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POLICIES ON LGBTI+ SYRIAN MIGRANTS IN TURKEY

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IMPACT OF INTERNATIONAL AND NATIONAL LAWS AND POLICIES ON LGBTI+ SYRIAN
MIGRANTS IN TURKEY

ULUSLARARASI VE ULUSAL KANUNLARIN VE POLİTİKALARIN TÜRKİYE'DEKİ SURİYELİ
LGBTI+ MÜLTECİLERE ETKİSİ

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ABSTRACT

This thesis aims to analyse the daily life of LGBTI+ migrants in Turkey under migration policy and law. It also aims to analyse and document LGBTI+ migrants' experiences and opinions in Turkey through semi-structured in-depth interviews. These qualitative, semi-structured in-depth interviews were conducted with 10 participants of different ethnic origins, cultural bonds and socio-economic classes. The research question guiding this study is what is the impact of international and national laws on LGBTI+ Syrian migrants in Turkey when considering the migration experience and the power/knowledge relations that shape that experience. The findings gathered from the interviews I conducted during my fieldwork were analysed through this prism. The analysis also includes social and economic aspects support mechanisms and host communities as well as reflections from the broader Syrian refugee community in Turkey. The study further explores how being LGBTI+ Syrian intersects with multiple other identity categories such as gender, class, race/ethnicity as well as statuses that are produced and reproduced by the legislative system and social norms. The findings of this thesis take a critical perspective on the matter of gender and migration policy in Turkey and the impact of this policy on LGBTI+ migrants' lives.

Keywords: Migrant, gender, sexuality, LGBTI+, temporary protection

ÖZET

Bu tez, göç politikaları ve yasaları altında Türkiye’de yaşayan LGBTI+ göçmenlerin gündelik hayatını analiz etmeyi amaçlamaktadır. Ayrıca, yarı-yapılandırılmış, derinlemesine görüşmelerle LGBTI+ göçmenlerin deneyim ve düşüncelerini analiz etme ve kayıt altına almak amacı da taşımaktadır. Bu niteliksel, yarı yapılandırılmış derinlemesine görüşmeler farklı etnik köken, kültürel geçmiş ve sosyo-ekonomik sınıflara ait 10 görüşmeciyle yapılmıştır. Bu çalışmaya yön veren araştırma sorusu, göç deneyimi ve bu deneyimi şekillendiren güç/bilgi ilişkilerinin ışığı altında, uluslararası ve ulusal yasaların Türkiye’deki Suriyeli LGBTI+ göçmenler üzerine etkisidir. Saha çalışmam sırasında yaptığım görüşmelerden ortaya çıkan bulgular bu açılardan analiz edilmiştir. Yapılan analiz ayrıca, sosyal ve ekonomik durumu, destek mekanizmalarını ve ev sahipliği yapan topluluğu içermenin yanı sıra Türkiye’deki genel Suriyeli mülteci topluluğundan gelen fikir ve düşünceleri de göz önünde bulundurmaktadır. Bu çalışma ayrıca Suriyeli LGBTI+ olmanın toplumsal cinsiyet, sınıf, ırk/etnik köken ve yargı sistemi ile sosyal normların yarattığı ve tekrar yarattığı statü gibi diğer birçok kategoriyle nasıl kesiştiğini de incelemektedir. Bu tezin sonuçları Türkiye’deki toplumsal cinsiyet ve göç politikaları konularında ve bu politikaların LGBTI+ göçmenlerin hayatlarına etkisi üzerine eleştirel bir bakış sunmaktadır.

Anahtar kelimeler: Göçmen, toplumsal cinsiyet, cinsellik, LGBTI+, geçici koruma

IMPACT OF INTERNATIONAL AND NATIONAL LAWS AND POLICIES ON LGBTI+ SYRIAN MIGRANTS IN TURKEY

INTRODUCTION

1.1 Context

The last eight years have witnessed significant changes in Turkey in terms of refugee law, as Syrians have been fleeing to Turkey for eight years after the peaceful Syrian Crisis turned to war. Between 2011 and 2014, the Syrian refugees' issue was trying to be managed without adopting a legislative guideline by the major right-wing party. In 2014, The Temporary Protection Directive was granted based on Articles 61 to 95 of the Law on Foreigners and International Protection (LFIP)¹ that grants non-refoulment principle and unlimited duration of stay in Turkey for all Syrian refugees.

On the other hand, numerous states like Turkey do not have any regulations regarding the rights of LGBTI+ migrants, refugees and asylum seekers. Even though some transit countries may sign the international agreement or regulate their law on behalf of SOGIC, (sexual orientation gender-based violence), their legislation discriminates against LGBTI+s openly due to public morality, obscenity or social structure. (UNCHR, 2016, Living Free and Equal, What States Are Doing to Tackle Violence

¹ The Law on Foreigners and International Protection will be used as LFIP in this paper.

and Discrimination Against Lesbian, Gay, Bisexual, Transgender and Intersex People). As an example from the European Human Rights Court regarding the discrimination against LGBTI+ rights, the application of 24626/09 concerned a homosexual prisoner who was placed in solitary confinement after complaining about "acts of intimidation and bullying by his fellow inmates." The case mentions that "the main reason for the applicant's solitary confinement had not been his protection but rather his sexual orientation. It thus concluded that there was a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights against a homosexual prisoner who had been in the prison over eight months in total.

Under these circumstances, this thesis will draw out the law on foreigners and international protection and temporary protection regulation of analysis and focus on the impact of this law and international regulations on LGBTI+ migrant, asylum seekers and refugees in Turkey, primarily in the Marmara region where the majority of LGBTI+ migrants in Turkey currently live.

1.2 Research Question

The number of LGBTI+ migrants has increased since the Syria war began. Under LFIP, a significant number of LGBTI+ migrants who flee from war and violence in Syria are granted temporary protection. Despite LFIP, LGBTI+ migrants are silenced in policymaking, service provision, activism and academia. In this sense, the main research question of this thesis is as follows: what is the impact of international and national laws and policies on LGBTI+ migrants' daily lives in Turkey and what are LGBTI+ migrants' responses to these regulations in terms of their status and identity? Hence, this thesis will focus on the laws, policies, practices and responses in the framework of everyday life of the LGBTI+ migrants in Turkey.

This thesis will point at the impact of the law on the lives and experiences of LGBTI+ migrants considering European Human Rights Court decisions regarding LGBTI+ migrants in Turkey, the Turkey Constitutional court decisions and the examples of the national court decision as well. My analysis in this research takes reference from observations in and documentations of legal and social counselling for LGBTI+ migrants in the non-governmental organization where I work to provide legal and social counselling for LGBTI+ migrants as a lawyer and case manager. The organization, ASAM (Association for Solidarity with

Asylum Seekers and Migrants) is located in İstanbul and supports asylum seekers, migrants and refugees.

1.3 State of the Art

When we look at the research regarding this issue, we observe that only a limited number of studies about LGBTI+ migrants have been conducted in Turkey so far. These are general reports that are published by international and national non-governmental organizations. They include the reports of NGOs and the United Nations Refugee Agency (UNCHR) that exist on their websites but do not take into consideration the opinion of LGBTI+ migrants and their own experiences. Additionally, there are a few published academic pieces of research on LGBTI+ migrants in Turkey without the analysis of national and international court decisions.

As an example of an NGO report, take The Kaos GL, Helsinki Citizen's Assembly Human Rights Watch and ORAM report that was published in 2019. Kaos GL, which stands for LGBTI+ rights as an organization, published its last report in 2019. This report shows that LGBTI+ migrants in Turkey are exposed to verbal, physical and sexual violence due to xenophobia and racism, in addition to the homophobia and transphobia that comes from state institutions, local people and other refugee networks. Furthermore, LGBTI+ migrants have been struggling to access vital services, social life and their fundamental rights in their satellite cities. In Turkey, a satellite city is a designated location that each asylum

seeker is legally required to reside in the city where they are registered in order to maintain their international and temporary protection. In the semi-structured interviews with LGBTI+ migrants, they stated that they regularly experience to homophobic/trans phobic and xenophobic behaviour from their host communities, their employers, and refugee committees. Regarding their relations with state institutions, some of them stated that they were exposed to a negative attitude in the Provincial Directorate of Migration Management, LGBTI+ migrants also mentioned that they have limited choice in terms of resettlement opportunities, emphasizing that the long waiting periods negatively affects their mental health (Kaos GL, Turkey's Challenge with LGBTI Refugees 2019).

The United Nations Refugee Agency has also published reports regarding the situation of LGBTI+ refugees in Turkey (UNCHR, The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees). According to one UNCHR report, "The UNCHR has endorsed a target of 20,000 resettlement places for the EU per year by the year 2020" (European Commission 2015). However, the highest resettlement numbers were recorded in 2016. Resettlement has since decreased over the last three years (UNCHR 2019, Resettlement Data).

More studies about LGBTI+ migrants have been done in other countries such as Canada, member states of the European Union and the United States. For example, the literature on LGBTI+ migrants emphasizes the importance of security (Ilgit and Klotz, 2018; Wonders and Jones, 2019). Queer perspective underlines that sexuality is constituted by

practices, which are normalized by power relations (Manalansan, 2006, p. 225; Weber, 2016; Puar, 2017). A recent research conducted about LGBT Syrian refugees' experiences and problems in Turkey in relation to the national and international legal framework indicates that the latest developments in the Temporary Protection Regulation and the EU-Turkey statement 18 March (2016) have great impact on the daily life of LGBT refugees. This research concludes that LGBT refugees have faced violence and discrimination in Turkey due to the legal insecurity. The research also finds out that resettlement in the third countries is the only option for them under these circumstances (Kıvılcım, 2017). By comparing the different analytical perspectives, I focus on the impact of international and national law and policy regarding migrants, refugees and asylum seekers in Turkey on LGBTI+ migrants by considering the concept of intersectionality, queer migration theory and governmentality², which constitutes heteronormative discourses.³ Governmentality indicates that a certain power/knowledge about LGBTI+ exists in society besides the political discourses that are either confirmed by NGOs' perceptions and practices or critically reflected and questioned by them (Butler, 2009; Foucault, 2009).

² The term of governmentality was used by Michel Foucault that tried to produce a historical account of the formation of ideas, including philosophical ideas by looking at discursive formations in different categories such as madness, the sexuality of knowledge by archaeological analysis.

³ The idea of governmentality broadens the category of power by distinguishing more clearly between violence, domination and the type of power relations that characterize relations between individuals. Also, power is defined both as an objectivizing and a subjectivizing force (McNay, 1994, 17).

1.4 LGBTI+ Terminology

The term LGBTI+ stands for lesbian, gay, bisexual, trans, intersex, queer and gender flux people, however the abbreviation LGBTI+ is used in this thesis to include all sexualities and gender identities who do not fit into the normative binary categories of women and men or the heteronormative contexts that are excluded by governmentality.

