sup>54</sup>

The military take over in 1980 was different from those of 1960 and 1971 because it led to a larger and more permanent wave of forced migration. As well as Kurds and leftist activists, people belonging to “fundamentalist” Islamic groups and ultra-right wing organizations such as the Grey Wolves and their Nationalist Action Party sought asylum in Europe during this period. The effects of the 1980 coup on the Kurdish issue started to worsen with the activities of Kurdistan Worker’s Party (PKK). The armed confrontation with the PKK gave rise to human rights abuses on both sides. Civilians caught between the PKK fighters and security forces, were forced to leave their habitual place of residence.

Since the fighting began in 1984, PKK attacks followed by Turkish army reprisals have claimed an estimated 26,000 lives. Forcible evacuations led to the destruction of nearly 3,000 Kurdish villages in the region and more than two million people had been uprooted.<sup>55</sup> The security forces’ campaign against the PKK has also included armed forays into Iraqi territory. In 1995, there was a six-week armed incursion into Northern Iraq which drew international condemnation. The latest incursion was in September 1997 and lasted a month, is believed to have involvement 15,000 Turkish troops.

This turbulence caused many Kurdish origins to flee to Europe. Although there are no reliable data on the numbers of Kurds who have sought asylum in

---

<sup>54</sup> Bocker, Anita, “Refugee and Asylum-seeking Migration from Turkey to Western Europe.” *Bogazici Journal*. (1996), Vol.10/No: 1-2, pp:55-75.

Western Europe, it can be predicted from Turkey's third place as the country of origin in asylum applications in Europe that numbers are really high. Germany received nearly the two-thirds of all Turkish applications during 1990-1996.

In 1996, the Convention recognition rate for Turkish asylum-seekers was approximately 19 per cent, equal to the recognition rate for all asylum seekers to the EU countries. When other non-Convention statuses are taken into account, the recognition rate for Turkish asylum seekers becomes about 20 per cent.<sup>56</sup>

Table 1-Major Refugee Sending Countries to the EU

	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Ex-Yugos	1,363	1,921	5,750	22,634	23,766	26,879	100,821	226,220	152,438	73,392
Turkey	11,699	13,610	19,261	24,278	45 910	40,479	40,776	35,802	24,331	24,434
Romania	2,233	4,343	4,637	6,917	14 071	60,105	59,032	115,951	85,753	20,820
Sri Lanka	26,209	9,589	5,639	6,371	14 255	13,765	15,731	13,635	10,648	11,086
Iran	14,189	25,876	14,831	16,734	14 357	17,641	15,175	76,618	6,869	11,445
Somalia	226	257	496	920	6 363	8,417	7,520	10,408	9,137	10,287
Afghan	2,847	3,612	1,750	1,705	4 339	8,457	8,003	7,088	7,523	8,985
Zaire	2,664	3,534	4,927	5,332	9 494	8,949	14,127	17,486	7,874	6,889
Iraq	744	660	1,253	2,089	3 897	3,428	8,333	10,464	8,370	6,980
Bulgaria	231	271	282	493	6 995	12,117	16,655	33,784	24,960	5,197
Vietnam	2,799	2,755	1,816	2,091	3 520	13,318	11,423	13,519	12,229	4,078
Poland	9,107	13,047	17,526	40,732	33 145	15,956	7,478	6,410	3,330	502
Lebanon	7,686	11,625	2,748	5,849	12 055	23,744	6,672	6,863	3,461	401
Total numbers indicate the total number of asylum-seeker applications to the EU										
<b>TOTAL</b>	<b>159,176</b>	<b>191,020</b>	<b>163,471</b>	<b>209,841</b>	<b>289,174</b>	<b>403,496</b>	<b>514,428</b>	<b>674,056</b>	<b>516,710</b>	<b>305,259</b>

When the figures are taken into consideration Turkey as a refugee producing country plays an important role in the area. This role becomes more crucial when other criteria are counted such as Turkey as a country of asylum and as a transit country.

<sup>55</sup> Background Paper on Refugees and Asylum Seekers from Turkey. UNHCR, 1997.

<sup>56</sup> Ibid.

## *2.2 Turkey as a Country of Asylum*

The Turkish Republic, and before that Ottoman Empire, has had a long tradition of receiving refugees. This tradition welcomed a large number of Jewish refugees from the Spanish Inquisition in 1492. Along with Jews from Germany, France, Hungary, Italy, religious minorities, Muslims and people of Turkish descent as well sought asylum in the Ottoman Empire at different times.

This long tradition also was carried into the Turkish Republic. Turkish ethnic communities left behind in various parts of Balkans were themselves a source of refugee movement to Turkey. The first refugee movement that Turkish authorities had to deal with was the laborious population exchange between Greece and Turkey in 1922. As a result of this population exchange, 384,000 Turks had come to Turkey by 1939. Almost 200,000 Turks and Pomaks left behind in Bulgaria, around 117,000 Turks from Romania and 115,427 Turks from former Ottoman territories in Yugoslavia took refuge in the Turkish Republic in the 1920s and 1930s. The outbreak of Nazism caused 800 German speaking refugees, including university professors, scientists, artists and philosophers, to seek asylum in Turkey between 1933 and 1945. Together with the migration that took place during the Second World War, more than 800,000 people came to Turkey between 1923 and 1945. Migration from the Balkans to Turkey continued after the World War II.<sup>57</sup>

The establishment of a communist regime in 1944 in Bulgaria and in the other Eastern European countries was a turning point for Turkey, in terms the arrival of thousands of asylum-seekers within a very short period of time. Between 1950 and

---

<sup>57</sup> J. Vernant. "The Refugee in the Post-War World". (*George Allen and Unwin*, London, 1953).

1951, around 154,000 Bulgarian Turks took refuge in Turkey.<sup>58</sup> Between 1946 and 1970, 182,505 refugees from Yugoslavia and 329 from Romania came to Turkey. These figures did not only cover Turks but also, Albanians and Muslims from Bosnia who described themselves as Turks in order to emigrate to Turkey.<sup>59</sup> Although there are no exact figures it is known that Turkey also received Kazak, Krygyz, Ozbek, Uygur and Turkmen refugees within this time period due to the communist regime.

During the World War II and the Greek civil war a large number of Turks from Greece took refuge in Turkey.<sup>60</sup> The disputes at the political level between Turkey and Greece caused a constant movement, with around 23,808 Turks fleeing to Turkey for 15 to 20 years after 1945.

In the 1980s, Turkey was faced with many mass influxes. First, in 1982 there were Afghan national refugees brought over from Pakistan, then in 1988 nearly one million Iranians fled to Turkey because of the Islamic Revolution, and about 60,000 Iraqi Kurds crossed the border to seek asylum in Turkey. An estimated 300,000 Bulgarians of Turkish origin sought refuge in Turkey the following year. A second influx from Northern Iraq occurred after the Gulf War in 1991 when half a million Iraqi Kurds fled to Turkey. The war in the former Yugoslavia prompted the most recent refugee influx when an estimated 20,000 Bosnians came to Turkey. In 1992, 752 Meskhetian Turks from five former republics (Azerbaijan, Kazakhstan, Kyrgyzstan, the Russian Federation and Uzbekistan) took refuge in Turkey.<sup>61</sup>

---

<sup>58</sup> Kirisci, K., "Refugee Movements and Turkey." *International Migration*. (1991), Vol.29/No: 4, pp:545-555.

<sup>59</sup> Kirisci, K., "Refugees and Turkey since 1945." *Bogazici University Publications, Research Papers*. (1994).

<sup>60</sup> J. Vernant. "The Refugee in the Post-War World". (*George Allen and Unwin, London, 1953*), p.2.

<sup>61</sup> S.H. Steiberg (ed.) *The Statesman's Year-Book* (1960-1961) NY; St.Martin's Press.



Since the World War II, Turkey became a major country of asylum. However, the profile of the received refugees changed dramatically within the years. It is estimated that since 1945, approximately 3,000,000 people have sought refuge in Turkey one way or another. According to Turkish governmental statistics, just under 750,000 people within this 3,000,000 were accepted as national refugees.<sup>62</sup> As Table 2 indicates, the intensity of mass human dislocation and changing profile of the received refugees resulted in the redefinition of Turkey's perception of the refugee concept.

Table 2: Number of Refugees in Turkey since 1945<sup>63</sup>

<b>National Refugees</b>	743,731
<b>Non-convention Refugees</b>	2,077,175
<b>Convention Refugees</b>	7,624
<b>Bosnians</b>	25,000
<b>TOTAL</b>	2,853,530

Not formally but informally the practices of the Turkish authorities led to the classification of refugees into three different categories (Kirisci, 1994); Conventional, Non-Conventional and National Refugees.

### ***2.3 Categorization of Refugees and Refugee Policies of Turkey***

From 1923 until the 1950s, the Turkish Republic had no specific refugee policy; it always felt responsible for ethnic Turks or Muslims in the Balkans. However, the end of World War II, followed by the creation of the bipolar power structure and the establishment of the UN, led to a big transformation in the international refugee regime as well as Turkey's own refugee policies.

---

<sup>62</sup> Kirisci, K., "Refugees and Turkey since 1945." *Bogazici University Publications, Research Papers*. (1994).

<sup>63</sup> These figures has to treated with a caution by keeping in mind that they are not official and covers only data on refugees as well as asylum seekers cited by the UNHCR (Kirisci, 1994).

During this period the US, as mentioned in Chapter I, was in opposition to the UNRRA's (UN Relief and Rehabilitation Agency) repatriation policy. As a counter action, the US cut down UNRRA's budget and replaced it with the IRO (International Refugee Organization) and later became a precious donor to the UNHCR (United High Commissioner for Refugees). In the formation of a bipolar world order the US was taking a big part in the creation of an international refugee system, at the end of 1940s it was believed that American national interests could be best served through bilateral, regional, or even international arrangements outside the UN system. The Marshall Plan was the foremost application of this understanding. Therefore the definition and the policies of the day were shaped according to a Pax Americana perception of refugees; as people "who voted with their feet" against communism. The definitions of refugees and refugee policies of the day were shaped by the refugee flow from the Eastern Bloc only.

In 1948, when the Marshall Plan was approved by the US Congress, Turkey and Greece, because they were close to the USSR, were given the primary share. The US encouraged European integration as a pre-condition for the Marshall Plan. In April 1949, with the establishment of NATO, Canada and the US joined Europe in a defense alliance. Turkey, as a prime beneficiary of Marshall aid, also became a member of NATO. In July 1949, the Soviets withdrew from the Marshall plan and also forced Eastern Europe to withdraw. At around the same time the European Economic Cooperation was established. Although it was a loose body, this new body was giving the signals for the replacement of security concern with economic and ideological concerns in Europe.<sup>64</sup>

---

<sup>64</sup> See Kirisci (1994). Svanberg in Andrews. (1989).

While these developments were taking place in the West, Turkey was experiencing the cramps of moving from a “nationalist-democratic” to an “authoritarian-democratic” regime. The multi-party political system started with the foundation of the Democrat Party in 1946. This party won the elections in 1950. This was a political and economical turning point for Turkey. After 16 years of continuous etatism and protectionism the Turkish economy was left unprotected. This led to an increase in the need for foreign aid, foreign trade, foreign assistance and foreign private investments, which brought national debt with them. In 1947, Turkey became a member of the IMF, the World Bank and the European Economic Cooperation Organization. Turkey’s membership in these international organizations, and many Turkish experts who were educated in American universities, strongly supported the idea that etatism and protectionism should be abandoned. These were the years when America became the leader of the new capitalist system. The financial relationship between Turkey and the United States grew stronger when Turkey decided to join the Korean War and explicitly became an ally of the United States. This meant that Turkey was changing its foreign policy significantly; Turkish governments abandoned the traditional policy of neutrality in favor of a pro-Western approach. It was the time when Turkey was actively seeking to join the Western Alliance in the Cold War. The relationship between the two countries and Turkey’s membership of international organizations and the rapid flow of foreign capital into Turkey were not coincidental.<sup>65</sup>

---

<sup>65</sup> Ed. Sina Aksin. *Turkish History*. (Cem Yayinevi; Istanbul, 1995).

The relationship between the West and Turkey became more organic in the early 1950s. During this period Turkey accepted the 1951 Geneva Convention definition of a refugee as:

‘Any person who, as a result of events occurring in Europe before January 1951 and 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.’<sup>66</sup>

After Turkey’s acceptance of the Convention, a representative of UNHCR visited the Turkish Foreign Ministry, like all other signatories to the 1951 Convention requesting that Turkey allow UNHCR representatives to provide assistance for refugees in Turkey. The Foreign Ministry sent a letter of recommendation to the Prime Ministry, agreeing to allow the UNHCR to fulfill the duties described in the 1951 Convention. On October 20, 1960, the Prime Ministry responded positively to the Foreign Ministry’s request. All these developments concluded with Turkey’s ratification of the Convention in August 1961.

The first informal categorization of refugees appeared with the ratification of the 1951 Convention between National and Conventional refugees as a result of different concerns of Turkey.