The thesis is written from Queer migration theory perspective, and therefore criticizes the western-oriented categories of LGBTI+. According to the western explanation of LGBTIQ in general, a lesbian is one that identifies herself as a woman and who is sexually attracted to others who identify themselves as women. Gay refers to men who are sexually attracted to other men. Bisexual refers to people who are sexually interested in both men and women. Sex is defined as the biological classification of being female or male, often assigned at birth, and covers an individual's combination of bodily characteristics including chromosomes, hormones, reproductive organs and secondary sex characteristics. Gender identity is one's internal, deeply held sense of gender. However, for some, neither of these two choices are fitting. Gender expression is the external manifestations of gender, expressed through name, pronoun, clothes, haircut, behaviour, voice and body characteristics. Transgender is an umbrella term for people whose gender identity and expression differs from

the sex they were assigned at birth. Queer refers to people who do not identify themselves within the male/female binary. Instead, they may identify as neither woman nor man, or as a little bit of both. Intersex is an umbrella term describing people born with variations of internal and/or external sex anatomy (QMUNITY, 2013).

These definitions create an essentialist conception of sexuality that operates within the hetero/homosexual binaries. Also, the policing of identities in a particular way within these definitions constitutes normative notions of authentic gender and sexuality by creating categories for individuals (Shakhsari, pp.1002-1004). Queer migration scholars have underlined the importance of analysing and observing the consequences of producing and reproducing the essentialist western-oriented categories for LGBTI+ migrants. These western categories force people to be included in these categories for being a legible subjectivity. LGBTI+ migrants have to prove their sexual orientation and gender identity in order to fall under asylum policy. By adding that, Queer migration is considered being migrant in an intersectional way without establishing homo/hetero normative criteria.

I use the concept of “migrant” as an umbrella term to denote diverse groups of people, including undocumented migrants, asylum seekers, refugees, and migrants with work and residence permits.

1.5 Rationale of the research

My work will attribute the academic in terms of the impact of international and national regulations on LGBTI+ migrant rights. This research deals with the concept of intersectionality, since LGBTI+ migrants are exposed intersectional discrimination in Turkey, and critically examines practices of civil society organizations (CSOs) that aim to support LGBTI+ migrants. Despite the importance of the issue, studies on migration in Turkey have not sufficiently underlined LGBTI+ migrant rights in Turkey.

In Turkey, transphobia, homophobia, barriers to finding housing, financial sources, language barriers, discrimination, xenophobia and exclusion lead to challenges for LGBTI+ migrants' lives. Silenced at the intersections of multiple axes of power, they live a precarious life. The absence of a care system, support, and a lack of access to wider LGBTI+ solidarity networks lead to various risks for LGBTI+ migrants living in Turkey (Shakhsari Sima, 2014, pp. 999-1005).

In this regard, this research approaches the concept of intersectionality to analyse the impact of legislative system and migration policies on the daily life of LGBTI+ migrants in Turkey who face multiple forms of discrimination. The concept of intersectionality enables us to understand the experiences of LGBTI+ migrants and how it is relevant with one-dimensional perspective of legislative system and migration policy.

This research draws on my own fieldwork, that I conducted in Istanbul since 2017 as a protection officer for UNHCR protection projects

and as a lawyer for a separate UNCHR project. The research further draws on an in-depth analysis of the legal framework and state practices that define, shape and violate the rights of LGBTI+ migrants. I have decided to employ these frames of references after documenting and observing the legal and social counselling provided to LGBTI+ migrants at the NGO where I am employed (ASAM).

In certain cases, settlement applicants are not familiar with the terms for sexual orientation and gender identity, and cultural differences are not well reflected in the fixed categories of LGBTI+. The question we should be asking is what is the meaning of these terms, which are questions that should be answered by Queer migrants themselves. That's the reason that some quotes from migrant interviews are published in this research, with their verbal consent due to COVID-19 pandemic.

Another issue that will be discussed in my research is the resettlement process, as most of the LGBTI+ migrants are willing to be resettled in third countries. UNCHR has the task of determining who will be eligible for resettlement by conducting interviews and adhering to resettlement criteria while accommodating state policy. A huge challenge to this process is that interviews are typically time-intensive. As a result, neither in host countries nor in third countries is the psychosocial situation prioritized during the interview process. Instead, the process focuses on identifying the most vulnerable refugees that are in the greatest need of resettlement. Thus, the process of resettlement requires many pieces of information to verify the applicants' sexualities and identities as LGBTI+

migrants. The applicants are thus obliged to mention their sexual orientation and recall gender-based persecution in their countries of origin at many points throughout the interview process. These long and gruelling interviews can be traumatizing for applicants (Kahn Sarilee, Alessi Edward J., 2017, p. 35), (Rainbow Response, p. 52).

1.6 Methodology

1.6.1. Research Method and Data

This thesis approaches the qualitative method based on guided in-depth interviews and field observations. The analysis of the conducted data considers sounds, words, descriptions, feelings and opinions as relevant data of research (Bryman, 2012, pp. 528). Therefore, firstly, interviews were conducted with ten Syrian LGBTI+ refugees in Istanbul. Secondly, the analyses factors in and references my observations while documenting the legal and social counselling provided to LGBTI+ migrant, as I have been working for an NGO in a project on LGBTI+ migrants in Istanbul since 2017 (Bryman, 2012, pp. 160-162; Silverman, 2000). This methodological approach is framed by a theoretical approach focussing on Queer migration and feminist theory that first emerged in the U.S. as a form of the academic and political movement in the early 1990s.

The reason for taking this qualitative analysis approach is to approach LGBTI+ migrant's self-understanding and phenomenological worldviews in Turkey by relating these to LGBTI+ migrant rights and policy. The main focus in this research is on how power/knowledge, discourses, statuses, labels, identities affect LGBTI+ migrant's life in Turkey including the intersection of sexual orientation, gender identity, race/ethnicity and class within the context of migration and refugee policy.

The questionnaire of the semi-structured interviews included questions that adhered to main themes of my research I therefore used open-ended questions to encourage participants to feel free to speak about their experiences and opinions. I asked the participants to expand on some particular points that came up in the interview for more information while always being aware not to retraumatized the interviewee in order not to harm the participant (Whiting, 2008; Turner, 2010; Chenail, 2011).

As mentioned earlier, I have been working since three years as a case manager and lawyer in LGBTI+ protection team in the Marmara region. The majority of LGBTI+ migrant community live in the Marmara region. The total registered applicant number is 900 people in our database and 500 of them are registered in İstanbul offices. The protection team has been providing social and legal counselling to applicants coordinating and collaborating with our colleagues in the offices and other national and international NGOs. I am familiar with the issues of applicants in the Marmara region since I supervise my colleagues in other cities, even though I do not conduct interviews. I contacted applicants who live in İstanbul,

since the city is representative of all other cities. I had interviewed some of the participants prior to the current research in 2019, and there was an impact of this acquaintance on interviews. Firstly, I have known the interlocutors through our previous long interviews in the NGO, and these meetings were not built on service provider and beneficiary. Hence there was a trust environment during the interviews in the NGO, which affected these semi-structured interviews positively. The participants were able to criticize the on-going system in the NGOs, even in ASAM due to their trust on me through my long-lasting role in ASAM. As an example, one of the participants shared his political opinions with me during the interview in the NGO, and we discussed the migration policy of governments, the political conjuncture across the world, and we built up more equal relationship and trustful environment rather than having relation between service provider and beneficiary. He focused on the questions and replied all in a critical way without considering my role in ASAM. I think that there was an important impact of our previous relation on the interview.

During the interviews conducted within the framework of this research, on the one hand, applicants asked some questions regarding their cases as if they were interviewed in the NGO. Some applicants, on the other hand, were not interviewed in the NGO, and it was the first time we had interview for this research. That created unclear environment due to my role in the NGO, despite I underlined that the interview was conducted by me as an independent researcher. After a while, they grasped that the interview was only about my research that was hard for them to make this distinction initially. Yet, there was also another group who did not know my role in the

NGO very well, they mentioned that they would like to contribute to my research, since it is relevant with their rights and life conditions in Turkey. This perspective moved the interviews in a more critical area and far from counselling concept.

During five of the interviews, interpreters were present in order to give participants the freedom to speak openly in the language comfortable for them. The other five participants spoke Turkish and English fluently so there was no need for an interpreter. The participants already knew the interpreter as she supported them in previous interviews during counselling work of the NGO we both work in. The interpreter took many courses that prepared her for interviewing LGBTI+ persons. Her professional background helped limit risk of interrupting participants and mitigating misunderstandings, which I deem important when speaking with participants. This arrangement, on the one hand, affected the interviewees positively as it allowed them to express themselves more freely. However, the pre-existing relationship between the interviewees and the interpreter might also have influenced the interviewees answers. It may have also influenced the interpretation since the interpreter may have unconsciously assumed that I was privy to the information that two of them had previously exchanged. By reflecting on this possibility beforehand, I requested that the interpreter and the interviewees to concentrate on me and to recognise that I do not share their common relationship.

The interview was participant-oriented so the questions were not followed strictly by a specific order. Instead, the opinions and feelings of

the participants were taken into account, while questions were either used to go more into depth or to carefully guide the interviewee back to the main research questions. The semi-structured interview method provides for such flexibility regarding the dialogue in the interview such as easy movement from question to question. The comprehensive semi-structured interviews often required relevant practical information. In this regard, the questions also were based on my previous knowledge and fieldwork experiences (Dearnley, 2005; Turner, 2010).

1.6.2 The Limitation of Data Collection

Data was collected from the database of NGO (ASAM). There was an impact of online conversations on interviews. At first, most of them did not want to have a video talk as they said that the condition of flats was not suitable for this call and their appearances. They have been struggling with reaching basic need and living in bad conditions especially in the meantime. Most of the participants were unemployed, as they were fired from their work and waiting for the support of NGOs and municipalities in the time of Covid-19 pandemic. This factor also influenced the structure of the interviews. Even though I stated that the research would not be used by NGOs or associations, some of the interviewees made requests from the NGO where I work, prompting me to give them the number of a counselling line that could support their needs for the duration of the pandemic. This exchange caused to shape my interaction between me and

the participants in this study. I could sense that there was an unequal power relationship since I sometimes assumed the role of an aid worker. As a result, I tried to mitigate this issue by stressing that our interview would remain confidential from the NGO where I worked. It also helped that I was careful not to fully assume the role of being an aid worker or legal counselor. For instance, I never replied to their questions when they asked for legal support to help their chances for resettlement. Instead, I stressed that I was speaking with the interviewees as an independent researcher and thus could not help them with their requests. Despite this exchange, or perhaps as a result of the exchange, I realized that most of the participants were very critical about national and international NGOs. They did not hold back from sharing their experiences, opinions and emotions freely with me.

1.6.3 The Analysis of Research Data

I produced this qualitative research analyses by using a thematic analyses. This analysis involves categorizing interviews, which I did base on themes and patterns that emerged from the data I collected. I read through the transcripts before noting down themes that I saw appear in the data. After I determined the themes and subthemes from the transcripts, I put these into wider thematic categories. As a result, I developed my qualitative analysis through analysing in detail what participant said about these themes. Additionally, the data was analyzed in regards to reflexivity

and positionality which concern power dynamics between the interviewer and the interviewees (Belotto, 2018).

1.7 Scope of the Study

First, I indicate the international and national regulations, specifically LFIP, the government's policies and societal discourses regarding LGBTI+ migrant rights in Turkey, by approaching my own experiences from the field, reports and court decisions. My second point is to underline how LGBTI+ migrant life is in Turkey. Turkey is often assumed to constitute an exception in the Middle East as a Muslim country by providing a safety zone for LGBTI+ migrants. However, according to reports of human rights organizations and our observations from the field, LGBTI+ migrants in Turkey face several obstacles in enjoying fundamental rights and accessing basic services.

Over the past years, the world has had an increase in right-wing mobilization and at the same time an increase in neoliberal policies. This mobilization was successful to manipulate groups through governments' policy such as the policy of Turkey based on nationalism and neoliberal economic policies. According to this policy, migrants are burden on the "host countries" such as EU countries and Turkey, since migrants are mostly being perceived as a cause for high rates of unemployment. Hence this neoliberal ideology has an impact on the participation of the NGOs and IGOs. (Adamson & Tsourapas, 2019). International funding is an important

source for NGOs, and it that creates pressure on NGOs, since they have to respond to the demands of donor. These demands reduce their activities to humanitarian assistance rather than human rights advocacy due to political conjuncture in Turkey. Donors demand the number of counselling and activities from the NGOs. In some cases, the NGOs have to have good relations with official authorities to give expected amount of counselling. Also, this system brings lack of solidarity due to the competition between the NGOs, and therefore NGOs face constraints in their ability (Danış & Nazlı 2019).

On the other hand during these years many new initiatives have emerged to combat right-wing movements including NGOs (specifically activist NGOs), researchers, academics as well as human right advocates and defenders. This political conjuncture affects policies regarding migrants across the world, so these actors that fight for human rights focus on the issue of migration in Turkey, the EU and other countries as well. This focus requires human rights defenders to underline the intersecting issues of discrimination that LGBTI+ migrants face.

LGBTI+ migrants experience multiple discriminations on the individual, institutional and/or structural level in regard to both being “LGBTI+” and being an “immigrant” in Turkey. Intersectional discrimination, in turn, becomes particularly visible when it comes to “LGBTI+ refugees.” These refugees face specific forms of discrimination at the intersection of “race/ethnicity”, “class”, “sex(uality)” and “gender” that interact with each other in an inseparable way (cf. Crenshaw 1989). In this

regard, this study aims to discuss intersectional forms of discrimination at the interface of migration, race, gender and sexuality. Butler analyses sexuality and gender by including power, practices and race, as she thinks that “heterosexuality does not have a monopoly on exclusionary logics” (Butler, 2011, p. 112).

The process of RSD also has to be determined under the concept of intersectionality; otherwise it creates a reductive perspective in terms of having the right being asylum seekers in the countries. If the authorities only determine whether being an LGBTI+ is the reason for facing persecution in the country of origin, it can create a decision with a missing point. People are not leaving their country only due to fear of persecution for their sexual orientation, there are multiple factors that force them to flee from where they live.

Equally important “power/knowledge” constructs and shapes the concepts of refugee, sex, gender, gender identity and gender roles etc. This has an important impact on the constitution of the subject and the identity by creating discourse. So, in this research, I examine the effect of “power/knowledge” considering discrimination, hatred, homophobia, transphobia and hate speech within the juridical system, political discourses and society in Turkey.

2. THEORETICAL FRAMEWORK

2.1. Questioning Gender Identity and Sexuality

This research emphasizes the question of sexuality and gender identities within migration in Turkey considering race/ethnicity, identity, legal status and class. LGBTI+ migrants, not only in Turkey but also across the world, face discrimination at the intersection of race/ethnicity, class, sexuality and gender that interact with each other in an inseparable way. The dynamics of social stratification such as gender, ethnicity, race, class, status etc. are involved in our research, as these are all related to facing intersectional discrimination against LGBTI+ migrants.

Some scholars state that gender identity has been constituted by power structures such as political discourse, law, and social norms. Specifically, queer studies examine the question of sexuality and gender identity in through this critical lens. Through this critical analysis, which scrutinize the themes of sexuality and gender identity, a transformation of identities and status are emphasized within migration policy (Gutting, 2005 p. 94; Hall, 2003, p.33).

Similarly, sexuality is accepted as a construction discursive by some of the scholars and, for these scholars, the categories of heterosexuality and homosexuality cannot be included in all sexual practices. These practices are change depending on the cultural and historical context. For Foucault,

the way of understanding sexuality in mainstream western culture is a genealogical analysis of sexuality.

“A genealogical analysis consists of a search for an instance of discursive production...of the production of power and of the propagation of knowledge', which makes possible a 'history of the present'” (Foucault, *History of Sexuality*, 1980, p. 12).

Same-sex relations have taken many different forms in history. For example, homosexuality was conceived as a sin against nature until the 1800s. During this time, the law was formed considering whether or not the acts were against nature. This is the case in the 1477 trial of Katherina Hetzeldorfer, a German woman who was executed for female homosexuality as she was said to have had a sexual relationship with her female housemate and have acted like a man. During that time, there were no regulations regarding this situation in law, yet she was hanged for committing a crime against nature. According to poststructuralist theorists, sexuality has been constituted discursively through history (Sullivan, 2003, pp. 2-3).

The question regarding sex/gender distinction has been underlined by multiple scholars (Butler, 1990, 1993; Gatens, 1996; Barad, 2007). Sex is formulated within the natural/biological concept and gender is linked to the social/cultural concept, but this conceptualizing is limiting and problematic as it reproduces culture and nature dichotomy.

Butler's concept of performativity encompasses both the norms and practices in an inseparable way; "performativity describes both the process

of being acted on and conditions and possibilities for acting and that we cannot understand its operation without both of these dimensions” (Butler, 2015; Wilcox, 2017, p. 8). In this regard, gender can only be practised in reference to social norms. Butler underlined the role of intelligibility for denoting a gender practice to be recognized as a subject.

"To the extent that gender norms ... establish what will and will not be intelligibly human, what will and will not be considered to be "real", they establish the ontological field in which bodies may be given the legitimate expression" (Butler, 2002).

By adding that, political intervention has questioned the viable subject and a viable subject needs to exist before a subject can lead a "liveable life." "All kinds of bodies whose lives are not considered to be 'lives' and whose materiality is not understood to 'matter.'" For Butler, gender is less about *embodying a practice*, than a *practice of embodiment*; that is, becoming that which is recognizable. Butler claims that gender is something one becomes, as gender is a form of repetition of acts. There is a similarity with Simone de Beauvoir's famous sentence that "one is not born, but rather becomes a woman" (Butler, "How bodies come to matter: an interview with Judith Butler; Wilcox 2017, p. 10). Under these circumstances, being LGBT+ is also a form of repeated practices of gender and sexuality but one that is not accepted to be intelligible and, therefore, not "liveable lives" according to prevailing norms of sex and gender.

Butler discussed the core meaning of the subject in her book *Gender Trouble*, largely inspired by Foucault's work. She mentioned Foucault's

point for the subject that is produced by the juridical system, and subsequently, the representation was defined to be a subject in the political system with certain legitimization by the law (Butler, 2002).

The arrangements relevant to heterosexuality and patriarchal norms in different countries is cause to rethink migration through the perspective of sexuality and gender, as these norms construct the nation and citizenship and determine who will be eligible to stay in countries as a migrant. In this regard, scholars have started to discuss the delocalization of borders, reconstruction of identities and statuses (Andrijasevic, 2019, pp. 390-391).

2.2. Understanding Sexuality and Gender Identity in the Context of Turkey's National Law System

The history of LGBTI+ rights in Turkey shows us the perspective of the Turkish government in terms of sexuality and gender identity through its changing law system and discourse. The LGBTI+ movement became active in Turkey in the 1980s after EU countries amended their national laws. In 1988, gender reassignment was included in the Turkish Civil Code. However, there is no specific regulation in Turkish national law system regarding LGBTI+ rights or sexual orientation, or sexual and gender identity. The Turkish civil law system only recognizes marriage based on a sexual binary. Transsexuality has been accepted as a psychological disorder in the classification of mental and behavioural disorders (DSM). Turkey's government made a referral to DSM to legalize the acceptance of

transsexuality as a psychological disorder on the website of the Health Ministry.

Despite the above amendment in the legislative system, patriarchal norms in practice within the legal structure have never been abandoned. These norms construct knowledge and produce objects of knowledge by excluding others, as much of Foucault's work discussed through analysis of the production of the subject of knowledge through power. Foucault underlines that knowledge is derived by power to determine which process is considered under "normalization." For Foucault, the subject takes the position-dependent on the constituted subject to be a living person (Foucault, 1972).

The legislative system and the medical community are an apparatus of this knowledge and have been used by governments to "determine which process is considered under normalization." Until a change in the discourse of government, one is considered as "subject" as long as being the object of knowledge. As an example, transsexuality is not determined as a disease since transsexualism was removed from the list of DSM.

Turkey signed and ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (İstanbul Convention). The Istanbul Convention is the first international convention that openly includes the categories of sexual orientation and gender identity together with gender.

According to Turkish Constitutional Law, international agreements are stronger than national law and if there is a dilemma between these regulations, Turkey has to regulate its national law in accordance with the

İstanbul agreement. But, the national law in Turkey exposes LGBTI+ to fundamental human rights violations based on sexual orientation and gender identity both at an individual and organizational level.

Even though the Istanbul Agreement prohibits discrimination against sexual orientation and sexual identity under Article 3, discrimination of speech on the basis of sexual orientation or gender identity⁴ is made frequently by state officials in Turkey. This political rhetoric does not only constitute an unjustifiable State, it also exacerbates social stigmatization against LGBTI+ s.

Yet, the authorities claim that the existence of national law in various platforms means there is no need for further regulation. As an example, the Deputy Minister for Foreign Affairs of Turkey, Faruk Kaymakçı, replied to the recommendations and criticisms of 16 countries at the United Nations Universal Periodic Review claiming the inclusive LGBTI+ legislation with these words:

"10th Article of our Constitution says 'Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion, and sect, or any such grounds.' The phrase 'any such grounds' here covers sexual orientation and gender identity. Therefore, sexual orientation and gender identity do not need to be included in other laws."

The Turkish legislative system indicates that the politicians, law makers, and right-wing parties construct the legislative system according to their

⁴ <https://ilga.org/wp-content/uploads/2016/02/Shadow-report-16.pdf> (03.05.2019)

heteronormative, patriarchal norms, since the efficient regulations regarding LGBTI+ rights or sexual orientation, or sexual and gender identity have not been adopted in both legislative and policy level without categorising individuals who can be protected under the system as viable subjects. These apparatus of power determine who will be eligible to be considered as a “subject” under the idea of Governmentality. However, the Deputy Minister for Foreign Affairs of Turkey claimed that there is no need to regulate the discrimination based on SOGI since it is already regulated in the Constitutional law, as other authorities claimed during the international meetings in Western countries regarding human rights. The lack of regulations regarding LGBTI+ rights affect LGBTI+ migrant’s life negatively due to the exclusive regulations in migration policy and the legislative system as these are mentioned in the following chapters.