### ***2.3.1 Conventional Refugees***

Turkey’s acceptance of the 1951 Convention carried a geographical and time reservation like all other signatories. With the 1967 Protocol while almost all other signatories were removing their reservations on the refugee definition, Turkey did not remove its geographical reservation that excluded non-Europeans from recognition as

---

<sup>66</sup> The 1951 Geneva Convention relating the Status of Refugees.

refugees. This basically meant that refugee status and asylum would be given only to individuals escaping from communist persecution in Eastern Europe and the Soviet Union. However, this was accepted on the understanding that these people would be resettled permanently in third countries by international organizations. This attitude of Turkey was due to two political reasons: The first was the apparent stance of Turkish foreign policy during the Cold War. As a support to anti-Communist policy it was natural to help East European Refugees in the 1950s and 1960s. The second reason was that the refugees from Eastern Europe always came in small numbers and the West was always committed to resettle them in a Western country. Since international agencies such as the International Catholic Migration Commission and the UNHCR met the costs of sheltering and resettling, Turkey was happy to serve as a staging post.<sup>67</sup> The refugees who were accepted under the 1951 Convention were called conventional refugees, meaning any person who sought asylum as a result of events in Europe.

Turkey's acceptance of the Geneva Convention indicated a very Eurocentric path and Turkey's impatience to be a part of the European integration process. Within this process, conventional refugees helped Turkey to gain good international publicity and reputation, in its relations with the West which also did not cause any problems associated with the social, economic and political problems of the integration of refugees.

---

<sup>67</sup> Kirisci, K., "Refugees and Turkey since 1945." *Bogazici University Publications, Research Papers*. (1994).

### 2.3.2 *National Refugees*

The implementation of the 1951 Convention's definition for refugees created a dilemma for those refugees who were ethnic Turks, or ethnic groups closely related to Turks, or Muslims who were not Turks but whose descendants were closely associated with the Ottoman Empire, such as Albanians or Bosnian Muslims. In dealing with these refugee movements, Turkey always preferred bilateral agreements instead of multilateral ones. For example, between 1920 and 1976 five bilateral treaties were signed with Greece, one with Bulgaria, and one with Romania.<sup>68</sup>

The determining criteria for refugee status in the case of national refugees were social receptiveness and a blend of cultural, historical and religious factors. Governments were always quick in trying to take political advantage by accepting and assisting national refugees, especially when they involved groups well-represented and well-organized, such as Bulgarian Turks, Bosnian Muslims or Turkomans from Northern Iraq.<sup>69</sup>

Turkey received the largest number of national refugees from Bulgaria. Turks in Bulgaria always had suffered discrimination at the hands of the Bulgarian authorities. First of all Turks in this country were the sons and grandsons of the formally ruling Ottomans. Secondly, during the Cold War Bulgaria and Turkey took part in opposing camps. During 1950-1951 and 1989 almost half a million Turks took refuge in Turkey: this figure covered Pomaks who were Bulgarian speaking, Slav-Muslims as well as Turks.

---

<sup>68</sup> See A. Yavuz, *Türkiye Cumhuriyeti'nin Akdettiği Milletlerarası Andlaşmalar* (Disisleri Bakanligi, Ankara, 1976)

<sup>69</sup> Kirisci, K., "Refugee Movements and Turkey." *International Migration*. (1991), Vol.29/No: 4, pp:545-555.

The second largest group of national refugees were from Yugoslavia. The establishment of a communist regime always created difficulties for Turks in Yugoslavia. In the early 1950s political rapprochement between Yugoslavia and Turkey opened a way for almost 182,505 refugees to come to Turkey over a 30 years period.<sup>70</sup>

The third largest group of national refugees to Turkey came from Greece and Romania, from the early 1950s to 1969, many of them allowed to settle in Turkey under family reunification provisions.

The migration from “Turkistan” and Central Asia compared to the Balkans has been limited. However, Kazaks, Kyrgyz, Uzbeks, Uygurs and Turkmen are among the national refugees who took refuge in Turkey at different times.

When the overall figures are studied it can be seen that national refugees form a large category. However, while Turkish government always felt a responsibility for national refugees, they did not develop a consistent policy: ad hoc decisions were taken to deal with refugee flows, not only for national refugees but refugees issues in general.

The ad hoc decisions of Turkish authorities in terms of becoming increasingly reluctant to accept national refugees created a lot of disappointment and resentment among national refugees. For example, in 1950, when the Bulgarian government asked the Turkish government to take 250,000 ethnic Turks, the initial reaction of the Turkish government was in favor of accepting this demand on the condition that an agreement was negotiated to manage the migration process. However, when the numbers reached thousands, Turkey closed the border. Although the border was reopened and the flow continued later, the initial closure indicated the lack of a

---

<sup>70</sup> Ibid.

consistent policy in Turkey. The same thing happened in 1989. Turkish authorities announced that Bulgarian citizens who wanted to emigrate to Turkey could do so, but when 300,000 Turks poured into the country, the government decided to reintroduce immigration visa requirement. Later, in 1994, the Turkish government introduced a quota on the number of national refugees which was fixed at the level of migration in 1989. Not only alternating approaches, but also a number of cases of refoulement<sup>71</sup> took place on the grounds that there was no more persecution in Bulgaria, Greece, Yugoslavia, due to the lack of consistent refugee policy.<sup>72</sup>

The lack of consistent refugee policy is also reflected in processes in domestic law. Turkish municipal law did not have any separate provisions governing the right to asylum and refugees until 1994. Instead Turkish asylum and refugee policies were essentially derived from a set of domestic laws, international obligations and political considerations.<sup>73</sup> On the issues like the conditions for the entrance of the refugees to Turkey, their acceptance, settlement, residence, asylum seeking, citizenship, refoulement were not adequately answered in the Law on Aliens. The Turkish government used the Law on Settlement, the Citizenship Law, the Passport Law, the Law on Sojourn and Movement of Aliens and Military Law as the sources of decision making for refugee related issues.

Principally, the Law on Settlement governs the process for national refugees. This Law stipulates that only refugees of Turkish ethnic descent and of Turkish culture are entitled to Turkish citizenship. The Council of Ministers decides which

---

<sup>71</sup> Refoulement-The forced return of a person to a place where his life or freedom would be threatened-a violation of Article 33 of the 1951 Refugee Convention.

<sup>72</sup> Simsir, B. "Migration from Bulgaria to Turkey, 1950-51," *Dis Politika*, Vol. XII, No. 3-4, p.92.

<sup>73</sup> Kirisci, Kemal. *Refugee and Turkey since 1945. Research Paper for Bogazici University.* (1994).



group is qualified to be granted Turkish citizenship in accordance with its ethnic and cultural descent. For example, Albanians, Bosnians and Pomaks who are not ethnically Turkish also benefited from this law because of historical and religious ties.<sup>74</sup>

At the status determination point, however, Turkey prefers to use the terms “guests” or “immigrants” in stead of “refugees” for national refugees. Although Turkey states the definition of a refugee as any one who flees from his/her country as a result of events in Europe, the Turkish authorities are reluctant to use the term “refugee” for national refugees who flee persecution as a result of events occurring in Europe. Certainly this gives a flexibility to Turkish authorities in terms of the implementation of humanitarian norms stated in the 1951 Convention.

The provisions of Law on Settlement divide National Migrants into two groups, “independent immigrants” and “settled immigrants”. “Independent immigrants” are self-sponsored. They complete their application before they leave their country of origin and have the right to settle anywhere, whereas “settled immigrants” are sponsored by the Turkish state and settled where the government chooses.

The criteria according to which national refugees are entitled to independent or settled migrant status are mostly the outcome of political considerations and international obligations. With the increase in the population and unemployment in Turkey, local authorities become more reluctant to accept the “settled immigrants”. For example, some Bulgarian Turks were entitled as settled and some were independent migrants, whereas in the Yugoslavia case they were all independent

---

<sup>74</sup> Sonmez,N, Kirisci, K. *Report for the 45<sup>th</sup> International Congress on “Refugees in Origin Countries and Countries of Refuge”*. (1995).

immigrants. Three sets of settled migration took place in Turkey. The first one was in 1982 when Afghan national refugees were brought from Pakistan. But on the other hand, around 4,163 Turkish descent people who were taken from Pakistan, were accepted under the category of “other” countries and given the category of independent migrants. The second was in 1989 when Bulgarian Turks were fled to Turkey. The third was in 1992 when the Turkish government decided to extend the same status to Meshketian Turks. Actually neither of these last two categories were refugees.

As a matter of fact, there is one interesting thing about the national refugee policies of Turkey: one can never be sure if this lack of consistent policy is a policy within itself. It seems that the Turkish government did not really like to encourage Turkish ethnic groups to come to Turkey. This might be due to an international political consideration which gives Turkey a strength in verbalizing demands and negotiating with neighboring countries with a large number of Turkish minorities.

Whatever the case is, this lack of a consistent refugee policy turned into a really big problem in 1980s with the mass influxes of non-European and non-national refugees into Turkey.

### ***2.3.3 Non-Conventional Refugees***

Until the 1980s, Turkey was not a country of asylum for non-Europeans and non-national refugees. However, a growing number of people outside Europe in the 1980s, especially from the Middle East, created another distinction point for Turkish refugee policy. The normative international obligations of Turkey and the pragmatic physical existence intruded when Turkey was faced with mass influxes of non-Europeans. In the 1951 Convention, Turkey stated that the Turkish government

would not apply the Convention to non-Europeans. However, “Non-Conventional” or “International refugees” those coming from outside the geographical area for which Turkey had accepted the Convention’s applicability, mostly from the Middle East and generally comprised of Iranians, Kurds and Iraqis but also including refugees from Asia and Africa, were pouring into the country.

Turkey experienced the first mass influx of non-conventional refugees in 1988. The situation for Kurds in Iraq who were struggling for their rights against the Iraqi government since the 1970s turned into a human tragedy in 1988 with the extensive use of chemical weapons against Kurdish peshmergas. This caused thousands of civilian Kurds to pour into Turkey in a few days. The initial reaction of the Turkish Minister of Defense was against the idea of granting asylum to the refugees. However, the next day the Turkish Prime Minister announced that the humanitarian dimension of the problem necessitated the opening of the borders.<sup>75</sup> This mass influx was a very new phenomenon for Turkish authorities. As a whole it was full of ambiguities, and uncertainties. Some officials believed that under the international law Turkey did not have any obligations to these refugees. There was also an ambiguity over terminology. Officials were hesitant to employ the word “refugee” to these people due to its implication of legal obligations. They preferred to use “temporary guests”, “asylum seekers” or “peshmergas”. Without a doubt this led to friction between UNHCR and Turkish officials. As Turkey did not accept non-Europeans as refugees, the UNCHR in Turkey was the monitoring agency for non-European refugees. The UNHCR was the decision body for the status determination of non-European refugees and was responsible for their resettlement to a third country

---

<sup>75</sup> *Ayin Tarihi*, 31 August 1988, p.111

and social care during their stay in the host country. However, since Turkey did not accept Kurds as refugees this led to a refusal to allow the UNCHR to extend assistance and protection. This was mainly due to a concern of Turkish officials that the intervention of the UNHCR may prevent voluntary repatriation<sup>76</sup> or cause new waves of migration.

A third area of ambiguity arose from the definition of 1951 Convention, which was not very clear on prima facie<sup>77</sup> refugees. From 1988 to 1991, Europe was reluctant to accept Kurdish refugees from the camps set up in eastern Turkey near the border with Iraq, yet at the same time it criticized Turkish authorities for not providing adequate assistance. This led to camp a tug of war between the Turkish authorities and the West.<sup>78</sup> Turkish officials refused to accept US \$ 14 million for providing better shelter for those refugees, arguing that the aid was an attempt of Western officials to keep the refugees in Turkey rather than repatriate them to the West.<sup>79</sup>

The inconsistency between the West and Turkey was not resolved nine years later, Turkey faced with another mass influx after Iraq's invasion of Kuwait. Total of 58,144 refugees poured into the country between August 1990 and April 1991. According to the Geneva Convention of 1949, Iraqi military personal were initially interned by the Turkish military and then moved to civilian camps and most of the

---

<sup>76</sup> Voluntary Repatriation- It is a preferable mechanism for the UNHCR to deal with the refugee problem. It is an expectation that when the reasons for flight are resolved in the country of origin, refugees will return to their habitual place of residence.

<sup>77</sup> Prima facie- When there is a case of mass influx, the status determination is done on a group basis rather than individual basis.

<sup>78</sup> Kirisci, K., "Refugee Movements and Turkey." *International Migration*. (1991), Vol.29/No: 4, pp:545-555.