2.3. Theoretical Understanding of Asylum Procedure in Turkey

Asylum procedure is based on international and national law in Turkey. I will discuss the latest developments on asylum policy in Turkey chronologically. Turkey is one of the first countries that signed the 1951 Geneva Convention with a geographic restriction that it maintains until today. That means Turkey only grants refugee status for people who seek asylum from Europe. People from non-European countries can receive temporary refugees status until resettlement in third countries is arranged accordingly. The first regulation regarding asylum policy in Turkey was

formed in 1994 due to an increased influx of immigrants after the end of the Cold war. The amendment was constituted in 1999 and prepared by the Ministry of Interior in 2006 about the rights and obligation of being asylum seekers. In the paper, the Foreigner Department of the Turkish National Police was responsible for status determination, but actually, UNCHR conducted status determination on behalf of Turkey. In 2013, the law on foreigners and international protection was drafted and then adopted by the Turkish parliament on April 4, 2013. This law includes comprehensive legal framework in terms of asylum law such as the status of migrants, the context of detention, protection of vulnerable categories, and the principle of non-refoulment. The General Directorate of Migration Management was then established under the Ministry of Interior with the mandate of determining the status of asylum seekers.

2.4 Asylum Policy Changes in Turkey

The reason would not be only about the transformative power of the EU, as the explanation of research underlines the combination of domestic factors and alternative external influences. Afterwards, the issue started to be called the Syrian refugee crisis in the EU and Turkey, due to the increasing number of migrants flowing through these countries. The European Stability Initiative (ESI) promoted an emergency political plan by considering a strong German commitment (not a European one) regarding the EU-Turkey deal. In this regard, the EU-Turkey “deal” based on the

Joint Action Plan (JAP) as a political agreement was signed to stop the uncontrolled arrival of people in the Eastern Mediterranean in 2015. According to this agreement, the second common EU-Turkey statement was determined by underlining the final implementation tools for the JAP in 2017, stating that Turkey would take back all migrants crossing the Greek border, and the EU agreed to accept the same number of Syrians from Turkey through the resettlement process (Lehner, 2018, p. 5).

In Turkey, refugee statuses have been determined according to the law on Foreigners and International Protection (LFIP). Refugee status is only applicable for people coming from Europe to Turkey as a consequence of Turkey's geographical limitation on the refugee definition provided under article 1A(2) of the Geneva Convention. Other statuses are conditional refugee protection, subsidiary protection and temporary protection under LFIP.

Under these circumstances, we would discuss whether Turkey is a safe country for asylum seekers in accordance with international and national law. In the Geneva Conventions and EU Asylum Procedure Directive the conditions for being a safe third country are laid out. The EU Asylum Procedures Directive makes a category regarding a safe country; the "normal" safe third country concept (Art. 38), the concept of a European safe third country (Art. 39), and the country of first asylum (Art. 35). All these concepts are based on the same mentality, which is that the EU cannot be chosen as a safe place randomly when there are other safe places available. But these concepts should have been considered in the issue of

collective expulsion that is forbidden by the 1963 Protocol No. 4 of the European Convention of Human Rights of 1953. So, the “super-safe country” is conditioned to have “ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms” and to “observe its provisions, including the standards relating to effective remedies and Geneva Convention without any geographical limitation as well.” But this is a contractionary provision as the protection would be effective in practice with different methods. In this regard, the question is that the non-refoulment principle is respected by Turkey for Syrians to be determined whether Turkey is a safe country. There have been reports regarding violations of the principle, particularly the amendment of article 54 of the LFIP under the state of emergency which allows the deportation of applicants or international protection beneficiaries if they "are considered to have connections with terrorist organizations defined by international institutions or organizations" (Lehner, 2018, pp. 6-7). The principle of non-refoulment was changed by a decree in October (KHK 676) with regard to the scope of removal decisions.

The asylum procedure in Turkey is based on the above mechanisms in general as Turkey is still an EU candidate and a partner in the process of the current EU migration and refugee system. Turkey is also a country with a long history of immigration and emigration, and where authoritarianism is increasing by creating a new record for human rights violations. So, the asylum procedure system is constituted between the EU asylum system and also the country's dominant policy system. Syrian refugees being kept out of the framework of European migration law was an example used by the

government to implement its exception policy. LFIP is part of this policy and the differentiated applications of rules to different classes, religious groups, LGBTI+ and social status members.

One of the participants, Basel, is from Syria and graduated from the Sociology Department of Damascus University. He came to Turkey from Beirut by plane in 2015. He is 32 years old gay male. He expressed his thoughts on his status in the following statements:

"Temporary protection is so unfair as it puts everyone under the same categories. I have been working in international and national NGOs since I came here and am a well-educated person but I still need to have permission every time for travel from one city to another. I wish I could switch my TPID to residence permit as I want to travel freely at least in Turkey..... In 2019, I applied for master program in Hungary but my application was not accepted. I am under Temporary Protection in Turkey that makes me nervous as it is always on unstable ground. Turkey government can say that Temporary Protection is cancelled and all Syrians will leave. Being under Temporary Protection makes me unsafe. I want to go somewhere where there is an actual law saying that you can obtain citizenship as a Syrian or that you can receive a long residence permit,. That would be clearer than temporary protection. I have been living and working in İstanbul for five years and my status is still Temporary protection. If I got a good opportunity to settle down permanently in another place, I will leave İstanbul."

These rules have been protested for ill-treatment, human rights abuses, and the general social and political situation by refugee communities. As an example, an Afghan refugee group went on a public hunger strike for weeks due to exclusion from the UNCHR system. Moreover, there were other hunger strikes in removal centres. LGBTI+ migrants were affected negatively in both practices, which in theory was due to Turkey's own dynamics regarding its asylum system.

2.5. LGBTI+ Migrants' Rights in Terms of International Framework

LGBTI+ migrants are subject to human rights violations in all parts of the world. In many countries, same-sex sexual activity is still considered criminal and requires punishment. Beside this widespread criminalisation, there have been on-going developments regarding LGBTI+ rights.

“Membership in a particular social group” is based on the UNCHR intervention for the criterion for statuses. Under this criterion, there is an assumption of a refugee's immutable identity that they should not be compelled to forsake. In this regard, some refugee organizations such as ORAM create their own agenda regarding the definitions of being gay and lesbian so the multiple and complex subjectivities are reduced to rational definitions to match the refugee policy defined as "homonormativity” by some diasporic queer organizations (Duggan, 2002).

In 2007, the Yogyakarta Principles were launched by the International Commission of Jurists in relevance to sexual orientation and

gender identity under international human rights obligations. In terms of asylum-seeking, Article 23(A) of the Yogyakarta Principles identifies an obligation on the international legislative system:

"Review, amend and enact legislation to ensure that a well-founded fear of persecution based on sexual orientation or gender identity is accepted as a ground for the recognition of refugee status and asylum" (ICJ 2007: 27).

In the Geneva Convention of 1951, there are no specific protected categories of persecution on the basis of sexual orientation or gender identity. Since 1990, sexual identity and sexual orientation have started to be considered under "a particular social group" and accepted as a possible cause for a well-founded fear of persecution regarding refugee policy by countries such as the United States, the UK, the Netherlands, Australia and Canada. The definition of "a particular social group" is problematic in many ways, however. First, people have to show enough proof regarding their sexual orientation and gender identity. Secondly, LGBTI+ migrants must have a well-founded fear of persecution to be part of the social group for asylum-seeking in front of authorities.

According to UNCHR "Resettlement" data, less than 1% of all refugees across the world were resettled (UNHCR Turkey, Key data and numbers, 2018). The resettlement process works faster for LGBTI+ asylum seekers than others as they are accepted to be one of the most vulnerable groups among all asylum seekers. At the same time, this creates a hierarchy of vulnerability. Also, the policing of identities within these definitions constitutes normative notions of authentic gender and sexuality. The

resettlement process is part of the refugee policy and tests refugees in order to separate the "deserving" from the "undeserving" at the end (Shakshari, 2014, p.1003).

The same refugee policy relies on essentialist notions of identity which have been fixed in time, yet refugee rights aim to erase these differences through the universal notion of a refugee while constructing differences between self and other, deserving and undeserving subjects, and the immutable other such as LGBTI+ refugees (Shakshari, 2014, p. 1004).

Hanna Arendt's book, *The Origins of Totalitarianism* (1973), states the difference between the right of humanity and the right of citizens and emphasizes the plight of right-less people who do not have citizenship status where they reside. There are huge differences between citizenship and non-citizenship in terms of having human rights, as there is an inherent contradiction between the universal individual rights and national sovereignty.

Refugee rights are part of human rights but there is no sanction to force host nations to give them the same rights as citizens. After all these international agreements, directives, and regulations, in many countries refugee rights are still used in relevance to charity rather than solidarity. There are also other uses such as "burden", "guest", "refugee crisis", or "brothers-sisters" to show the core idea of the government's perspective on non-citizens who are willing to live in their country. Basel expressed his ideas in the following statements:

"I think that Turkey do not have any regulations regarding LGBTI+ rights but the LGBTI+ movement is strong in here. I am not

involved in LGBTI+ movement in Turkey as I am accepted as guest here by non-LGBTI and LGBTI+ community as well.”

* * *

To summarize, this chapter has revealed that the perspective of national sovereignty is prioritized rather than universal individual rights in Turkey policy and legislative system. Moreover, that point is the same in terms of migration policy in the EU as well. Governments construct their “normal rightful subjects” under their legislative system based on their policy on essentialist notions of identity. This essentialist policy defines and shapes certain gender/sexual identity, statuses by the law. That creates huge differences between non-citizenship and citizenship. Refugee rights are accepted universal human rights in western human rights norms, but there is not any sanction to force a country either defining refugees as citizens or regulating same rights for refugees as citizens. The EU-Turkey deal is one of the examples used by the EU and Turkey to implement their neoliberal policy without considering migration rights. Even though there have been reports regarding violation of non-refoulment principle for Syrians due to emergency degree, Turkey is still considered as a safe country for Syrians under the EU-Turkey deal. In this regard, the asylum system is constructed between the EU asylum system and the country’s dominant policy system. LFIP is part of Turkey’s dominant policy system since it keeps Syrian refugees out of European migration law. So, Syrian LGBTI+ migrants have been affected negatively due to the Turkish Government’s own practices and dynamics regarding their asylum system. Moreover, the EU refugee

system brings criteria, which is being “membership in a particular social group” with a well-founded fear of persecution for asylum-seeking in front of authorities for LGBTI+ migrants. This is also a part of the same refugee policy relies on identity construction since it forced individual to be involve in normative notions of authentic gender and sexuality. Through this chapter, which analyzes sexuality and gender identity, a transformation of identities and status is emphasized within international and national policy according to the country’s dominant policy system. The following chapter will examine how these dynamics are implemented for Syrian LGBTI+ migrants in Turkey under international and national regulation.

3. THE CONTEXT OF THE LGBTI+ REFUGEES IN TURKEY

3.1. The Rhetoric for “Refugee” in Turkey

During the political change in Turkey, especially after the “occupygezi” movement and coup attempt, society has become even more polarized than before. The refugees have been exposed to discrimination due to this polarization in society. The number of people who are against the Syrian refugees have increased in Turkey due to the spread of misinformation regarding the ongoing migration policy governing Syrian refugees (Güçtürk, 2014, p. 81).

Under this political conjuncture, Syrian migrants have been framed through a discourse perpetuated by politicians, broadcast and print media and the host society. The discourse of tolerance for our “guests” was a common phenomenon in the political framework, specifically for Syrian refugees, to manage the refugee crisis in Turkey based on some deep-rooted values such "Turkish hospitality", "Muslim fraternity" and "guesthood" traditions. The rhetoric of Ansar spirit (Arabic for helpers) is used for Syrians by state actors in general, and the government in particular. Ansar is a term from the Quran and Islamic Hadiths that refers to the people of Medina who supported the Prophet Mohammad in recapturing the holy city of Mecca (Kaya, 2016, p. 7).

The Republican People's Party (CHP) and the Nationalist Action Party (MHP), the main oppositional parties, used a populist discourse scapegoating the Syrian refugees for the economic crisis in Turkey. They

blamed Syrians for the political, social, and economic ills in Turkey during the general election in June of 2015. The CHP changed its discourses and used a little bit more friendly discourse for Syrians after the second general election in 2015. As an example, while Kemal Kılıçdaroğlu was criticising the EU deal in March 2016, he said: "Let's give them (the European Union) 6 billion Euros, and they take all Syrians, Afghans, Pakistanis themselves." (Kaya, 2016, p. 9).

Despite the rights granted under the Temporary Protection Directive, many Turks think that voluntary repatriation is a certain solution for the refugee crisis. Moreover, the majority of the group has many complaints about hosting this number of refugees in Turkey. Some people even view refugees as "traitors," a sentiment that dates back to Arab revolt against the Ottoman Empire in the early 20th century (Kaya, 2016, pp. 16-18).

All these discourses are used to discuss refugees by politicians, lawmakers, and are also common usages in public. This rhetoric discriminates people by labelling and constituting the other as hateful, dangerous, and a threat to society.

The use of these labels for Syrian migrants was adopted by society easily, but the labels were not enough for the majority of Turkish citizens. They think that Syrian migrants steal their jobs, their land, and change the structure of society so they are a threat to their facilities and the structure of society.

3.2. Sexual and Gender Identity of LGBTI+ Migrants

Being a member of "a particular social group" as a possible cause for a well-founded fear of persecution has been accepted as one of the reasons for seeking asylum in light of the 1951 Refugee Convention and the UNCHR definition of a refugee as it is mentioned in other chapters. Sexuality and gender identity are considered under this categorization, as there is well-founded fear due to sexuality and gender identity. In order to be settled in nation-states, people have to claim this fear from their country of origin due to their sexuality and gender identity, as well as be part of the "LGBTI+ community" under these circumstances.

The UNCHR guidelines regarding "membership in a particular social group" was published in 2002 to provide guidance "for governments, legal practitioners, decision-makers and the judiciary, as well as UNCHR staff carrying out refugee status determinations in the field."

"...is immutable characteristic or by a characteristic that is so fundamental to human dignity that a person should not be compelled to forsake it. An immutable characteristic may be innate (such as sex or ethnicity) or unalterable for other reasons (such as the historical fact of a past association, occupation or status). Human rights norms may help to identify characteristics deemed so fundamental to human dignity that one ought not to be compelled to forego them...Applying this approach, courts and administrative bodies in a number of jurisdictions have concluded that women,

homosexuals, and families, for example, can constitute a particular social group within the meaning of Article 1A(2)”

This guideline estimates being LGBTI+ in an essentialist way as it creates criteria to fit the “immutability of character” to seek asylum without considering applicant’s multiple and complex subjectivities. So, sexual orientation and gender identity is reduced to concrete definitions defined by refugee law and policy (Shakhsari, p. 1002).

Power constructs the subjects in the social world through discourse. In the neoliberal world, the subject is constituted by bureaucratic regimes and modes of the discipline of government. Foucault analyses these structure by referring to "Governmentality." Living in this World requires people to fit into the social world. LGBTI+ refugees, migrants or asylum seekers have to claim to be a member of a "particular social group" to be protected in "host countries" according to Geneva Convention and UNCHR guidelines were published in 2002 and 2012.

On the other hand, these expressions regarding sexuality and gender identity are oriented toward the Global North. These categories have also been used for refugee status determination (RSD) in order to determine if the applicant is a member of a social group. The RSD process has been conducted by national laws and in some countries like Turkey through the mediation of UNCHR. In this regard, UNCHR shapes LGBTI+ asylum-seeking procedures in countries through legal gender classifications or by its own gender categories and methods (Koçak, 2020, p. 3).

In Turkey, there are no legal gender classifications in the LFIP or any regulations within the scope of sexuality and gender identity. Yet the PDMM has been interviewing LGBTI+ individuals for resettlement processing as these applicants are considered a vulnerable group and thus eligible for a resettlement interview. Applicants who claim to be LGBTI+ would be also considered under one of status is written in the LFIP, after officials in PDMMs decide which gender performance of persecution deserves to be protected under LFIP according to their country of origin. Since September of 2018, UNCHR did not determine the status of refugees for international protection in Turkey, but have been arranging many pieces of training for PDMM's staff regarding criteria of RSD. For Syrian applicants, there is no need for this kind of determination of status due to the temporary protection system. On the other side, resettlement has been conducted by PDMMs and NGOs (UNCHR's implementing partners) for Syrian refugees.

Basel talked about his experience in UNCHR and PDMM during the resettlement interview:

“I did not feel comfortable during the interview of UNCHR because all the process pushed me to being a refugee and I did not want to take this label. That is important for me. I was accepted for resettlement to France, but I decided to stay in Turkey, as I have never wanted to be a refugee anywhere. I only want to support myself without getting any help from governments. The other important thing is that I do not like using my sexual orientation for

resettlement. But I had to answer their question correctly, and they asked about my sexual orientation. I was interviewed in PDMM for resettlement and it was the most uncomfortable part for me because going to the government and talking about my sexual orientation is unusual for me. I did not want to tell all private information about my SOGI to the authorities as this information will be kept by the government. Also, there was an interpreter and that made me so uncomfortable to speak about my SOGI as I do not know this person.”

LGBTI+ migrants have been considered as a vulnerable group as they are marginalized by society. So, sexuality and gender identity determine the level of vulnerability and these degrees also make the resettlement process more expeditious. However, this process is the reason for fake cases claiming to be LGBTI+ when they actually are not (Shakhsari, 2014, p. 1001). The process is implemented in this way in Turkey, as there is exclusion from society for LGBTI+ applicants. On the other hand, this creates another form of “othering” due to assignment to the categories of “marginalised by society” or/and “vulnerable group” in Turkey.

3.3. Intersectional Discrimination in terms of LGBTI+ Syrians in Turkey

Intersectionality was emerged as an experiential term in the late 1980s. The term underlined the dynamic of differences and the solidarities

of sameness in the social movement politics. Additionally, it indicates that how unidimensional frameworks has an impact on legal thinking, disciplinary knowledge production, and struggles for social justice. It also revealed the way of thinking about the problem of sameness and difference and its relation to power (Cho & Crenshaw & McCall, 2013). Crenshaw (1989) underlined that Black female narratives were not considered under standard race discrimination or gender discrimination in the legislative system since it was constructed narrowly based on single-axis notions of discrimination.

Firstly, Crenshaw relates the concept to the entanglements and connections of inequality axes (racism/sexism) and inequality generating categories (race/gender). Crenshaw speaks of "structural intersectionality" and "political intersectionality". Intersectionality focuses on political and structural inequalities rather than understanding categories, identities, and subjectivities. Secondly, Crenshaw understands intersectionality as a concept that takes the social positions and (discrimination) experiences of certain social groups into account, in this case black women, as well as forms of subordination and agency of the subjects. Crenshaw speaks here of "intersectional locations" and "intersectional experiences". Thirdly, intersectionality appears in Crenshaw's work as a political concept of the identity that is not limited to one category, but makes visible the diversity of "social identities" in the sense of "multiple identities" (Crenshaw, 1989).

Crenshaw also articulates that intersectionality is not primarily about the formation of identities; instead it is about how certain identities are

constructed through social relations of power and inequality and apparatus of institutional structures. She added that there is a need to underline the multiple grounds of identity considering the construction of our social World. In this regard, she mentioned that discrimination against black women is not designated adequately in the legislative system since it separates gender discrimination and race discrimination (Crenshaw, 1991).

This research mostly focuses on the structural intersectionality, which refers to the problems faced by LGBTI+ migrants who experience multiple forms of oppression, for example, within housing, employment, and health care. This concept reveals how gender, race, and class discrimination shape the everyday life of the LGBTI+ migrants in Turkey. However, in the current research, the political intersectionality is underlined since the single-axis perspective exists on the political agenda in terms of LGBT+ migrants' rights.

Additionally, intersectionality has become an important key concept in gender, migration and diversity studies (Yuval-Davis, 2011). Yuval-Davis's transversal approach to intersectionality underlines the creation of transversal politics. The transversal politic can be named as the inclusive political intersectionality, which is the concept to understand the interface between migration, ethnicity/race, gender and sexuality (Sauer & Siim, 2019).

Through the intersectional approach, intersectional experiences can be covered in the legislative system adequately considering multiple forms of oppression. LGBTI+ migrants face intersectional discrimination in their

daily lives in Turkey and the EU countries. When we look at the migration policies and the legislative system in Turkey, they are not accounted as multiple forms of categorization of asylum seekers claiming, which is problematic since many LGBTI+ migrants experience intersectional subordination (Dustin & Held, 2018).

In this regard, the question is how the intersectional concept can be approached in migration policy. First, there is need to build up strategy that requires capacity and cooperation with other groups to counter the radical right's exclusive policy. In Turkey, the main policy is based on conservative welfare structures and gender regime. This conservative gender regime does not add marginalized social groups on their political agenda. Yet a few NGOs and municipalities (such as Şişli) have adopted an inclusive and intersectional policy to provide solidarity with immigrants, refugees, and asylum-seekers. Still, these approaches could benefit from a more radical integration of intersecting discourses of equality and inclusion by cooperating with other municipalities and the government. However, conflicts between the conservative policy of JDP (Justice and Development Party) and other left parties of municipalities has made cooperation almost impossible. The current policy conjuncture in Turkey divides the country two different opposite sides when we look at the last elections in the country. The ruling party JDP party have an increase hegemonic policy, which discriminates people according to their political opinion, gender identity, sexual orientation, ethnicity/race, religious through its right-wing discourse and exclusive policy.

Under these circumstances, the intersectional concept is a challenge to be implemented in the migration policies due to the lack of potential for the policy of right-wing parties. Yet, NGOs and parties (not specific party name is given from Turkey) can focus on the interface of migration, race/ethnicity, class, gender and sexuality by focusing on politics, cooperation and solidarity. Through an awareness of intersectionality, multiple oppression and the negative effects of one-dimensional decision-making in the migration law and policy can be acknowledged, that provides liveable space for everyone. Hence the migration policy in Turkey should consider the intersectional concept to prevent the marginalization LGBTI+ migrants from society.

3.4. Hatred for LGBTI+ Migrants

Turkey was once believed to constitute an exception in the Middle East, that is, as a mostly Muslim country it integrated into the institutions of the liberal West/North, which was supposed to make it a 'safe haven' for LGBTI+ migrants to become rightful subjects (Üstübcü & İçduygu, 2018, pp. 28-30). This myth, however, has been dispelled due to unlawful decisions, regulations and policies about LGBTI+s as mentioned in this thesis.