<sup>79</sup> See in Kirisci, *World Refugee Survey: 1991 in Review* (US Committee For Refugees, Washington DC, 1992).

refugees repatriated with the help of the UNHCR and their own governments.<sup>80</sup> The refugee camps were not fully emptied when in April 1991, thousand of northern Iraqi Kurds fled their homes and came to Turkey. The Turkish National Security Council decided that a flow of Kurds into Turkey constituted a threat to national security. Due to this concern Turkey closed its borders with Iraq and announced that it would consider military intervention if necessary to prevent the refugee flow, unless the United Nations Security Council acted on the issue. A Turkish Minister of State, Kamran Inan, stated that “the world did nothing then to help us house and feed refugees. At the outset of the 1991 crisis, the Turkish government decided not to repeat what they saw as their mistake in 1988.”<sup>81</sup> However, the ethnic and family affiliation between refugees and the population around the border areas, accompanied with the international pressures, created flexibility in the policies of the Turkish government. After several meetings and tight negotiations between the UN Coalition and Turkish officials a resolution was adopted in the Security Council. At around the same time President Bush announced that the United States would give support to a NATO ally that had proved its loyalty during the Gulf War.<sup>82</sup>

On April 16, 1991, US troops entered northern Iraq to create a “safe haven”. In a few weeks time thousands of people were repatriated from Turkey and camps were emptied. After the creation of a “safe haven” in northern Iraq, until September 1991, both the US ground troops and air forces remained in southeastern Turkey. In September 1991, the ground troops withdrew, whereas air wing remained at a NATO base. The mandate of this force has been renewed on a number of occasions for six

---

<sup>80</sup> Ibid.

<sup>81</sup> See in Kirisci, Milliyet, 4 April 1991.

<sup>82</sup> See in Kirisci, Newsweek, 29 April 1991.

months period by the Turkish Parliament.<sup>83</sup> After the establishment of a safe zone in northern Iraq, Turkish authorities became increasingly reluctant to apply a gentleman's agreement to asylum seekers from this area.

Turkey was also worn out by Iranian refugees who fled from Khomeini's regime during the 1980s. However, it demonstrated flexibility in terms of their entry into the country. On Iranian refugees Turkey was very reluctant to satisfy internationally accepted humanitarian norms because of its concern at offending Iran by accepting large numbers of Iranians.

Table 3: Number of Asylum Seekers in Turkey by Country of Origin, 1983-1997<sup>84</sup>

Year	from Iran-Iraq	Other	Total
1983	800	350	1,150
1984	2,000	100	2,100
1985	3,500	50	3,550
1986	3,900	50	3,950
1987	6,400	100	6,500
1988	56,500	100	56,600
1989	3,000	300	3,300
1990	2,136	403	2,539
1991	12,301	129	12,430
1992	7,195	154	7,349
1993	5,797	147	5,941
1994	3,246	171	4,417
1995	3,674	150	3,824
1996	4,073	187	4,260
1997	4,331	117	4,448
<b>TOTAL</b>			<b>122,358</b>

As it can be seen in Table 3, between 1983 and 1997, Turkey received 121,361 refugees which brings an annual average of 8,091 asylum seekers. This number is a very high number for a country who does not accept non-Europeans as refugees. Non-conventional refugees are the most problematic case for Turkish government because the law on settlement and municipal law restricted free acceptance of refugees

<sup>83</sup> Ibid.

whereas illegal entry and overstay are also defined as violations. Considering the refugee policies of Turkey especially for non-Conventional refugees, UNHCR plays a crucial role in their protection.

## ***2.4 United Nations High Commissioner for Refugees-UNHCR in Turkey***

UNHCR, in general, has six functions in dealing with refugee problems: protection, assistance, promoting solutions, repatriation, local integration and third country resettlement. Its founding statute entrusts UNHCR with two main and closely related functions-to protect refugees and to promote durable solutions to their problems. Protection lies at the heart of the organization's efforts to find lasting solutions to the plight of refugees and provides the context in which it carries out its relief activities. International protection is essential, but alone it is often not enough. When large-scale refugee influxes occur, it is vital to be able to respond rapidly despite difficult conditions. People leave their homes with little or no means of sustaining themselves. Food, water, sanitation, shelter and medical care have to be provided, often in inaccessible places under extremely difficult circumstances. Neither the country of first asylum, which usually has primary responsibility for assistance, nor the voluntary agencies may be in a position to provide the funds needed to finance all such measures. In these cases, in answer to a request from a government, UNHCR applies its funds to projects that are designed to supplement the assistance being given by the government and other sources. In seeking durable solutions to refugees' problems, UNHCR attempts to help those who wish to go home. Where repatriation, the best solution, is not feasible, it helps to integrate

---

<sup>84</sup> Source- UNHCR Reports.

refugees in countries of asylum or, failing that, to resettle them in other countries. In cases where voluntary repatriation is unlikely to take place in the foreseeable future, the best solution is often to settle refugees in their host country. This can only be done, however, with the agreement of the government of the asylum country concerned and, as refugee numbers have escalated, local settlement opportunities have tended to become restricted. For refugees who can neither return to their country of origin nor safely remain in their country of refuge, the only solution is to resettle in a third country.<sup>85</sup>

UNHCR's role in Turkey is primarily based on the refugee status determination for non-European refugees and their resettlement in third countries. However, as will be discussed in the Chapter 3, with the 1994 Regulation, the Ministry of Interior became the final body for decision-making for status determination. Since Turkey, by law, bans non-Turks or non-affiliated ones with Turkish culture from citizenship, local integration in Turkey for non-Europeans is not a case. Repatriation, on the other hand, is not likely to be preferred by non-European refugees since the political atmosphere in the area is not stable.

UNHCR's traditional activities in Turkey have principally concerned the needs of individual asylum seekers from Iran and Iraq since they constitute 96 percent of asylum-seekers in Turkey. If they are accepted as refugees then, consistent with government policy, UNHCR helps them resettle in third countries. Pending their departure, UNHCR assists financially and provides medical care.

---

<sup>85</sup> The State of the World's Refugees. UNCHR 1997.



As Table 4 indicates, the numbers of Iraqi and Iranian refugees are very high and this situation attributes the UNHCR Ankara Office an extremely important role in Turkey's refugee policy making.

With the Gulf War UNHCR's activities in Turkey expanded considerably. UNHCR assisted the government with five refugee camps for Iraqis and arranged a durable solution for several thousand refugees mainly Iraqis. Following the return of the majority of Iraqis to their country after the mass influx, the UNHCR undertook to clean up some of the mountain camp sites and, in support of the reintegration of Iraqis back home, purchased considerable humanitarian and relief materials in Turkey.

Table 4: Number of Refugees Resettled From Turkey by Country of Origin  
1987-1997 <sup>86</sup>

Year	from Iran	from Iraq	Other	Total
1987	609	21	8	638
1988	1,282	131	12	1,425
1989	1,284	310	61	1,655
1990	956	518	208	1,682
1991	1,023	147	73	1,243
1992	1,190	4,018	39	5,247
1993	744	3,229	9	3,982
1994	889	1,114	22	2,025
1995	984	674	19	1,677
1996	993	584	20	1,597
1997	924	615	21	1,560
<b>TOTAL</b>				<b>22,731</b>

Since 1992, UNHCR has responded to requests to assist Bosnians who have sought temporary haven in Turkey. A camp has been established near Kirklareli and UNHCR has provided housing units and cash inputs for other essential supplies and infrastructure. UNHCR continues to address the needs of the Bosnian population in Kirklareli and has started new projects for the assistance of vulnerable Bosnian

<sup>86</sup> Source- UNHCR Reports.

families, including women-headed households, children and elderly people living outside the camp, mainly in Istanbul. Along with these activities, since 1997 UNHCR has maintained an international presence in Silopi in Southeast Turkey to register returnees and to monitor their situation in places return.

As mentioned earlier the most effective protection mechanism that UNHCR use in Turkey is resettlement. As Table 5 indicates UNHCR plays a major role in the resettlement of non-European refugees.

As the numbers, events and refugee policies of Turkey indicate a cooperation between UNHCR and Turkish authorities is a must. Nevertheless this relationship, from time to time, had its ups and downs due to the differences in the opinions and interests.

Table 5: Number of Refuges resettled from Turkey, 1987-1997 <sup>87</sup>

<b>Year</b>	<b>to Oceania</b>	<b>to North America</b>	<b>to Europe</b>	<b>Total</b>
1987	10	168	460	638
1988	28	697	700	1,425
1989	35	749	771	1,555
1990	89	941	652	1,682
1991	290	625	328	1,243
1992	679	2,570	1,992	5,241
1993	153	3,078	751	3,982
1994	415	1,293	453	2,161
1995	538	798	341	1,677
1996	442	740	355	1,537
1997	309	603	648	1,560
<b>TOTAL</b>				<b>22,701</b>

Especially after the Gulf crisis (1990-1991), when new developments in Turkish governmental practice towards “non-convention” refugees appeared with the establishment of a safe zone in northern Iraq, the reluctance of Turkey about asylum

<sup>87</sup> Source- UNHCR Reports.

seekers has led to some friction between Turkey and the UNHCR on the asylum seekers who have been recognized as bone fide refugees due to the human right violations. For example when thousand of Turkish Kurds-mostly from Sirnak- fled Turkey in April 1994, due to the fighting between the Turkish forces and PKK in Southeast Turkey, UNHCR assisted 8,000 persons in towns and villages along the Iraqi side of the border. This followed by a second flow in July/August 1994, of refugees who arrived from villages in Hakkari. By the end of August, more than 10,000 people had settled across the border. However, the continued violent conflicts at the border put refugees at risk and led the refusal of some NGOs to operate in the area by the Turkish authorities. UNHCR transferred 8,600 people to two sites in Atroush. UNHCR established a sub-office in Dohuk to co-ordinate assistance activities in Atroush. While armed conflicts intensified between KDP (Kurdistan Democratic Party) and PUK (Patriotic Union of Kurdistan), Turkish military operation in March-May 1995 scattered PKK elements throughout the Dohuk Governorates. Turkish authorities made a strong statement to the press that a quick solution must be found to the Atroush camp due to a firm conviction that Atroush camp was a base for PKK terrorists. Not taking the convictions into that much of a consideration UNHCR increased its presence in the area, though monitoring during the evenings became impossible for security reasons.

A meeting was held in Ankara in 30-31 October between the representatives of the KDP, PUK, Turkoman Front, Turkey, UK and USA, to discuss the settlement of the conflict in northern Iraq. Article 22 of the Final Statement of the meeting states that the participants agree to work with and support UNHCR for the immediate voluntary repatriation of Turkish citizens in the Atroush camp, which the participants understand to be closed. On 21 December 1996, UNHCR delivered the camp to the

local authorities. However, Atroush camp gave Turkish authorities a support to justify their reluctance about the asylum-seekers who are coming from that region.

An official who did not want his name to be announced during an interview stated that the UNHCR and other international organizations as well as some NGOs do not understand the critical position of Turkish government. Turkey due to its logistical importance have to be very careful especially about the humanitarian aid send to the region. He stated that Turkish authorities found some military equipment in the humanitarian aid boxes which is a very sensitive issue for the national security and integrity of the country. With this statement he highlighted the skepticism of Turkish authorities about some international organizations and NGOs supporting terrorism in the area. He strongly mentioned that terrorism, drug and people tracking, transfer of a regime to Turkey are very important parameters for the integrity of the country and any situation supporting those are intolerable for the authorities.

## ***2.5 Turkey as a Transit Country***

The two-sided concerns, one coming from the West, in terms Turkey lacking enough humanitarian norms, and one from Turkey, about its territoriality, turns the refugee problem into a more complex issue. As mentioned earlier Europe while increasing the restrictive measures on its borders, also is undergoing a series of transformations. European Union is a very important aspect of this changing Europe.<sup>88</sup> The member states to the EU want the peripheral states to be more cautious about their own borders. Even within the EU, for example Spain, has been heavily

---

<sup>88</sup> O'Dowd, Liam, Wilson, Thomas "Frontiers of Sovereignty in the new Europe" in *Borders, Nations and States*, ed. by O'Dowd, Liam, Wilson, Thomas. (Vermont, USA: Ashgate Publishing Company, 1996).

criticized for not protecting their own border to Morocco. At this point Europeans criticize Turkey not protecting their borders. Turkish authorities, on the other hand, have always verbalized their irritation of both becoming a transit country and a buffer zone. Especially the Iranian Revolution, the end of the Cold War, the Gulf War and the events in the Middle East turns Turkey into a “de facto first country of asylum”.<sup>89</sup>

When over 1,200 persons arrived in the Southeastern coast of Italy in late December 1997 and January 1998 these two-sided concern became updated. Two ships, took off from Turkey, one on December 27,1997, and other on January 1, 1998, carried 1,225 people and dropped them on the shores of Italy. The majority of the group consisted of ethnic Kurds from Turkey and Iraq but also there were Egyptians, Bangladeshis, Sri Lankans and Algerians.

Many of these people arriving to Italy have been announced as the victims of unscrupulous traffickers who demand huge sums of money, forcing them to sell their possessions and even homes to pay for the trip. These people appear to be moving primarily for economic reasons and are attempting to go to countries in Europe. Italian government allowed all the migrants to apply for asylum access to the asylum process. UNHCR applauded this attitude however some of the EU governments have overreacted upon the arrival in Italy. Organizations like ECRE accused these countries of encouraging xenophobia for overreacting on the issue of arrival in Italy and seeking refuge of migrants.

The Chief of Police from all the Schengen countries together with the Chief of Police from Turkey met on 8 January, 1998 in an attempt to reach an agreement on a

---

<sup>89</sup> Icduygu, Ahmet, Keyman, E.Fuat, “Globalization, Security and Migration: The Case of Turkey.” *Paper prepared for the Session on Security and Migration at the Conference on International Migration: Challenges for European Populations.* Bari, Italy, 25-27 June, 1998.

number of states regarding the recent wave of clandestine arrivals in Italy which has generated harsh criticism from other European partners and sparked fear that Italy's open policy could generate a wave of immigration heading northward. At the meeting Turkish authorities made a proposal on their willingness to readmit all Turkish nationals who arrive in Italy regardless of their illegal departure. Also illegals of other nationalities would be readmitted by Turkey if Italy makes the official request within 48 hours. Turkish police offered to collaborate with the Italian police to strike at organizers of illegal movements and to reinforce control at ports of departure.