The hate crime is defined in the Turkish Penal Code, but the current legislation does not protect anyone who faces hatred based on SOGIC. The article of hate speech is not defined as the meaning of hatred by involving multiple definitions and regulations on collecting statistical data on hate

crimes. The Law No. 6701 on Human Rights and Equality Institution of Turkey (HREIT) is not effective to prevent discrimination as well as hate speech against LGBTI+, since the Law no. 6701 does not include any provision regarding discrimination and hatred speech based on SOGI. However an appeal on behalf of a trans applicant was rejected by the board members of Human Rights and Equality Institution of Turkey. The institution claimed that sexual identity is not considered as a reason for discrimination.⁵ The lawyer from Pembe Hayat (NGO) applied to the administrative court for rejection of this decision, and the court rejected the decision of the institution. According to lawyer and NGO, this decision is not enough to make the law comprehensive in terms of LGBTI+ rights since there is still no amendment regarding discrimination based on SOGI. Moreover, the members of the HREIT gave hate speech against of LGBTI+ through social media⁶ (Gunes, 2017). When we look at the rate of hate crime victims, the hate crimes against LGBTI+s is the highest number on the data of NGOs, yet there is no active combat against homophobic, transphobic, and racist hate speech of politicians against LGBTI+ migrants due to lack of regulations in the legislative system (Kaos GL, Turkey's Challenge with LGBTI refugees 2019).

⁵ <https://www.kaosgl.org/haber/tihek-cinsel-kimlik-ayrimcilik-temeli-sayilamaz>

⁶ <http://www.pembehayat.org/english/liste>

Some hate speech examples are shared above quotation from the report of ILGA (International Lesbian, Gay, Bisexual, Trans and Intersex Association) in 2019.

“In 2010, former State Minister of the Affairs of Women and Families, Aliye Kavaf, stated that she believes “homosexuality is a biological disorder, a disease ... something that needs to be treated”. In a 2011 speech on terrorism, former Minister of the Interior Idris Naim Sahin spoke disparagingly of “an environment in which there are all sorts of immorality, indecency and inhuman situations – from pork meat to ... homosexuality”.

In 2012, Mayor of Ankara and member of the ruling Justice and Development Party Melih Gökçek spoke of homosexuality as contrary to Turkish culture; he remarked,

"Each society has its moral values. Especially for our Turkish society, we cannot be together with the gay culture in Europe. It is also not possible to approve of this. How we have been brought up, our brand of morality, our views are a little different. I hope to God that in Turkey there will not be gay (people) and there should not be".

Türkan Dağoğlu, Istanbul MP and Deputy President of the Committee on Health, Family, Labour, and Social Affairs, stated in 2013 that "'LGBT' is a behaviour that is outside the bounds of normality".

The Directorate of Religious Affairs gave a discriminatory speech against LGBTI+ rights and people living with HIV+ during its Friday

Sermon on April 24, 2020, while the world and Turkey are struggling with the COVID-19 outbreak.

"People! Islam accepts adultery as one of the greatest harms. It curses the people of Lot, homosexuality. What is the wisdom of this? The wisdom here is that it brings diseases and degenerates the generation. Hundreds of thousands of people a year are exposed to the HIV caused by this great haram, which passes as adultery in the Islamic Literature. Let's come and fight together to protect people from this kind of evil."

After this hate speech, People's Democratic Party (HDP) and Republican People's Party (CHP) representatives condemned this hate speech. In addition to these statements, several human rights and non-governmental organizations and the bar associations of Ankara, Diyarbakır, Istanbul and İzmir have condemned the chairperson due to his discriminatory and hateful speech. In the meantime, the Presidential Spokesman and Chief Advisor Ibrahim Kalın and some ministers also involved in the hate campaign and Ankara Public Prosecutor's Office started an investigation against the Ankara Bar Association by referring to article 216/3 of the Turkish Penal code No. 5237 which is about insulting religious values that a part of the society has embraced.

The neoliberal system creates categorizes to construct identities and label people accordingly through language, especially country like Turkey where nationalist and religious context is an essential ideological factor. Being LGBTI+ is pointed to the target group as "dangerous", as we saw above from the examples of hate speech from politicians

According to the report published the Annual Country Reports on Human Rights Practices in 2019 by the U.S. Department of State, Turkey includes several human rights violation of LGBTI individuals and organizations. The report highlights that even though LGBTI individuals face particular discrimination, intimidation and violent crimes, Turkish national law still does not include specific protections based on sexual orientation or gender identity.

Another recent report by the United Nations found that violence against LGBTI+s exceeds other forms of hate crimes and is perpetrated members from all levels of society, including by families, communities, religious leaders, and state actors.

Phyllis B. Gerstenfeld underlines the main ethical issue of regulating hate speech, which is who should decide what constitutes a “hate speech” and “hate crime” and what should be the scope of such regulation. Sexual orientation and gender identity have not been included in the regulations regarding “hate speech” and “hate crime” in many countries, furthermore the politicians in these respective countries – including Turkey – declare that being LGBTI+ is immoral behaviour. In this regard, the "hate speech" or/and "hate crime" against LGBTI+ is not outlawed due to legislative regulations in these countries as well as the attitudes of legislative officials. So the question we need to ask is who will protect the rights of LGBTI+ in these countries and how will "hate speech" be prevented under these circumstances?

In this regard, the definition of hate speech should be determined by listening to the stories of the victim, and not to the politicians or legislators

who are reproducing the stigmatization. What should be the definition of hate speech and who is the victim?

3.5. Cases Analysis

3.5.1. Cases from the Administrative Court in Turkey

I will give some examples of decisions that came from the Administrative court for Syrian LGBTI+ applicants. First, due to the non-refoulment principle, Syrians who are under temporary protection could not be deported in theory under any case. But after the attempted coup in July 2016, Turkey adopted the degree-law (676), which changed LFIP (Articles 53 and 54) as it relates to deportation. These legislated an exceptional the non-refoulment principle. According to these amendments in the degree-law, a person can be deported if they fall under any of the following three categories. These categories are “ (i) are leaders, members or supporters of a terrorist or criminal organization; (ii) pose a threat to public order, public security or public health; or (iii) are considered to be associated with internationally recognized terrorist organizations. These amendments became the reason for arbitrary detention for Syrians. LGBTI+ migrant mostly prefers to live in İstanbul not only to access job opportunities or LGBTI+ friendly spaces, but also due to threat from their families. In a city as large as Istanbul, many can hide from hostile members in their community. The issue is that according to LFIP, refugees have to reside in a designated province. In fact, a high number of people have been deported for violating this regulation. Another common reason that authorities cite

for deporting migrants is public health. This justification particularly targets vulnerable sex workers as well as those who are HIV+.

In one case, a deportation order was challenged by a Syrian man who was going to be deported for leaving his designated city for fear of his family. The court did not find this reason sufficient enough for the subject to leave the city. The applicant added that he did not go to the police office to make a complaint against his family because he did not want to harm them. Without filing a complaint, the subject had a lack of evidence to prove that he escaped his designated city out of fear. Another example worth noting is when the local administrative court, demanded that a man obtain proof from the hospital that he was gay. But the applicant could not find a way to prove his SOGI with official paper. As a result, the court rejected the appeal due to lack of proof that he was gay.

3.5.2 Cases from the Constitutional Court in Turkey

There is no application on behalf of LGBTI+ to the Constitutional Court except interim measure regarding deportation order. I contacted with a lawyer from NGOs (Kaos GL, SPOD, positive living, and HRDF) and LGBTI+ rights sub-working group to be sure whether there is any continuing case or not in the Constitutional court of the Republic of Turkey. They said that they only approached the Constitutional court of the Republic of Turkey on behalf of LGBTI+ migrants for the interim measure. So, the question here is why there is no application despite the human rights

violations in Turkey against LGBTI+ migrants. Are the Constitutional Court and/or the European Court Human Rights effective remedy on behalf of LGBTI+ migrants?

3.5.3. Cases from the European Court of Human Rights Court

The situation is the same for the European Human Rights Court as it is in the Constitutional Court. There is no application on behalf of LGBTI+ refugees except for interim measures. When we search for other applications for LGBTI+ refugees from other countries, the ineffective decisions of the court were found due to its position on asylum claims. In this regard, the European Convention on Human Rights does not guarantee the right to asylum as the court accepts this is accepted as an exclusive competence of countries. Yet, In one of court decision: “[...] where substantial grounds have been shown for believing that the person concerned, if deported, faces a real risk of being subjected to treatment contrary to Article 3. In such a case Article 3 implies an obligation not to deport the person in question to that country”⁷ The court also has arranged its position on asylum claims for reasons of persecution and inhuman or degrading treatment in terms of sexual orientation.

⁷ ECtHR, Saadi v. Italy, Application no. 37201/06, 28 February 2008, § 124.: The Court notes that "neither the Convention nor its Protocols confer the right to political asylum": <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-85275>.

One example from my work experience was a gay applicant from Libya who was suffering from HIV+. He was under international protection and went to the PDMM regularly to ink his signature in order to keep his asylum claim open. The PDMM eventually cancelled his international protection by sending him a notification. During that time, the application regarding the cancellation of the administrative decision was made by the lawyer. After a while, the applicant was detained in the police station and notified of a deportation order, which took place after he went to the PDMM to sign his name. An asylum lawyer then approached the administrative court to fight the deportation in the constitutional court by issuing an interim measure. Yet, the applicant was deported to Libya in 2018, although the interim measure decision was given by the constitutional court.

Another example is about a Syrian trans woman who was under temporary protection. She was sent to the deportation centre due to being charged with forgery, even though there was no investigation regarding this allegation. The appointed lawyer from the Bar Association approached the court of peace to object to the arbitrary detention. Then the applicant was sent to the deportation centre in Kilis, which is close to the Turkey-Syria border. The lawyer appealed to the Constitutional Court without having the notification of the deportation order as she was sent to Kilis, which means she would be deported certainly. The applicant was forced to sign "voluntarily repatriation" in the detention centre and was sent to Syria, even though she was threatened to death by her family due to her sexual identity. In both examples, we could not appeal to ECHR due to lack of approval

from applicants. To make matters worse, we lost our communication with them, which made it impossible to obtain their approval.

3.6. The Impact of Turkey Refugee Law on LGBTI+ Migrants as a Subject

There are various regulations in terms of LGBTI+ migrants' rights in Turkey. Being an LGBTI+ migrant in Turkey is facing both rightfulness and rightlessness at the same time. Shakhsari calls this situation as an in-between zone of recognition where rightfulness and rightlessness come together in a temporal standstill. The in-between zone where refugees reside temporarily brings ambivalent situations such as "oppression and freedom", "homophobia and gay rights" and "rightlessness and rightfulness". Also, the process of becoming European for Turkey and its obligations in terms of human rights policies do not render Turkey a safe country for LGBTI+ migrants (Shakhsari, 2014, p. 999).

Working conditions, in terms of LFIP, are broad that Syrian LGBTI+ migrants have the right to work legally but as it is written in many public reports, this does not work efficiently in practice for Syrians who are under temporary protection. The application process is conducted by employers via the online system. The process is very expensive, which is why they prefer not to apply for work permits for their employees. Instead, Syrian refugees mostly work "under the table" without employment security and so they receive lower wages than most citizens. LGBTI+ Syrian refugees also do not disclose their sexual identity. Under these

circumstances, LGBTI+ migrants think that the only solution is resettlement to third countries.