The secretary-general of Interpol made an important highlighting about this meeting with his speech to Reuters by stating that the issue is up to politicians rather than police respond to the recent influx of Kurdish immigrants seeking asylum in Italy. He also added that many reports described the 1,200 Kurds as "illegal immigrants", but if this were the case, they could simply be sent home. The problem with these immigrants was that they saw themselves as political refugees who faced persecution at home. While Turkish authorities announcing that it would not be surprising if the PKK were involved in the trafficking, a state secretary in the German Interior Ministry, Eduard Lintner, stated that there was suspicion that Turkey was not doing as much as it could to stop the Kurds leaving the country, possibly because of the dispute between Ankara and the EU over Turkey's application for membership of the 15-nation bloc. He also added that "It is hard to imagine that the Turkish security forces would not have noticed ships of this size."

In sum, the earliest notion of "sanctuary" and "asylum" followed directly from the idea of a polity having exclusive sovereignty over specified territory: when an individual fled from his or her native land to another country, presence in the

receiving state offered “protection” because the country of origin could make no claim that its laws could control within the territory of another state.<sup>90</sup>

As Driessen argues:

“The border zones are where societies are most vulnerable, where identities are made and unmade, where cultural categories shift and change. The control of boundaries basically a protection of national sovereignty and identity, a control of the “us-them” divide. From an anthropological perspective, a border or frontier is better conceptualized as a shifting space in which peoples with different identities and cultural backgrounds meet and deal with each other. One of the basic questions of border ethnography is the way strangers are treated. In the modern era of nation-states strangers are aliens- legal or illegal, permanent or temporary immigrants refugees.”<sup>91</sup>

So when refugee issue comes to a point where it creates a distinction between “us” and “them” then security as a self-referential practice becomes a critical problematic and prepares the grounds to discuss “securitization” of the refugee concept.

In the next chapter this study will try to analyze how a transition occurred in the refugee concept in the comparative turmoil of ‘now’ and ‘then’ in terms of Cold War and post Cold War period. Turkey as a unique case represents an illustrative case of this transition. Chapter 3 in this sense tries to contextualize the refugee issue with reference to such concepts as identity, security, national integrity and sovereignty. The 1994 Regulation of Turkey is a case that exemplifies the problematical relation among these concepts.

---

<sup>90</sup> Ibid.

<sup>91</sup> Driessen, H. “At the edge of Europe: Crossing and marking the Mediterranean divide” in Ed.by O’Dowd, L., Wilson, T. *Borders, Nations and State*. (Vermont: Ashgate Publishing Company, 1996).

## CHAPTER III

### SECURITY, IDENTITY and REFUGEES; The 1994

#### REGULATION of TURKEY

[t]he refugees' concern is not for order, systems, or bureaucracies, nor for the general welfare. Their concern, rather, is for survival-their own and that of their families. Governments, on the other hand, have competing concerns: the sovereignty of borders, relations with neighboring countries, controlling immigration, promoting ruling ideologies, placating public opinion. If offering asylum to a refugee is consonant with those concerns, a government might come to his aid. If, however, the government can not see a benefit in terms of its own interests, there is little incentive to pay the costs associated with extending protection to the refugee.

Bill Frelick

The previous chapter was concerned with the profile of the refugee movements into Turkey. However, the policy responses of nation-states to different refugee groups is a complicated issue. In the literature of international relations there are four broad areas that affect refugee policies: First is the bureaucratic choices made by governments, second is international relations of the host country, third is the absorption capacity of the local host community, and finally the national security considerations.<sup>92</sup> In the refugee policies, the nation state uses its own authority and makes a decision which bureaucratic mechanisms it will use. In cases where state allocate responsibility to a civilian state agency, such as the Ministry of Interior or Social Welfare, that is usually an indication that refugee policy is "high" policy, that is an act of national security or foreign policy. If the refugee policy is "low" politics, the refugee agencies set policy. When the army is in charge of refugees, then this is mostly the indication of a concern for national security and a sign that few officials

---

<sup>92</sup> Jacobsen, Karen. "Factors Influencing the Policy Responses of Host Governments to Mass Refugee Influxes." in *International Migration Review*. (1996), Vol:30, No:3. pp:655-678.



have any self-interest in the refugee's welfare. In this case refugees are perceived as an extra burden.<sup>93</sup>

The international relations of a state are as important as its bureaucratic choices because international relations are mostly the determining factor in the bureaucratic choices. International assistance, promises of resettlement in third countries, threat of bad international reputation and publicity may be the forces which might influence state's bureaucratic choices. However, the role of international agencies should not be overestimated. Nation states are very sensitivity on the issues that are related to their national sovereignty. As Jacobsen puts it "[by] demonstrating that borders cannot be controlled, a mass influx challenges and undermine the government's sovereign right to determine who enters its territory."<sup>94</sup> Furthermore, the government's dependency on international assistance in the case of mass influx may lead to the idea that with this international assistance other entities find a right to intervene the state's domestic affairs. In additional to all these relations between UNHCR, host governments, and voluntary agencies can become conflictual. Government officials may react by asserting their independence with obstructive tactics. As well, the relations between the host country and the sending countries are decisive. Local absorption capacity, economic capacity, social receptiveness within the host country may influence refugee policies. Social receptiveness is mostly related to the cultural meaning of refugees which is influenced by cultural, historical and religious factors. Beliefs about the refugees are influenced by community's understanding and perception of the refugee flows. Negative beliefs about refugees

---

<sup>93</sup> Keely, Charles. "How Nation-States Create and Respond to Refugee Flows." In *International Migration Review*. (1996), Vol:30, No:4. pp:1046-1066.

<sup>94</sup> Ibid.

may be motivated by psychological fears. When it is believed that refugees are the causes of social problems, then public sympathy dies.

Security threat is another important issue in refugee policies. The conventional understanding of national security is based on the concept of military threats arising either externally or internally (Nye and Lynn-Jones, 1988). The revisionist view (Ulman, 1983) departs from the militaristic conception of national security to environmental to economic factors. A third conception of security is the combination of these two and perceives the military's role for external threat and regime as a capacity of government to protect itself from internal threats. Refugees threaten all three security dimensions.<sup>95</sup> Security concerns involved in the refugee concept require a rethinking of security.

### ***3.1 Rethinking Security in Post-Cold Era***

The nation state is the mold in which most of our political ideas are shaped. As Waever argues, it is revealed that concepts like community, democracy, security and identity are not only recurrently applied to the nation-state, they are also marked by it. However, with a processes of globalization rethinking of the nation-state, nation, state, citizenship, identity and multiculturalism gained weight. For a decade or so, one of the most important topics in political science literature has been the question of the relationship between the nation-state, identity and statelessness. As mentioned earlier, contemporary developments in Eastern Europe, the Soviet Union and refugee problems, which have created a new crisis in the contemporary political system, are the foci of this regenerated question.

---

<sup>95</sup> Jacobsen, Karen. "Factors Influencing the Policy Responses of Host Governments to Mass Refugee Influxes." in *International Migration Review*. (1996), Vol:30, No:3. pp:655-678.

During the Cold War security issues were defined and analyzed in terms of geopolitics and ideologies which were addressed narrowly from an interstate level of analysis. However, with a global squeeze towards nation states the militarized conception of security that grounded international relations during the Cold War is being challenged by multifaceted and holistic conceptions (Bush and Keyman, 1997).<sup>96</sup> Nevertheless the concept of security as we know it from 'security policy' has no meaning independent of its referent object which is the nation-state.<sup>97</sup> Due to this interdependency the security of individuals is irreversibly connected to the state, so, as state and society become increasingly indistinguishable, in their security (Buzan, 1991).<sup>98</sup> Security therefore ends up meaning everything that is good. As Waever discuss then "[t]he individualization of security usually contribute to a very wide extension of what is security relevant. This alternative concept of security therefore that still wider areas are 'securitized': environmental security, immigrants as a security problem etc."<sup>99</sup> Waever continues with an important point: "By treating, for example, the environment or immigrants as security problems, these issues are conceptualized in a specific way with connotations drawn 'security': a threat against which to defend, a role for the state, the problem is outside ourselves." At this point the realist logic of security, founded on the primacy of state sovereignty, failed to capture the transformation of mainstream security thinking from sovereignty to identity and widen the gap between state and nation. The fading of military threats

---

<sup>96</sup> Bush, K., Keyman F. "Identity-Based Conflict: Rethinking Security in a Post-Cold War World". *Global Governance*. (1997), Vol.3, pa: 311-328.

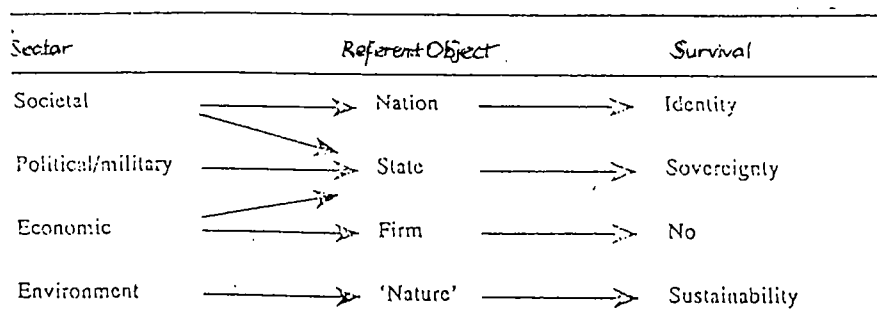
<sup>97</sup> Waever, Ole, "European Security Identities." *Journal of Common Market-Studies*. (1996), Vol. 34, No.1.

<sup>98</sup> Buzan, Barry. *People, States and Fear*. (NY: Harevester Wheatsheaf, 1991).

<sup>99</sup> Ibid. Waever.

naturally causes other types of threat to come more clearly into view, but it is also true that other types of threat are rising in importance regardless of the decline of military concerns. Theoretical and historical analyses of identity should be sought for a holistic picture of security. On the refugee issue, security should be viewed as “related to the interpretation of and response to, real and perceived threats and dangers that are understood to be integral to, even generated by, the construction and maintenance of identity”.<sup>100</sup> Waever argues that security is a self-referential practice, it is not a question of measuring the seriousness of various threats deciding when they ‘really’ are dangerous to some objects.

As Ole Waever illustrates in Figure 3 security is a matter of survival. Anything outside of “us” becomes “them” and a threat to the survival of “us”.<sup>101</sup>



*Figure 3: The Dialectics of Security*

From 1980s onwards, a shift from politicization to “securitization” of the refugee concept occurred in Turkey parallel with the trends in the West. The study of statelessness has historically been dominated by legal experts, with the result that much of the existing literature on the subject is somewhat technical and apolitical in nature. The unwillingness of governments to assume their proper responsibility in relation to the question of citizenship has important implications for both human

<sup>100</sup> See footnote 84.

security and the security of states. Statelessness is a threat to peace and security because it is a manifestation of intolerance and prejudice.<sup>102</sup> The securitization of the refugee concept revises many other socially, politically and economically related concepts such as xenophobia, racism, discrimination and prejudice.

Turkey as a nation-state, which lacks an effective migration policy and perceives asylum-seekers from the South-East and Middle East regions as a security threat to its national integrity and territoriality, is a country of transit migration and asylum and a refugee producing country; illustrates a unique case to revise this securitization.<sup>103</sup>

### ***3.2 Historical and Theoretical Analyses of Identity and Refugees; Securitization of the Refugee Policies in Turkey***

Since the establishment of the Turkish Republic, different than the multi-ethnic and multi-religious nature of the Ottoman empire, the “Turkishness” of the country has been emphasized. Kemalist reforms attempted to change the life styles, the ways people behave and think; they attempted to change the self-conception of Turks. Hence this manufactured character of the republican Turkish identity brought up the question of nationality in Turkish polity. As Kadioglu argues, the question of nationality in the Turkish polity was not posed as ‘Who are Turks?’ but rather as

---

<sup>101</sup> See Waever Ole, p.109.

<sup>102</sup> UNHCR Report.

<sup>103</sup> Icduygu, Ahmet, Keyman, E.Fuat, “Globalization, Security and Migration: The Case of Turkey.” *Paper prepared for the Session on Security and Migration at the Conference on International Migration: Challenges for European Populations.* Bari, Italy, 25-27 June, 1998.

‘Who and/or how are Turks going to be?’<sup>104</sup> When the overall profile of construction of Turkish identity is taken into account it can be seen that it was constructed on the basis of the notion of citizenship which was formulated as “militant citizen” who is both the object and the subject of the Kemalist will to civilization.<sup>105</sup> As Said has mentioned, the development of the notion of citizenship in the Turkish polity was embedded in the process of creating a homogenous public.<sup>106</sup>

Nevertheless, parallel with the trends going around the world during last decades, different demands for different identities have began to take place in Turkish politics. The reemergence of Kurdish nationalism and the rise of Islam challenge the cultural homogeneity aspect of nation building in Turkey. On that account national security came to a point that it cannot be considered apart from the internal structure of the state, and the view from within not infrequently explodes the superficial image of the state as a coherent object of security in Turkey. Within the externally-oriented conception of national security appropriate to strong states, Turkey perceived neighboring countries as a potential threat to its national security.<sup>107</sup>

This frame of a national identity understanding keeps some doubts about other nationals’ citizens who fled from their countries and became refugees. First one, especially after the national propaganda, “Love or Leave”, used for Kurdish nationalists Turkish public as well as authorities started to perceive refugees who wish to settle permanently in an other country as; refugees are betraying their nation and

---

<sup>104</sup> Kadioglu, Ayse. “The Paradox of Turkish Nationalism and the Construction of Official Identity”. *Turkey: Identity, Democracy, Politics*, in ed. by Kedourie S. (London: Frank Cassand Co.Ltd., 1996).

<sup>105</sup> Ustel, Fusun. “The Profile of Citizenship since the Republic”. *Yeni Yuzyil* April 24, 1996.

<sup>106</sup> Said, Edward. *Reiterating European Superiority over Oriental Backwardness*. (NY: Vintage Books, 1978).

<sup>107</sup> Buzan, Barry. *People, States and Fear*. (NY: Harevester Wheatsheaf, 1991).

should return home to develop their own country. Turkish understanding of citizenship bears an understanding that everyone born as a citizen of a particular country and has, for the remainder of their lifetime, duties in relation to the state-bounded community. This understanding leads to other doubts:

The second doubt is citizenship rights cannot be given to any foreigner whose culture, tradition and beliefs are “different”. If a citizenship right will be given then the Ministry of Interior decides who can be granted this status.

The third is foreigners have no rights, no right to demand rights. This idea mostly comes with a legitimizing point: Turkey as a country whose geopolitical position is extremely important to the world politics has to be very careful in the implementation of its democracy. In the Turkish style of democracy not too many demands can be done in relation to civil rights due to Turkey’s critical position so if a demand can be done then only Turks can do that. An Interior Ministry official said, “Our first consideration is the security of the country. As Turkish citizens, we live in an uncomfortable area. We have to consider the internal security of our country when implementing domestic law and regulations. All our regulations respond to the logic of stabilizing the security of our country.”<sup>108</sup>

The fourth, refugees usually have a lot of dependents. Turkey as a country whose national resources are limited should not spend these resources on foreigners.

The fifth, is many of the refugees are criminals and they do not respect the host country’s laws and therefore are not entitled to equal protection under the law of the land. A common belief, established after the fall of the USSR, is that illegal or legal

---

<sup>108</sup> Frelick. Bill, “Barriers to Protection: Turkey’s Asylum Regulations.” *International Journal of Refugee Law*. (1997), Vol.9, No.1.

asylum seekers, during their status determination and resettlement period, were often involved in drugs, prostitution and Mafia relations.<sup>109</sup>

Haluk Gerger, in “The Political Economy of Turkish Foreign Policy” puts forward an interesting argument about Turkey’s foreign policy making. He argues that Turkey, in return for the foreign aid it borrowed from the Western countries offered its advantages of geopolitical and strategic position and as a pay back used its military to create a stable region within an unstable area. Gerger, goes on with an argument that the amount of the aid Turkey received is determined according to the geopolitical importance of Turkey to the lending country. When the strategic importance of Turkey increases, geopolitical importance also increases. For that reason Turkey needs a tension and friction in the area to keep its status as an important element in the world politics. This leads Turkish diplomacy to adopt a militaristic trend.<sup>110</sup>

As mentioned above the doubts about the refugees in Turkey are outcomes of Turkey’s foreign policy and show this militaristic trend as well. The end of the Cold War brought major changes in Turkish foreign policy as well as in international politics. The new perception of Turkey’s role has translated itself in greater Turkish diplomacy activity. In the 1990s, Turkey started to take an active role in UN in terms of contributing to the creation of a system of interlocking organizations to improve European security and particularly took place in the adoption of a declaration against racism and the appointment of a rapporteur to monitor racist attacks on foreigners in European countries. In addition contributed to stability by encouraging economic

---

<sup>109</sup> Hintjens, H. M., “Immigration and Citizenship Debates: Reflections on Ten Common Themes” *International Migration*. (1992), Vol.30/No: 11, pp:5-15.

<sup>110</sup> Gerger Haluk. *Türk Dis Politikasinin Ekonomi Politigi (The Political Economy of Turkish Foreign Policy: From Cold War to New World Order)*. (Belge Yayınevi; Ankara, 1998).



interdependence with Central Asian republics in the establishment of Black Sea Economic Cooperation Organization (BSECO).<sup>111</sup> This new role of Turkey and its traditional background are contradicting with each other and turn the refugee policies into a more complicated issue.

Turkey as being a torn country whose leaders are willing to make their countries Western where the culture, history and traditions of the country is non-Western create differences over the policy issues ranging from human rights to immigration, trade and commerce, and environment (Huntington 1993).<sup>112</sup> Then as Caglar Keyder mentions “Of all countries at the periphery of the European Union, the question of inclusion or exclusion presents Turkey with the greatest problems concerning identity.”<sup>113</sup> Turkey, on the one hand has emotional ties with Europe. It is a goal to be European but on the other is excluded from Europe. This antagonistic relationship causes some skepticisms on each side to the other side. While Europeans say being European is cultural and political as well as economical, Turkey says Europeans have double standards for Turkey.

The nine countries in the resettlement handbook of the UNHCR which are among the most refugee receiving countries have certain criteria for admissibility for resettlement in their countries. These countries publicly announce that people who can not meet these criteria can not enter their country.

---

<sup>111</sup> Krisci, Kemal. “New Patterns of Turkish Foreign Policy Behaviour” in *Turkey: Political, Social and Economic Challenges in the 1990s* ed. Cigdem Balim. (NY; A.J. Brill Leiden, 1995).

<sup>112</sup> Muftuler, Meltem. *Turkey's Relations with a Changing Europe*. (UK; Manchester University Press, 1997).

<sup>113</sup> See Muftuler, quotation from Caglar, Keyder, “The Dilemma of Cultural Identity on the Margin of Europe” *Review*, 16:1 (1993),p.19.

These criteria are applied very strictly due to these strict applications as mentioned earlier today Third World share 80 to 90 percent of the world's refugees.

Table 6- Resettlement Criteria mentioned in UNHCR Handbook

<b>Resettlement Criteria for Nine Most Refugee Receiving Countries</b>					
	Integration to the Society	Medical Check	Security Screening	Military Orientation	NSC*
Australia		Required	Required		
Canada	Required	Required	Required	Required	
Denmark					Yes
Finland	Required		Required		
New Zealand	Required		Required		
Norway	Required				
Sweden		Required	Required	Required	
Switzerland					Yes
USA		Required	Required	Required	

\*No Special Constraints Given Before Hand.

\*Medical Check: Some communicable diseases, physical or mental disorders, and current drug abuse or addiction.

\*Integration to the Society: It requires a proof that individual has a potential to become self-sufficient within a year.

\*Security Screening: Individuals who have committed crimes of moral turpitude, drug-trafficking, multiple criminal convictions, prostitution, murder or acts involving persecution or torture.

\*Military Orientation: Espionage, terrorist activity, membership in Communist or other totalitarian parties, Nazi persecution or genocide, or individuals who would present a serious threat.

From where it stands Turkey has serious doubts about becoming a buffer zone country to the West. On the refugee issue Turkish authorities are claiming that Europeans do not have any right to criticize Turkey because their resettlement criteria are not very humanitarian at all. Authorities always verbalize that Western countries are taking the most qualified refugees and leave the rest to find their own ways. In the case of any intervention to Turkey's refugee policies Turkey uses this thesis of becoming a buffer zone. Although Turkey has some good grounds to put this thesis forward, this turns the issue more into a security problem.

As Hathaway considers legal definitions and international conventions have evolved to include and exclude varying groups and individuals on different criteria

according to the character of a particular period.<sup>114</sup> With Hathaway's prelude in mind, the intensity to mass human dislocation and changing profile of the received refugees resulted in the redefinition of Turkey's perception towards the refugee concept as Conventional, National and Non-Conventional refugees. Till the 1980s Turkey had to deal with national and conventional refugees only. The favorable treatment to Conventional refugees was mainly due to two political reasons. The first was the anti-communist stance of Turkey in its foreign policy and the second was the small number of Europeans resettled in third countries with a help of an international organization. On the other hand, for national refugees the Turkish government used the Law on Settlement, the Citizenship Law, the Passport Law, the Law on Sojourn and Movement of Aliens and Military Law as the sources on decision-making for refugee related issues. Principally, the Law on Settlement governed the process for national refugees. This Law stipulated that only refugees of Turkish ethnic descent and of Turkish culture are entitled to Turkish citizenship. The Council of Ministers decided which group is qualified to Turkish citizenship in accordance with their ethnic and cultural descent.

However, from 1980s onwards the non-conventional refugees started to challenge the practices of Turkish authorities in relation to refugee policies. First, non-conventional refugees were coming in large numbers; second their resettlement was not guaranteed; and third, Turkey did not have international obligation for non-conventional refugees. This was a challenge not only to the refugee policies of Turkey but to its sovereignty as well. As David Held argued sovereignty itself was divided among number of national, international and transnational agencies and

---

<sup>114</sup> Hathaway, J.C. "The evolution of refugee status in international law: 1920-1950." *International and Comparative Law Quarterly*. (1984), Vol:33.

although Turkey did not have any international responsibilities for non-conventionals, it was forced to act harmoniously with the international organizations in the mass influxes of non-conventional refugees.

Turkish officials consider the neighboring areas in the Middle East highly unstable and prone to refugee movements. From that point of view refugee movements from this area are a potential threat to Turkey's national security. The law on settlement and the municipal law restricted the free acceptance of refugees, while illegal entry and overstaying were also defined as violations. However, Turkey demonstrated flexibility in its attitude towards large number of Iranians fleeing from Khomeini's regime in the 1980s but failed to meet internationally accepted humanitarian norms because of its concern to offend the Iranian government. The refugee movement from Iran also created a concern about transferring a radical Islamic regime from Iran, supporting Islamic movement in Turkey. Although discouraging Iranians from formally seeking asylum, the task of status determination was left to the UNHCR office in Ankara and the Turkish authorities allowed Iranians to reside temporarily in Turkey. From the late 1980s onward other nationals who were called non-conventional refugees by the Turkish authorities started to benefit from this arrangement. However, bona fide refugees or 'people of concern' to UNHCR had either entered the country illegally or had failed to register with the Turkish police. In these circumstances Turkish officials refused to allow the refugees to leave the country for resettlement when they did not have passports with valid entry stamps into Turkey.<sup>115</sup> With the Kurdish-Turkish conflict in South East Anatolia, Turkey did not want refugees of Kurdish descent because of the concern that they

---

<sup>115</sup> See in Kirisci, Turkish Daily News, 7 January, 1994.

would support the PKK. Furthermore, illegal entry created a considerable doubt on the ability of Turkey to control frontiers, which was an intervention to its national sovereignty.

As mentioned earlier another increasing concern among Turkish officials was that Europe saw Turkey as a buffer zone, preventing refugees from the Middle East, Asia and Africa from reaching to Europe. The general belief among Turks that Turkey did not have the economic resources to extend general support was accompanied by resentment that Europeans did not share the burden during the mass influxes. The increasing doubts on double standards of European countries and their criticism of Turkey on humanitarian issues were reflected in Turkey's attitude towards asylum-seekers.

By the beginning of 1990s the Turkish authorities had become really concerned about Turkey becoming a transit country for migrants. Especially after the establishment of a safe zone in northern Iraq, they became increasingly reluctant to apply the working relationship to asylum-seekers who are in the category of non-conventional refugees.

### ***3.3 The 1994 Regulation***

The increasing conflict between the UNHCR and Turkish authorities resulted in July 1994, when the Turkish authorities introduced their own status determination, which was formalized with the introduction of the Regulation in November 1994. The regulation is called: *“The Regulation on the procedures and the principles related to mass influx and the foreigners arriving in Turkey either as individuals or in groups wishing to seek asylum either from Turkey or requesting residence*

*permits with the intention of seeking asylum from a third country” (Please see appendix)*

The regulation is divided into five sections. The first section (article 1-3) defines the purpose of the Regulation as establishing which organizations shall be in charge, to determine the principles and procedures relating to possible mass influx and the foreigners arriving in Turkey as individuals or in groups wishing to seek asylum either from Turkey or requesting residence permits from Turkey with the intention of seeking asylum from a third country, under the 1951 Geneva Convention relating to the Status of Refugees and the Protocol of 31 January 1967 relating to the Status of Refugees.

This section identifies four groups of asylum seekers:

i) Refugee: A foreigner who as a result of events occurring in Europe and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country: or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

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

iii) Belligerent Foreign Army Member: A military person, allowed into or captured in Turkey, whose country of origin is in a state of war or armed conflict with a third country.

iv) Individual Case: An individual person or a family consisting of a father, mother and under-age children.