On the other hand, non-LGBTI Syrian refugees are willing to stay in İstanbul according to last field research in 2018 in opposition to a general assumption, which is that Syrian refugees wish to flee Europe. This research indicates how Syrian refugees constituted cultural intimacy and their social network in the city even though the hostility towards the Syrians in Turkey has increased. Most of Syrians in İstanbul think that there is a similarity in terms of culture, religion and gender structures between Turkey and Syria so that makes their life liveable in İstanbul despite that political, societal and economic fragility and temporary legal status and lack of communication with their Turkish neighbours (Rottmann & Kaya, 2020). Despite all these ambiguities in Turkey, most of Syrians did not leave for crossing the border when the Turkish ministry of interior announced not to prevent crossing the border to go to Europe on 28 February 2020, even mainstream media promoted this declaration through its untruth news regarding the policy of Greece and EU.

This current atmosphere is opposite for LGBTI+ refugees as they suffer from the effects of multiple subordination and so have precarious and desperate life in İstanbul and other cities as well. Most of them are eager to leave for third countries not to face all these obstacles and regarding their sexual orientation and gender identity.

Zeinab who expressed herself as trans woman mentioned why she is willing to leave İstanbul? She fled from Syria to Hatay four years ago with

her sister. Then she moved to İstanbul and lived in İstanbul without getting registered in her first three years.

“I am willing to leave İstanbul. I dreamed to go to the university and have my own small business when I was a child. It is still my dream. Nobody employs me in İstanbul, as I am LGBTI+ Syrian in Turkey. So I only want to leave İstanbul for my dreams.”

LGBTI+ refugees are subject to intersectional discrimination in Turkey due to their SOGI and status. All legislative system of Turkey is based on heteronormatives categorizes. One has to be involved in these categories to be accepted and then protected in the system. Turkey migration law is also part of this legislative system that does not provide any protection based on SOGI. Not only are there clear protection gaps in the legislative system, but political discourses also construct heteronormative, gender binary identities that exclude all other gender identities. According to Butler, gender is always associated with racial, class, ethnic, sexual and regional modalities of discursively produced identities. She also criticizes the juridical structures of language and politics for constituting the contemporary field that is categories of identity. In its place, she suggests a rethinking of the ontological constructions of identity to help create a free feminism (Butler, 2002).

The resettlement process in Turkey seems to be the necessary solution for LGBTI+ migrants, as the conservative community is almost half of population in Turkey and mainly are homophobic and transphobic and see LGBTI+s as a threat to their moral value. LGBTI+s are aware of this and expect to be marginalized and excluded from the society by

organizations. Their ambiguous legal status also makes them concerned about their future in Turkey. Due to these ineffective legislative systems especially in terms of LGBTI+ rights and the hatred of host conservative community and the ongoing ambiguity of their legal status, most of the LGBTI+ migrants are willing to leave the country. For them, the first option is applying for resettlement, but if they're denied then some may consider entering irregularly to Europe. That's their only options given the circumstances.

Eyman is from Syria, 32 years old. He fled from Syria to Turkey by passing the border in 2010. He expressed himself as gay male. He shared his experiences and opinions about LGBTI+ rights in Turkey in the following statement:

“My flatmates are Syrian and Muslim in my previous flat so I hide being LGBTI and irreligious person. They thought that I was Muslim as well. I always hide my SOGI in Turkey, as I am afraid. When I went to prosecution office for complying, the prosecution officer stared at me, it was obvious from his face that he was revolted at me. I feel like losing myself as I hide my SOGI and religious that much. I certainly do not feel safe in Turkey. LGBTI+s have been dying in this country due to the neglect of the Turkish government. I think they did this on purpose. The LGBTI+ rights exist only on the paper in here. Why the government banned pride if LGBTI+ rights exist. I am willing to leave the country as much as I love the country. If there is a

need to escape from the police rather than asking for support, how can I expect anything from this country?”

In this regard, the applicants have to prove the way they perform gender puts them at risk of persecution in their country of “origin” as well as in Turkey in order to be granted resettlement. So, UNCHR needs to change the resettlement process, as it seems the only durable solution for LGBTI+ refugees in Turkey is resettlement. UNCHR may constitute an emergency quota mechanism for LGBTI+ migrants as a short-term solution since advocating for an increased quota from states may take time due to the rise of far-right personalities and political parties in Europe and the United States. It’s equally important that the resettlement process includes SOGIC in its criteria. UNCHR also needs to trust people’s claims without questioning them, while also reassessing how it conducts interviews in order to minimize the risk of re-traumatizing refugees.

* * *

To recapitulate, LGBTI+ migrants face intersectional discrimination in Turkey since being LGBTI+ and migrants through the political discourses, conservative society either host or Syrian, lack of regulations, heteronormative regulations, their family structure. Since the main policy in Turkey is based on conservative welfare structures and gender regimes, the legislative system has not determined LGBTI+’s life as a liveable life. Oppositely, the current policy in Turkey discriminates people according to their political opinion, gender identity, sexual orientation, race, religion

through its right-wing discourses and exclusive policy. Most applicants hold temporary protection status and all of them state that these ineffective legislative systems in terms of LGBTI+ rights and the hatred of the host conservative community and the on-going ambiguity of their legal status make their lives more precarious. Despite the human rights violations in Turkey against LGBTI+ migrants, there is no application to ECHR or the Constitutional Court. There are a few activist NGOs ruling for LGBTI+ rights have not approached while there are important achievements from ECHR and the CC on behalf of Turkish citizenship through the same NGO's application. Under these circumstances, all participants are willing to leave Turkey through resettlement and if it did not work, crossing the border illegally. Moreover, LGBTI+ migrants have to claim to be a member of a "particular social group" and a well-founded fear due to their SOGI to be resettled to a third country. Hence, power and its apparatus construct another categorization and also demand the proof to fit in these criteria. From the interviewees, only one participant stated that he does not want to be labelled as a refugee or use his SOGI to be resettled in a third country. The rest of the participants are ready to prove their SOGI by sharing all information about their private life without questioning this policy, also they are willing to perform fitting in these categories as long as there is hope to be resettled. The question is whether the "liveable life" is possible without involving in constructed categorizations by power for LGBTI+ migrants. The following chapter will analyse interviews to underline participant's opinions and experiences about all these regulations and policies in Turkey.

4. THE ANALYSIS OF THE INTERVIEW

The interviews were planned to conduct face to face but all of the participants were connected via mobile phone due to COVID-19 pandemic period in April. The consent form could not be signed, but the verbal approval was given from each applicant. Before the interview, I explained that the information given safely in a computer file with a passport. Additionally, participants' names are not be used in the research, and any other personal information such as ID or passport number is not included in the research. Furthermore, all the names of participants have been changed to maintain confidentiality as promised. All participants are from Syrian and fled from Syria to Turkey. The ages of participants are between 20 and 35.

4.1. Categorizing the Themes

After the identification of themes, six categorizes were determined below. The answers given in the context of these concepts were analyzed.

1. Background (life in Syria, gender/sexual identity)
2. Status (the registration process, temporary protection, residence permit, unregistered, citizenship)
3. Identity (sexual/gender identity)
4. The role of NGOs (interviews/questions, relations with NGOs, event, organisation, support mechanism)

5. Diversity (Problems that LGBTI+ refugees face in Turkey, discrimination, othering, host community/LGBTI+ local community)
6. Rights (Support mechanisms, resettlement, job facilities, services)

Placing the themes in most suitable categories were tried in different times to analyse data efficiently.

4.2 Interpretation of Data

The balance between the questions was considered when it comes to formulating interviews by analysing the data. The main categories determined the interview pattern and the in-depth questions were used to make the question clearer for ethical consideration. The main categories pointed out during the interviews were the following:

The life before fleeing Turkey

The interviews were started up the question of “*why you flee Turkey from Syria*”, common knowledge is that people leave from Syria due to war but being LGBTI+ and refugees create multiple reasons to leave their place. In answer to the question "Is there any place to express yourself freely in Syria as LGBTI+?", all of the participants gave a negative response. In Syria, none of them exposed their sexual orientation or gender identity due

to fear of persecution from their family, government and society. All of them were assaulted physically and verbally when their family learned their sexual orientation and gender identity and their families used violation against them before the government was informed and took any action. One of the participants, Sofya who is a trans woman from Syria and was born in 1991 stated:

“I was living with my parents. My parents did not know that I am a trans woman. I liked the man despite I was a man. When my family realised who I am, they started to use violation toward me. The police in Syria stopped me and checked my ID then asking me whether I am a girl or boy. They said you are walking like a girl but it is written you are a boy in your ID. Then they were insulting me, sometimes beating and took me to prison. One time, Syrian opponents were harassed me sexually. In the street, people could realise that I was different as it was so obvious who I am. I was studying in the law department of the university but left the school in my first year as other students were insulting me. So I left Syria. I got a sex change operation in Turkey.”

Another applicant, Hassan who is a gay man, 22 years old, mentioned that he has only communication with his mother after one person that knew he was a refugee applicant told his family that he was gay through social media. Since then, members of his immediate family have not spoken with him. Before this incident, his family always supported him in Syria. The participant also said:

"I wish I had some communication with my family like I did s before. If this happened, then life would be much easier. I was so happy and in my comfort zone."

Velid expressed himself as an intersex man. He got married in Syria and has a child. His wife knows his sexual orientation and this has never caused the problem in their marriage. When Velid expressed himself to his wife, she said that it is normal and she had neighbours from Spain who are bisexual or gay when she was in the US. So his sexual orientation did not create any problem in their life until his brother in law found out his SOGI. After that, they were threatened by their families, and they fled Syria.

According to the participants, there is only one way to live in Syria as LGBTI+, which is following up norms and dissembling their SOGI. So pretending to be a heterosexual man or woman is not enough to live in Syria, you have to get married additionally and conform to the context of the social structure. Some of the participants were forced to get married. But if the family of their husband or wife found out their SOGI, then their entire family would receive threats. That's why people do not reveal their SOGI with their husband and wife for fear that it could put their own relatives in danger if the secret gets out. Many challenges have existed for a long time for LGBTI+s in Syria; such as public morality, the values and culture of society, the policy of the government, homophobic and transphobic people, and lack of protection. Hence, their life is in danger from various components of society once their SOGI is discovered. Also, there is no protection mechanism in the legislative system, which puts them in a more vulnerable position when facing the authorities. Law enforcement

and intelligence agencies in the country often disappear people into a labyrinth of secret prisons.

The registration process in Turkey

LGBTI+ migrants flee to Turkey not only due to the war, also other above-mentioned challenges regarding their SOGI in Syria. They came to Turkey to build up new life freely. This research considers what their experiences and opinions are regarding the registration process in Turkey. The second question of *how they flee Turkey and what happened after they arrived in Turkey?* If they managed to hide their SOGI, they flee from Syria to Turkey with their parents but in another scenario, they had to take this dangerous journey alone. During this escape, they face multiple problems and these problems do not end during the time after they arrived in Turkey. The applicant touched upon all of their experiences, yet most of them do not remember the details of fleeing. One of the applicants, Eyman, who identifies himself as a gay man, said that he does not remember many details of his plight. . He remarked that maybe his brain developed a defence mechanism to protect him from the trauma. Other applicants also could not remember some details of their plight. Eyman in particular said:

“I came here by myself in 2010 by crossing the Syria-Turkey border. I did know anyone from Turkey before I came here. I went to Hatay directly after I crossed the border. Then I went to the foreigner police office to inform them about me. They did not give me a residence permit since I fled from Syria and requested for

asylum. Then I contacted a lawyer from UNCHR and went to Ankara for an interview. During this time, I never said that I am gay as I thought that this is wrong and did not know the situation for LGBTI+s in Turkey.”