The second section (Article 4-7) puts the procedures and principles of asylum applications. If the individual foreigners entered the country legally they are required

to apply within five days to the local Governorates and if they entered illegally then they are required to register with the Governorates in the city where they entered the country within five days. The foreigners registration will be done by taking their photographs and fingerprints and interviewing them according to the 1951 Geneva Convention relating to the Status of Refugees. In the next step the interview documents, along with the comments of the Governorate, are sent to the Ministry of the Interior and until further instructions from the Ministry of the Interior the foreigners are kept under surveillance.

The regulation identifies the Interior Ministry as the final decision-making body for status determination. Once a decision is made, then the foreigners are entitled to live in a specific provincial city where they are responsible for a signature duty. The regulation also calls for a cooperation between Interior Ministry officials and the UNHCR.<sup>116</sup>

The third (Article 8) and fourth (Article 9-25) sections of the Regulation deal with mass asylum. Article 8 express that: "Without prejudice to Turkey's obligations under international law and considering the geographical characteristic of a mass influx, it is essential to stop such a movement and the advance of asylum seekers at the borders. The authorities in charge shall take necessary and effective measures to do so." In other words Turkish authorities are calling for keeping refugees from Turkey's frontier.

Article 9 to 25 deal with such matters as the disarming of refugees by military authorities, the establishment of reception camps and centers, human assistance and

---

<sup>116</sup> Kirisci, K., "Is Turkey Lifting the Geographical Limitation?- The November 1994 Regulation on Asylum in Turkey." *International Journal of Refugee Law*. (1996), Vol.8.

regulation of the operations of international operations.<sup>117</sup> Article 24 identifies the responsible body as follows:

“In order to administer any possible mass influx near our borders and to organize the co-operation a Minister of state or the Ministry of Interior as appointed by the Prime Minister shall be in-charge. Representatives of Turkish General Staff, the Ministry of National Defense, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Health, the Ministry of Communications, the Ministry of Agriculture and Village Affairs, other ministries and organizations concerned along with the National Intelligence Services and Turkish Red Crescent Society shall form a provisional main coordination committee. The secretarial duties of this committee shall be performed by the Ministry in charge.”

Part 5 (Article 26-33) introduces general rules and concerning asylum in general. Article 28 requires who has been granted temporary residence to find a third country of resettlement within a ‘reasonable’ period of time and that if he/she fails to do so, the person may find their residence permit not extended and be asked to leave the country. Article 29 defines the procedure for deportation like this:

“A refugee or an asylum seeker who is residing in Turkey legally can only be deported by the Ministry of the Interior within the framework of the 1951 Geneva Convention relating to the Status of Refugees or for reasons of national security and public order.”

Although the regulation can be considered as a major development in the refugee policy of Turkey, it is full of ambiguities starting from the name of the regulation. Nonetheless, on the other hand the Regulation brings a greater degree of clarity to the rights and obligations of all parties with an additional positive development concerning non-refoulement. Previously, non-refoulement for non-Europeans was not clearly recognized and was often a source of conflict between Turkish authorities and the UNHCR, Western governments and non-governmental organizations.<sup>118</sup>

---

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.



It has been a short time since the Regulation was implemented but its ambiguities create some practical problems. The time limits for example are not clearly defined. The asylum application has to be completed within five days says the Regulation. However, it is not clear if this five day limit is five working days or any five days or whether it includes official holidays. Again on the time limitation article 28 says resettlement has to be done within a 'reasonable' time period, which lends itself to subjective interpretations. A number of refoulement cases took place due to whose cases have been accepted but who fail to find a country to resettle.

As Kirisci argues, the Turkish authorities have complained about interference with their sovereign right to deport people. This creates a considerable amount of resentment among the authorities, leading them to accuse the outside world of interference in Turkey's domestic affairs which negatively affects their attitudes towards asylum seekers. Article 6 of the regulations, which sets forth the decision-making procedure as the Interior Ministry, makes no reference to appeals or review of negative decisions. UNHCR plays no official role in the internal appeal procedure, and not even informed about the list of rejected claimants. Article 29 permits deportation of refugees and asylum-seekers legally residing in Turkey for reasons of national security and public order. Since there is a martial law in the southeastern part of the country, this provision could conceivably be read in broad manner.

When looked at overall the 1994 Regulation of Turkey one can easily interpret that Turkish authorities see refugee movements from the Middle East as a matter that directly affects national security. From this point of view, the geographical limitation is an important protection for Turkey. An important aspect of Turkey's position is its attempts to security concerns. These concerns are a combination of historical, political and economic reasons. As it happens in the cases of many other nation-

states, in Turkey, the emerging of new migratory regime highlights the contradiction between the globalization process and the persistence of an abstract nation-state formation.<sup>119</sup> Though this notion of the State does not mean the end of the State but rather a qualitative change of governance. The refugee policies are now the issue of a security problem however, security concern which is transformed to the question of identity and citizenship. A complex matrix of refugee problem is not a simple internal matter for a single state or crossing the borders.<sup>120</sup> As a conclusion refugee problem is a question of specific solidarity and of political interest and there is crucial need for reconstruction of a new mechanism, which is self-awareness to deal with refugee issue.

---

<sup>119</sup> Icduygu, Ahmet, Keyman, E.Fuat, "Globalization, Security and Migration: The Case of Turkey." *Paper prepared for the Session on Security and Migration at the Conference on International Migration: Challenges for European Populations*. Bari, Italy, 25-27 June, 1998.

<sup>120</sup> Ibid.

## CONCLUSION

First they came for the Jews and I did not speak out-  
because I was not a Jew.  
Then they came for the communists and I did not speak out-  
because I was not a communist.  
Then they came for the trade unionists and I did not speak out-  
because I was not a trade unionist.  
Then they came for me- and there was no one left to speak out for me.

Pastor Niemoeller (Victim of the Nazis)

What can be extrapolated from this discuss the new regulations of Turkey indicate that the refugee policy in Turkey is a part of its high politics. Responsibility for handling refugee claimants has been assigned to a division of the Interior Ministry within the General Directorate of Security, and the bias of government officials involved with the asylum procedure appears to be overwhelmingly to be one of maintaining Turkey's security and of not harming relations with neighboring refugee-producing countries.<sup>121</sup>

The nine most refugee receiving countries mentioned before, have the refugee agencies setting their refugee policies. As mentioned before refugee agencies setting the policies is an indication of low politics. This is distinction between these Western countries and Turkey is very important to approach to the refugee related issues. Although the West has very strict eligibility and resettlement criteria and can be interpreted as non-humanitarian, the decision-making bodies affect their approach to the refugee issues.

---

<sup>121</sup> Frelick. Bill, "Barriers to Protection: Turkey's Asylum Regulations." *International Journal of Refugee Law*. (1997), Vol.9, No.1.

Table 7- Decision-Making Bodies in some Western Countries

Decision-Making Process for Nine Most Refugee Receiving Countries	
Australia	Australian Immigration Office
Canada	Visa Office
Denmark	Danish Immigration Service
Finland	Directorate for Immigration
New Zealand	Immigration Case Officers
Norway	The Ministry of Local Government and Labour
Sweden	Immigration Board
Switzerland	The Federal Office, the Section for Admission of Refugees
USA	The Attorney General

Under the new regulations in Turkey, for example, many foreigners have not been able to file asylum claims at all. Because Iraqis and Iranians seeking asylum in Turkey are aware of a history of summary treatment in the border regions where the principal concern of Turkish military, police, and gendarmerie (Jandarma) forces is security and where there is little or no consciousness of the principles and requirements of refugee production. Iranians and Iraqis of Kurdish ethnicity fear that local police and security forces situated in the midst of the conflict in Kurdish southeastern Turkey cannot give them a fair hearing.<sup>122</sup> This concern causes totally different statements of the refugees; the information provided to the Turkish authorities differ from to the UNHCR. There has been the cases of deportation when the UNHCR intervenes and mentions about the different statements. This causes a conflict between the UNHCR and Turkish authorities as well as many deportations and refoulement cases.

As Table 8 indicates the cases collected also indicate that the Turkish police authorities have violated the most fundamental principles of refugee protection by

<sup>122</sup> Frelick. Bill, "Barriers to Protection: Turkey's Asylum Regulations." International Journal of Refugee Law. 1997, Vol.9, No.1.

Table 8- Security Incidents in Turkey 1993-1997

## S E C U R I T Y I N C I D E N T S (1993 - 1997)

**Table 6**

	1993						1994						1995						1996						1997					
	Iranian		Iraqi		Others		Iranian		Iraqi		Others		Iranian		Iraqi		Others		Iranian		Iraqi		Others		Iranian		Iraqi		Others	
	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S	R	A/S
<b>Refoulement</b>					1		15		26				2		3		4	1	21	46	41	21			7	26	13	35		
<b>Deportation</b>	7	12					8	189	24	155	2	136	40	20	40	18									69	39			3	4
<b>Arrest/Detention</b>	1	6	15	25			26	13	10	5	1	10													19	6	2	5	6	5
<b>Deportation Order</b>							3						55		91				10		48		1					1	1	
<b>TOTAL</b>	8	18	15	25	1	0	52	202	60	160	3	146	97	20	134	18	4	1	31	46	89	21	1	0	95	71	15	41	10	9
<b>CUMULATIVE</b>	26		40		1		254		220		149		117		152		5		77		110		1		166		56		19	
<b>Annual Total</b>	<b>67</b>						<b>623</b>						<b>274</b>						<b>188</b>						<b>241</b>					

Source : Estimated by the author based on various reports of UNHCR.

\*In 1993 Arrest/ Detention of Iraqi asylum seekers were 134 but 109 were not a concern to UNHCR

\*The Numbers are not very accurate due to the terminology differences between Turkish authorities and UNHCR.

**R : Refugees**

**A/S: Asylum Seekers**

high number of deportations, arrests and refoulements. Furthermore, Turkish authorities by taking Iranian asylum-seekers together with politically incriminating documents to the Iranian embassy, where Iranian officials interrogate them, violate very important humanitarian norms. It is known that Iranian and Turkish Governments have signed several protocols in recent years aimed at curbing the activities of the respective countries' opposition groups operating in each other's territories. Regardless of the level of cooperation between Turkish and Iranian authorities, strong evidence exists that agents of the Iranian government have taken active interest in Iranian seeking asylum in Turkey. A number of politically active Iranian exiles in Turkey have been assassinated in recent years. The two clearest cases that occurred were, a kidnapped Iranian dissident was found in the trunk of a car bearing Iranian diplomatic license and the assassination of a member of the Kurdish Democratic Party of Iran in Corum.<sup>123</sup>

Turkey, as an important country in the region has to be aware of that refugee issue is a 'democracy issue' as well as being a political, social, economic and humanitarian issue. Turkey, as a country who tries to be an integral part of Europe first of all has to change the mentality involved in its refugee policies. The amendment of asylum should be equal to all foreigners regardless of national origin and should drop the regulatory distinction between 'asylum-seeker' and 'refugee' status. This requires a removal of a geographical limitation. The time limitations which leads to arbitrary actions should be abolished. The rule requiring undocumented foreigners to file in the Governorates nearest the point of entry should be lifted for giving equal chance to the asylum-seekers. Any deportation on national

---

<sup>123</sup> Ibid.

security grounds of a recognized refugee or asylum seeker legally residing in Turkey should be strictly to the clearest cases based on specific evidence tying the individual refugee to specific security threats. The regulations should clearly allow rejected asylum-seekers to appeal their deportation orders to ensure that they are carried out within the framework of the UN Refugee Convention.<sup>124</sup>

However, most importantly the decision-making body should be transferred to an independent agency which does not carry security concerns. NGOs as guardians of the rights should be respected and refugee claimants should have to receive legal counseling and legal representation at their interviews. The asylum interviews are to be kept confidential.

Although Turkey is a unique case, it is not the only country of asylum, transit migration and refugee production. Today there are over 30 million refugees all over the world. Maybe none of these people thought that they will break up their relations with their states one day. Exile is an unexpected situation. But the question of national security can not be reduced to the individual level because both the state and system levels have characteristics that make them more than the sum of their parts. As Buzan explains, “National security most easily refers to the relationship of the state to its environment, and becomes profoundly confused to the extent that the state is insecure within itself. In other words, the concept of national security can only be applied sensibly to the external side of state’s Hobbesian security functions.” Turkey turns refugee problem, a humanitarian problem, into a national security problem and the liberal democratic citizenship and sovereignty runs into difficulties when it is faced with the challenges of refugees. The internal/external distinction and the consequent abstraction of citizen-individual creates a fatal error for analyzing the

---

<sup>124</sup> Ibid.

refugee issue. If the refugee issue is kept on a tight rope between internal and external spheres the issue will not go out of a dichotomy between self-interest of nation states and humanitarian interest.

At this point it seems inevitable to ask what if we had to break our personal ties with our states. The answer to this question is a formation of a self-awareness about the refugees. Today, when rhetoric about the 'triumph of democracy' accompanies globalization, it is time to insist there can be no democratic consensus on refugees without internationalization of the citizenship and mastery of internal law versus sovereignty.

As a very last word: "Einstein was also a refugee. What would have happened if the world turned its back to him?"



## Bibliography

Aguayo, Sergio, Astri Suhrke, and Aristide R. Zolberg. *Escape From Violence*. (NY: Oxford University Press, 1989).

Aktar, Cengiz, "The European Union's Third Pillar Justice Home Affairs." *Bogazici Journal*. (1996), Vol.10/No: 1-2, pp:31-53.

Arendt, Hannah. *The Origins of Totalitarianism*. (NY: Harcourt Brace, 1951).

Arendt, Hannah. *Politics, History and Citizenship*. (Cambridge: Polity Press, 1993).

Belsey Andrew. 1986. "The New Right, Social Order and Civil Liberties"

Black, Richard, "Livelihoods under Stress: A Case Study of Refugee Vulnerability in Greece." *Journal of Refugee Studies*. (1994), Vol. 7, No.1.

Bocker, Anita, "Refugee and Asylum-seeking Migration from Turkey to Western Europe." *Bogazici Journal*. (1996), Vol.10/No: 1-2, pp:55-75.

Bush Kenneth D. and E. Fuat Keyman, "Identity-Based Conflict: Rethinking Security in a Post-Cold War World." *Global Governance*. (1997), Vol. 3, pp. 311-328.

Bush, Kenneth D., "Rocks and Hard Places: Bad Governance, Human Rights Abuse, and Population Displacement." *Canadian Foreign Policy*. (1996), Vol. 4/No: 1, pp:49-82.

Buzan, Barry. *People, States and Fear*. (NY: Harevester Wheatsheaf, 1991).

Carens, H.Joseph. "States and Refugees: A Normative Analysis" in *Refugee and International Relations*, ed.Howard Adelman. (Toronto: York Lanes Press, 1991).

Casella, Alexander, "Asylum-seekers in Europe: a Humanitarian Quandary." *World Today*. (1988), Vol.44/No: 11, pp:187-191.

Ed. Hans-Dieter Klingemann and Dieter Fuchs. *Citizens and The State*. (NY: Oxford University Press, 1995).

Copeland, Emily, "Global Refugee Policy: An Agenda for the 1990s." *International Migration Review*. (1992), Vol. 26/No: 3

De Boer, Gerard C., "Trends in Refugee Policy and Cooperation in the European Community." *International Migration Review*. (1992), Vol.26/No:2, pp:668-675.

Dunbar-Oritz, Roxanne and Barbara E. Harrell-Bond, "Africa Rights Monitor. Who Protects the Human Rights of Refugees." *Africa Today*. (1987), Vol. 34/No: 1-2, pp:105-125.

Ed. Martiniello, Marco. *Migration, Citizenship and Ethno-National Identities in the European Union*. (Vermont, USA: Ashgate Publishing Company, 1995)

Ed. Daid W.Haines. *Case Studies in America in the 1990s*. (Connecticut: Praeger Press, 1996).

Ed. Steenbergen van Bart. *Condition of Citizenship*. (London: Sage Publications, 1994).

Ed. O'Dowd, L., Wilson, T. *Borders, Nations and State*. (Vermont: Ashgate Publishing Company, 1996).

Einarsen, Terje. "Mass Flight: The Case for International Asylum." *International Journal of Refugee Law*. (1995), Vol. 7, No. 4.

Fernhout, Roel, "Europe 1993 and Its Refugees." *Ethnic and Racial Studies*. (1993), Vol.16/No: 3, pp:492-506.

Frelick. Bill, "Barriers to Protection: Turkey's Asylum Regulations." *International Journal of Refugee Law*. (1997), Vol.9, No.1.

Garcia Soledad. *European Identity and the Search for Legitimacy*. (NY: Pinter Publishers, 1993).

Gerger Haluk. *Turk Dis Politikasinin Ekonomi Politigi*. (Belge Yayınevi; Ankara, 1998).

Goodwin,-Gill Guy S., "International Law and Human Rights: Trends Concerning International Migrants and Refugees." *International Migration Review*. (1989), Vol.23/No: 3, pp:526-546.

Gurr, R. Ted, "Communal Conflicts and Global Security." *Current History*. (1995), Vol. 94 Iss. 592, pp. 212-222.

Gurtov, Mel, "Open Borders: A Global-Humanist Approach to the Refugee Crisis." *World Development*. (1991), Vol.19/No: 5, pp:485-496.

Hakovirta, Harto, "The Global Refugee Problem: A model and Its Application." *International Political Science Review*. (1993), Vol.14/No: 1, pp:35-57.

Hartigan, Kevin, "Matching Humanitarian Norms with Cold, Hard Interests: the Making of the Refugee Policies in Mexico and Honduras, 1980-89." *International Organization*. (1992), Vol.46/No: 3, pp:709-730.

- Hein, Jeremy, "Refugees, Immigrants, and the State." *Annual Reviews Inc.* (1993), 19:43-59.
- Held, David. "Between State and Civil Society: Citizenship" in *Citizenship*, ed. Geoff Andrews. (London: Lawrence & Wishart, 1991).
- Held, David. "Democracy, the Nation-State and the Global System" in *Political Theory Today*, ed. David Held. (NY: Polity Press, 1991)
- Helton, Arthur. "Displacement and Human Rights: Current Dilemmas in Refugee Protection" in *Journal of International Affairs*. Vol:47, No:2.
- Hintjens, H. M., "Immigration and Citizenship Debates: Reflections on Ten Common Themes" *International Migration*. 1992, Vol.30/No: 11, pp:5-15.
- Holsti, J. K. *International Politics*. (New Jersey: Prentice-Hall, Inc., 1992).
- Ed. Sehzrazat Cakiroglu. *Hosgöru Yılı'nda Multeciler*. (Istanbul: Bogazici Universitesi Matbaasi, 1996).
- Icduygu, Ahmet, Keyman, E.Fuat, "Globalization, Security and Migration: The Case of Turkey." *Paper prepared for the Session on Security and Migration at the Conference on International Migration: Challenges for European Populations*. Bari, Italy, 25-27 June, 1998.
- Icduygu, Ahmet. "Refugee Pressure versus Immigration Pressure in Europe: The perspective from a Sending Country-Turkish Case" at *European Population Conference*, 1995.
- Ed. Ruth Levitas. *Ideology of the New Right*. (NY: Polity Press).
- Ed. Peter M. Haas, Robert O. Keohane, and Marc A. Levy. *Institutions for the Earth*. (Massachusetts: The MIT Press, 1993).
- Jacobsen, Karen. "Factors Influencing the Policy Responses of Host Governments to Mass Refugee Influxes." in *International Migration Review*. (1996), Vol:30, No:3. pp:655-678.
- Jean, Francois. "The Plight of the World's Refugees" in *World in Crisis* ed. by Doctors Without Borders (NGO). (NY: Routledge Press, 1997).
- Joly, Daniele. *Refugees: Asylum in Europe?* (London: Minority Rights Publications, 1992).
- Kahler, Miles. *International Institutions and the Political Economy of Integration*. (Washington: The Brookings Institution, 1995).
- Keely, Charles. "How Nation-States Create and Respond to Refugee Flows." In *International Migration Review*. (1996), Vol:30, No:4. pp:1046-1066.

Kennedy, David, "International Refugee Protection." *Human Rights Quarterly*. Vol.18/No: 1, pp:1-69.

Kerber, Karoline. "Temporary Protection: An Assessment of the Harmonization Policies of European Union Member States." *International Refugee Law*. (1997), Vol. 9, No. 3.

Kirisci, K., "Is Turkey Lifting the Geographical Limitation?- The November 1994 Regulation on Asylum in Turkey." *International Journal of Refugee Law*. (1996), Vol.8.

Kirisci, K., "Refugee Movements and Turkey." *International Migration*. (1991), Vol.29/No: 4, pp:545-555.

Kirisci, K., "Refugees and Turkey since 1945." *Bogazici University Publications, Research Papers*. (1994).

Kollias, Christos, "A Comparative Analysis of the Turkish Defence Burden." *Bogazici Journal*. (1996), Vol. 10/No:1-2, pp:143-156.

Kratochwil, Friedrich, and Edward D. Mansfield. *International Organizations*. (New York: Harper Collins College Publishers, 1994).

Krisci, Kemal. "New Patterns of Turkish Foreign Policy Behavior" in ed.Cigdem Balim *Turkey: Political, Social and Economic Challenges in the 1990s*. (NY; A.J. Brill Leiden, 1995).

Laffan, Brigid, "The Politics of Identity and Political Order in Europe." *Journal of Common Market Studies*. (1996), Vol. 34, No. 1.

Loescher, Gil. *Beyond Charity*. (New York: Oxford University Press,1993).

Marshall, T.H, Tom Bottomore. *Citizenship and Social Class*. (London: Pluto Press, 1992).

Melander, Goran, "Nordic Refugee Policy in a European Perspective." *Current Research on Peace and Violence*. (1986), Vol.9/No: 4, pp:183-188.

Merle, Marcel. *The Sociology of International Relations*. (New York: Berg Publishers,1987).

Ed. E. Valentine Daniel and John Chr. Knudsen. *Mistrusting Refugees*. (Los Angles: University of California Press, 1995).

Morris, Nicholas, "Opinion Protection Dilemmas and UNHCR's Response: A Personal View from within UNHCR." *International Refugee Law*. (1997), Vol.7, No.3.

- Muftuler, Meltem. *Turkey's Relations with a Changing Europe*. (UK; Manchester University Press, 1997).
- Murphy, Craig N. *International Organization and Industrial Change*. (New York: Oxford University Press, 1994).
- Odman Tevfik. *Multeci Hukuku*. (Ankara: İnsan Haklari Merkezi, 1995).
- Porter, John D. H., Frank L. Van Loock and Alain Devaux, "Evaluation of Two Kurdish Refugee Camp in Iran, May 1991: The Value of Cluster Sampling in Producing Priorities and Policies". (1993), Vol.17/No:4, pp:340-347.
- Ed. Peter W. Van Arsdale. *Refugee Empowerment and Organizational Change*. (Arlington: American Anthropological Association, 1993).
- Ed. Gil Loescher and Laila Monhan. *Refugees and International Relations*. (New York: Oxford University Press, 1989).
- Reitz, Charles. "Sovereignty and Morality in International Affairs" in *Political Theory Today*, ed. David Held. (NY: Polity Press, 1991).
- Richmond, Anthony H., "Sociological Theories of International Migration: The Case of Refugees." *Current Sociology*. (1989), Vol.36/No: 2, pp:7-25.
- Rogers, Rosemarie, "The Future of Refugee Flows and Policies." *International Migration Review*. Vol.26/No:4, pp:1112-1139.
- Rose, Peter I., "Tempest-Tost: Exile, Ethnicity, and the Politics of Rescue." *Sociological Forum*. (1993), Vol.8/No: 1, pp:5-22.
- Smith. Michael, "The European Union and a Changing Europe: Establishing the Boundaries of Order." *Journal of Common Market Studies*. (1996), Vol. 34, No. 1.
- Sonmez, N, Kirisci, K. *Report for the 45<sup>th</sup> International Congress on "Refugees in Origin Countries and Countries of Refuge"*. (1995).
- Sternberg. Von Mark R., *Political asylum and the Law of Internal Armed Conflict: Refugee Status, Human Rights and Humanitarian Law Concerns*. (1993), Vol. 5, No. 2.
- Tarzi, Shah M., "Refugees." *Ethnic and Racial Studies*. (1991), Vol.14/No:4
- Ucarer, Emek. *Immigration into Western Societies and Problems and Policies*. Ed. M Ucaer, D.Puchala. (UK: Biddles Ltd., 1997).
- Ucarer, Emek M., "The Global Refugee Regime: Continuity and Change." *Bogazici Journal*. (1996), Vol. 10/No: 1-2, pp:5-29.

United Nations High Commissioner for Refugees. *The State of the World's Refugees*. New York: Oxford University Press, (1995).

Wapner. Paul, "Politics Beyond the State; Environmental Activism and World Civic Politics." *World Politics*. (1995), Vol. 47, pp. 311-340.

Waever, Ole, "European Security Identities." *Journal of Common Market Studies*. (1996), Vol. 34, No.1.

Ed. Tim Allen and Hubert Morsink. *When Refugees Go Home*. (Trenton: Africa World Press, 1994).

Wilbanks, Dana W., "The Moral Debate between Humanitarianism and National Interest about U.S. Refugee Policy: A Theological Perspective." *Migration World*. (1993), Vol.21/No: 5, pp:15-18.

Yarnold, Barbara, "The Refugee Act of 1980 and the Depoliticization of Refugee/Asylum Admissions." *American Politics Quarterly*. (1990), Vol. 18/No:14, pp:527-536.

## **APPENDIX**

### **THE REGULATION ON THE PROCEDURES AND THE PRINCIPLES RELATED TO MASS INFLUX AND THE FOREIGNERS ARRIVING IN TURKEY EITHER AS INDIVIDUALS OR IN GROUPS WISHING TO SEEK ASYLUM EITHER FROM TURKEY OR REQUESTING RESIDENCE PERMITS WITH THE INTENTION OF SEEKING ASYLUM FROM A THIRD COUNTRY**

#### **PART ONE General Provisions**

##### **Purpose**

Article 1 - The purpose of this regulation is while establishing which organizations shall be in charge, to determine the principles and procedures relating to possible mass influx and the foreigners arriving in Turkey as individuals or in groups wishing to seek asylum either from Turkey or requesting residence permits from Turkey with the intention of seeking asylum from a third country, under the 1951 Geneva Convention relating to the Status of Refugees and the Protocol of 31 January 1967 relating to the Status of Refugees.

##### **Contents**

Article 2 - This Regulation contains the necessary precautions to be taken, the processing of the applications and defines the obligations and the organizations which shall cooperate as such and shall be responsible for decisions along with the rules the foreigners have to abide by in the case of possible mass influx and the foreigners arriving in Turkey either by legal or illegal means as individuals or in groups wishing to seek asylum either from Turkey or requesting residence permits from Turkey with the intention of seeking asylum from a third country.

##### **Definitions**

Article 3 - For the purposes of this regulation while all definitions which are stated in the 1951 Geneva Convention relating to the Status of Refugees, the Protocol of 31 January 1967 relating to the Status of Refugees and in other related laws apply; the following definitions shall be given to the following terms;

Refugee: A foreigner who as a result of events occurring in Europe and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country: or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

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

Belligerent Foreign Army Member: A military person, allowed into or captured in Turkey, whose country of origin is in a state of war or armed conflict with a third country.

Individual Case: An individual person or a family consisting of a father, mother and under-age children.

## **PART TWO**

### **Procedures and principles related to individual foreigners either seeking asylum from Turkey or requesting residence permits with the intention of seeking asylum from a third country**

#### **Authorities to be applied to**

Article 4 - The individual foreigners who are either seeking asylum from Turkey or requesting residence permits with the intention of seeking asylum from a third country shall apply within five days to the local Governorates if they entered into the country illegally; and shall apply within five days to the Governorates at the city where they entered into the country if they entered in illegally.

#### **Duties of the Authorities to be applied to**

Article 5 - The foreigners who are either seeking asylum from Turkey or requesting residence permits with the intention of seeking asylum from a third country;

- a) Shall be registered by taking their photographs and fingerprints
- b) Shall be interviewed according to the 1951 Geneva Convention relating to the Status of Refugees.
- c) Interview documents, along with the comments of the Governorates shall be sent to the Ministry of the Interior.



d) Until further instructions from the Ministry of the Interior the foreigner shall be kept under surveillance.

e) Further steps shall be taken following the instructions from the Ministry of the Interior.

### **Decision Authority**

Article 6 - The petitions of individual foreigners who are either seeking asylum from Turkey or requesting residence permits with the intention of seeking asylum from a third country shall be viewed and a conclusion shall be reached by the Ministry of the Interior by considering the rights stated in the 1951 Convention relating to the Status of Refugees and the Protocol of 31 January 1967 relating to the Status of Refugees, along with the opinions of the Ministry of Foreign Affairs and other relevant ministries and national agencies.

The decision taken by the Ministry of the Interior shall be communicated to the foreigner by the Governorates

Those foreigners whose requests are accepted shall be hosted in a guest house found suitable by the Ministry of the interior or shall freely reside in a place which shall be determined by the Ministry of the Interior.

### **The Organizations to cooperate with**

Article 7 - In the proceedings, regarding individual foreigners who are either seeking asylum from Turkey or requesting residence permits with the intention of seeking asylum from a third country, and primarily on aspects such as giving food and shelter, transport, resettlement, passport and visa problems regarding a third country there shall be cooperation in principle through the Ministry of Foreign Affairs with the United Nations High Commissioner for Refugees and other concerned international organizations. There shall be cooperation also with the International Organization for Migration especially on the aspects regarding the transport of Foreigners.

## **PART THREE**

### **The precautions to be taken against a possible mass influx and foreigners arriving in Turkey in groups wishing to seek asylum**

**The precautions to be taken in case of mass influx and foreigners arriving  
at our borders**

Article 8 - Without prejudice to Turkey's obligations under international law and considering the geographical characteristic of a mass influx, it is essential to stop such a movement and the advance of asylum seekers at the borders. The authorities in charge shall take necessary and effective measures to do so.

## **PART FOUR**

### **The action and the precautions to be taken in case of acceptance of refugees and asylum seekers who come to our borders or enter into Turkish territory in groups**

#### **Identification, seizing of arms and transportation**

Article 9- Firstly, refugees and asylum seekers shall be disarmed by military authorities. Consecutively, at a suitable border point belligerent foreign army members and civilians shall be separated. The civilians shall be submitted to either police organizations or gendarmery to be transported to the camps which are to be established.

For the belligerent foreign army members, law number 4104 on Belligerent Foreign Army Members Who Take Refuge in Turkey shall apply.

#### **Protection**

Article 10 - Those who seek asylum from Turkey and take refuge in Turkey are under the protection and observance of the state as long as they remain in Turkey.

#### **Establishment of Camps**

Article 11 - Areas for reception centers for the sheltering of the asylum seekers and those who take refuge in Turkey shall be established by the Governorates at nearest possible locations to the borders as determined by the Ministry of the Interior in coordination with the Turkish General Staff.

#### **Settlement and Interview**

Article 12 - In order to prevent the accumulation at the border of foreigners coming into Turkey by means of land, sea and air and to send them to in-land locations safely, local authorities shall establish reception centers. The foreigners arriving at such camps shall subsequently be transferred to the camps established in-land.

The foreigners who are sent to in-land camps shall be interviewed and their declarations taken either in their language or in a language that they can understand. During the interview, the person who is being interviewed is obliged to state his name, surname, place and date of birth, status in his country of origin, the reason for coming to Turkey, and if any, names and addresses of relatives living either in Turkey or abroad.

In addition, photographs and fingerprints shall be taken. While classifying them according to their nationalities utmost care shall be given to separate terrorists and the ones destructive to peace and security along with provocateurs, spies and saboteurs.

Great care shall also be shown to settle the refugees and asylum seekers by bearing in mind their traditional values. These people shall be issued identification papers and registered at the registry office.

The documents related to those who are being traced by international organizations shall be available for the Turkish Red Crescent Society on request.

### **The Personnel to be Appointed**

Article 13 - The personnel to be appointed shall be chosen under the coordination of the Ministry of the Interior through related ministries and organizations.

### **Obligations and Authority**

Article 14 - Reception centers and in-land camps shall be administered by the local Governates . The Governorates shall be given access to temporarily utilize all the public buildings and establishments while establishing reception centers and in-land camps or when necessary such buildings can be rented from private persons.

The necessary equipment and furnishings for the administration of such camps shall be provided by the ministry and organizations in-charge upon the request of the Governorates concerned.

### **Protection and Discipline**

Article 15 - For the protection and discipline of the refugees and asylum seekers in the reception centers and in-land camps the Governorates responsible shall take all necessary measures.

Unless it is deemed necessary to do otherwise, the Regulations related to Refugee Camps and Servicing of the Refugee Guest Houses prepared by the Ministry of the Interior shall be enforced.

Refugees and asylum seekers wishing to leave the camps temporarily must obtain permission from local authorities. In addition, for those who are eligible, traveling and residence documents limited to Turkish boundaries shall be issued by the Ministry of the I

Interior after relevant ministries and organizations are consulted on principle.

### **Visits by the representatives of Foreign State and International Organizations**

Article 16 - Following a favorable statement from the Ministry of Foreign Affairs, the ministry of the Interior shall grant permission to the representatives of foreign states and international organizations to visit reception centers and in-land camps. These visits, however, shall be subject to temporary restrictions when military obligations and national security require.

### **Public contact and receiving of visitors**

Article 17 - The principles regarding contact with the public and receiving of visitors for refugees and asylum seekers are defined and enforced by the local Governorates.

### **Freedom of Religion**

Article 18 - Provided that discipline rules set by local Governorates are observed, refugees and asylum seekers shall be able to conduct religious ceremonies and worship as their faith requires. To this end suitable locations shall be provided as the situation permits.

### **Medical Check-ups**

Article 19 - Refugees and asylum seekers shall be issued with medical cards and shall be given regular medical check-ups. In the event of a contagious illness, all necessary measures shall be taken by the local Governorates and the authorities shall be informed.

The diagnosis and treatment for those who suffer from a serious illness or those whose situations require special treatment, medical intervention or hospitalization, along with preventive vaccination shall be carried out in State Hospitals and expenses shall be covered under the general provisions which are set. However, expenses to be incurred for organ transplants, prosthesis, orthodontics, haemodialysis or similar long term treatment of chronic cases shall not be covered and the person in question shall be responsible for the expenses regarding such treatment.

## **Death and Burial**

Article 20 - Those refugees and asylum seekers who die shall be buried either in certain burial grounds within certain cemeteries of the country or, if existing, in their own cemeteries following the rituals the faith of the deceased requires. On this issue Governorates shall cooperate with organizations who are responsible for undertaking.

Any request communicated by the country of which the deceased was a national, shall be taken into consideration as much as the situation permits.

## **Communication**

Article 21 - Means of communication for the refugees and the asylum seekers with their relatives shall be provided as much as possible. However, the communications shall not be free of charge. Letters in any language and parcels sent or received by refugees and asylum seekers shall be inspected by the authorities.

## **Sending Aid**

Article 22 - Provided it passes through inspections food, clothing, medicine, material for religious education and entertainment purposes can be sent to refugees and asylum seekers both by postal and other means from Turkey or abroad.

Goods sent by foreign countries and international organizations shall be distributed among the refugees and asylum seekers by the Turkish Red crescent society under the observation of the local Governorate.

## **Exemption**

Article 23 - Whether the refugees and asylum seekers are exempt from tax, duty, charge and fund payments shall be stated by each particular regulation in question.

## **Rules of Coordination**

Article 24 - In order to administer an possible mass influx near out borders and to organize the co-operation a Minister of State of the Ministry of Interior as appointed by the Prime Minister shall be in-charge.

Representatives of the Turkish General Staff, the Ministry of National Defence, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Health, the Ministry of Communications, the Ministry of Agriculture and Village Affairs, other ministries and organization concerned along with the National Intelligence Services and Turkish Red Crescent Society shall form a

provisionary main coordination committee. The secretarial duties of this committee shall be performed by the Ministry in charge.

In the cities to perform similar duties, a sub-committee consisting of relevant public organizations shall be established reporting to the Governor or a Deputy Governor appointed by the Governor.

The decisions taken by the main coordination committee regarding the group entries shall be executed by the ministries and organizations concerned promptly within their own regulations.

### **The Obligations of the Turkish Red Crescent Society**

Article 25 - Turkish Red crescent shall undertake to:

- a) use all means and services within the framework of its own regulations, international conventions, International Red Crescent and Red Cross agreements, principles and protocols.
- b) following a favorable opinion by the Ministry of Foreign Affairs, request material and financial aid from the International Federation of Red Cross and Crescent Societies and other organizations; and distribute the aid that's obtained.
- c) cooperate with the Ministry of Health to give medical support.
- d) when deemed necessary, gives support in the establishment of the camps.

## **PART FIVE**

**Common provisions to be applied to foreigners arriving in Turkey as individuals or in groups wishing to seek asylum either from Turkey or requesting residence permits from Turkey with the intention of seeking asylum from a third country.**

### **Repatriation**

Article 26 - At the conclusion of a war, armed conflict or crisis the repatriation of the refugees and those who seek asylum in groups shall be carried out by the Ministry of the Interior in coordination with the Turkish General Staff and the Ministry of Foreign Affairs.

Repatriation of individual cases shall be carried out by the Ministry of the Interior.

### **Gainful Employment and Education**

Article 27 - Within the general provisions possibilities of gainful employment and education, limited to their time of stay in our country, are accorded to refugees and asylum seekers.

### **Extension of Residence Permits**

Article 28 - The permits given to foreigners who request residence with the intention of seeking asylum from a third country may not be extended if after given reasonable time the foreigners are still not able to go to a third country. The foreigners in such situations shall be invited to leave the country.

### **Deportation**

Article 29 - A refugee or an asylum seeker who is residing in Turkey legally can only be deported by the Ministry of the Interior within the framework of the 1951 Geneva Convention relating to the status of refugees or for reasons of national security and public order.

Objection to deportation verdict can be made to the Ministry of the Interior within 15 days.

Objection shall be taken into consideration and resolved by a higher authority than the one who ruled on the verdict and the concerned shall be notified by the local Governorate.

### **Temporary Appointment**

Article 30 - In order to enforce this regulation, a sufficient number of personnel shall be appointed on a temporary basis at the respective ministries, public organizations, reception centers and in-land camps following a proposal by the Turkish General Staff or the Ministry of Interior.

The personnel appointed on a temporary basis shall receive, if meriting, daily allowances through the organizations in which they are employed in regulation with the Law Number 6245 related to the Daily and Allowances.

### **Legal Accordance**

Article 31 - This regulation is in accordance with the 1951 Geneva Convention relating to the Status of Refugees which was approved of by Law Number 359 on 29 August 1961 and the Protocol of 31 January 1967 relating to the Status of Refugees, put into effect by a decision taken on 25 September 1968 by the Council of Ministers, numbered 6/10733.

### **Entry into Force**

Article 32 - This regulation shall enter into force on the day of its publication.

### **Implementation**

Article 33 - The Council of Ministers is empowered to implement the provision hereof.