Sofya said that she had to pay 500 dollars to flee to Turkey, yet she did not face any major problems during the journey in 2016. When did you seek refugee status was asked to the participant to observe the time between arrival and seeking status. The question is not asked regarding registration directly as many of them were not aware of the exact requirements to gain status. They only found out this information after getting acclimated with refugee and migrant communities. How they learned about the necessity to register themselves is one of the main points of this research.

Participants were asked about the time, questions, and employee’s behaviour during the interviews in PDMM. Zeinab who expressed herself as transwoman stated:

"I was registered in İstanbul one and a half year ago. I lived in İstanbul without having an ID for three years. During the registration process, they asked me how I change my appearance. The interview took half an hour. The questions were about my background and current life in İstanbul like how I came to Turkey and how I settled in where I live currently. They did not disturb me. But, I faced some problems each time I was trying to go to PDMM. People who are foreigners insult me in front of the PDMM. I said that I am under a special condition and need to be supported. The employee from PDMM did not believe me that I changed myself

and they assumed I am a man. It was hard to convince them about being a woman. They started to let me go in and believe me that I am a woman after a while."

Another Syrian trans participant named Maria expressed herself transgender. She fled from Syria to Turkey five years ago legally with her parents in 2015. She revealed her experience:

"In Syria, I was forced to get married as my family did not know my SOGI. The traditions of Arab society did not allow me to live as a gay man openly. I used to be a belly dancer in Syria but I told my family that I was dance teacher. I came to Turkey five years ago with my family legally. I have two children. We went to Gaziantep then Ankara for registration. We stayed in Ankara with my wife and children while I was working as a belly dancer in İstanbul. My sex-partner started to threaten me and I could not stand living in that way. I firstly talked with my mum about that, then another member of the family. My own family and my ex-wife' family started to threaten me. Then I got divorced and lived with my partner. My family still threatens me and this situation is getting worse. One time they kidnapped me and nobody helped me... I went to PDMM for an interview, there were Syrians were teasing me so I started to shout at them, then the police came there and asked me why I shouted. I said I am trans in a high voice. Then the employees from PDMM organised an interview. They were so respectful to me during the interview which took an hour."

Another point is how they have behaved in PDMM since they came to Turkey. Questions related to this point were asked to gain insight into the challenges Syrians faced in acquiring protection

Another participant, Sofya shared the following experiences about her arrival and registration:

“I came to İstanbul directly. In PDMM, there was nothing disturb me. They asked me some questions regarding my personal life. The only think that I did not like was how people were looking at me. I was interviewed for resettlement in PDMM as well. It took half an hour. They asked me whether I was willing to go to a third country. I mentioned my wish, which was to go to the UK. The questions they asked me were ok for me. The interpreter from Iraq replied to the questions before I replied fully. So I discussed with the interpreter. Except for this problem, everything was ok.”

Eyman mentioned that he did not remember the details of the interview in PDMM. Yet, he still thinks about some moments from his personal experience. He stated:

"I came here as I thought that I would have relief in Turkey. In PDMM there was a woman and she told me not to be afraid anymore. She told me that I was safe here. I was in my 20s and I was afraid of talking with someone from the government. In Syria, collaboration with the government means that you would be killed at any time. At his time, I never heard of UNHCR. I only saw their logo on television. I went to their building in Ankara and everyone talked with me so warmly. I felt so relieved, especially after I was

assured that UNCHR that does not have a relationship with the government. In PDMM of Hatay, there was a very polite guy, but even he got angry with me after I said happy new years. He asked me are you unbeliever (gavur) in an angry way. Yet he helped me a lot. They asked me about my religion. I was Muslim at that time so I gave this information to them. I did not tell them when I became Christian as I was afraid."

Two applicants mentioned that they did not encounter any problems in PDMM until the authorities in PDMM realised their sexual identity. Velid said, "They read the petition that documented the threats against me, including the information that I am bisexual. Then they glared at me". Ahmad who identified himself to me as a gay man, is 26 years old, said:

"I fled to Turkey in 2013 alone. I went to the police station in 2015 to be registered as I heard that Syrians could go there to access health services. I only filled the form and gave them a portrait photo and my fingerprint. The entire process was completed on the same day. They did not ask me anything. In the form, the required information was about the name of my father, my height, weight and age, address etc. The form did not ask for my background of my life or any other information. I did not face any problem during the registration process, but they did not know that I am gay. They misbehaved with me. They behaved respectfully and normal as they thought I was a normal man. When they learned that I am gay as it was written in the record of my complaint."

I observed that most of the interviewees did not have any idea about the difference between temporary protection and registration in the police station. They generally had no idea about the protection they are entitled to after acquiring temporary protected status. That may explain why up until 2015 people were registered in police stations without acquiring legal status. Only their name and ID number were written in the foreigner identification card.

The registration process to acquire protection for Syrians differs from other asylum seekers since only Syrians are governed under the temporary protection model. The status of temporary protection makes the process of gaining status easier since fleeing from Syria is the only requirement needed to acquire this protection. On the other hand, Syrians still face challenges registering for protection. Those challenges are compounded for LGBTI+s from Syria. They have not been questioned regarding their claim to be under temporary protection due to the structure of the process, yet they have been assaulted verbally or physically by Syrian community or sometimes authorities in PDMM, once they find out their SOGI. They do not face discrimination unless they express their SOGI in PDMMs. One of the applicants who does not fit in the heteronormative gender norms due to his appearance started to shout at people from Syria by saying that “I am a trans” as they were staring at him. Despite these challenges in PDMM, there are no regulations to compact these homophobic, transphobic behaviours. Some authorities only conduct interviews for the resettlement, if they realised their SOGI in PDMM and they are considered as vulnerable interviewees under the policy of PDMM.

Meeting with national and international NGOs

The question asked regarding the relationship between NGOs and participant to understand how they feel to be interviewed by NGOs or even to be situated in the NGO's office or to participate in the events.

I want to shortly mention that the United Nations Population Fund Turkey has started the “Reducing Barriers for Key Refugee Groups in Accessing Protection Services” Project. Key Refugees Group Project, which is supported by the UNCHR and UNFPA with the participant of NGOs: ASAM, HRDF, KADAV, MUDEM, Positive Living Association (PLA), Migrant Solidarity Association. The aim of this project is to create a more efficient support mechanism within the scope of the project for key refugee groups (LGBTI refugees, sex worker refugees and refugees who live with HIV). This group organises a monthly meeting to discuss previous actions that were taken on behalf of LGBTI+ applicants, while also arranging future plans. Effectively, one participant can be registered in all these NGOs by taking part in the project. Sometimes one case plan was conducted by a few NGOs together to find a more effective way to support applicant. NGOs also communicate with each other to avoid repeating the same steps that have already been taken to help an applicant. This collaboration proves that solidarity between NGOs is so important to support LGBTI+ refugees efficiently.

During the interviews, all applicants underlined the importance of NGOs in their life despite criticizing some of the methods frequently used

by NGOs. This point should not be missed even in academic research while focusing on the role of NGOs in LGBTI+'s life:

"I only was interviewed in ASAM. I felt so good. Everyone is so good to me in there. I only said that I am bisexual in ASAM. Apart from this, authorities in the courthouse saw that I am bisexual in the complaining petition and they started to look at me in an angry way. That's why I prefer not to tell anyone about my orientation, especially after reading what people are saying in social media about LGBTI+s in Turkey." (Velid)

"I was interviewed with UNCHR. It took three days, one hour every each day. They asked many questions about my sexual identity. They already knew that I am trans yet the people who came from Belgium asked many questions. That situation did not disturb me. Only there was one person who was irritating because he was constantly staring at me. I missed my flight. Then they organised another interview and asked me whether I want to be resettled with my partner. I said I do with my partner. Since then nobody called me again." (Zeinab)

"I was interviewed by UNCHR. It was a difficult meeting and it took four hours. They asked many questions about my life and background. That made me stressed I felt so frustrated while I was talking about that. The questions were about my sexual identity, and when I discovered that I was LGBTI. They also asked about How I feel being LGBTI etc. They did not force me to reply to the

question, but I tried to reply to all their questions as much as I could manage to recall. It was a resettlement interview and I wanted to make them understand my life. I went to other NGOs such as Red Umbrella, but they have not supported us enough. They asked many questions, but they did not support us financially." (Maria)

One of the applicants, Hassan said; *"I want to be normal and not to be labelled as LGBTI"*. His problem illustrates the issue with producing and reproducing heteronormative categories within support mechanisms. During the first interview with an NGO one social worker realised that an applicant identified as LGBTIs. The employee then called for the LGBTI team in the NGO to take the case. NGOs without a LGBTI case will refer applicants to other NGOs that have such teams. Applicants were referred to as a people cannot be supported without being LGBTI+ under these projects. Hassan is registered as an intersex individual in a few NGOs. He states:

"I did not tell anyone that I am intersex as I am not. I want to continue my life as a normal person. I have the only problem with the absence of hormones. I mean I am sick and need to be treated to be normal. I go to the doctor regularly to cover myself. I went to therapy for six years. I only focused on this issue. I do not want to do that anymore. I have never had a sex life or any relation with someone. I want to be accepted from society as normal. I think being LGBTI+ is a disease. I know that other cultures think that this situation is normal and disease, but the place where I come from accepts being LGBTI+ is not normal and states these people

need to be treated and the first step to overcome this disease is to be supported psychologically and then medically. I was interviewed in ASAM and told them everything that I faced in my life. That did not disturb me.”

Most of the participants said that they did not face any disturbing behaviour or speech during their time in NGOs. But they added that almost all NGOs couldn't provide them enough support due to their financial capacity. There are limited things that NGOs can do for them. On the other hand, almost all of them underlined the point that NGOs are the only safe places where they can express themselves freely. Still, some of them think that NGOs can only support their basic needs. In this regard, participants think that NGOs provide LGBTI+ friendly environment for them but this is not enough for them to build up a new life in Turkey. Participants underlined that they have to be registered in NGOs by being exposed to many questions in order to benefit from their services. Almost all of them accept to be exposed to these long interviews, as long as there is a chance to be resettled in a third country. These long interviews serve the NGOs rather than migrants. There is a need to underline that the neoliberal NGO system still creates competition between NGOs, which effectively turn NGOs into companies. Both international and national NGOs have focused on collecting data that show application number, need analysis, the number of counselling categories of applicant profiles rather than human rights advocacy or solidarity. These systems caused lack of solidarity between NGOs, time-intensive interviews, focusing on humanitarian aid rather than durable effective solutions for LGBTI+ migrant's life in Turkey.

Problems that LGBTI+ refugees face in Turkey

There are multiple problems for LGBTI+ refugees as these were all mentioned in the above chapter by referring to reports. Turkey refugee determination process has its structure and it makes it easier to get status compared to other countries, but then the system does not provide an efficient right to build up a new life. There are main challenges such as financial problems relevant with lack of job facilities, accommodation issues, inefficient legislative system, the hostility of the Turkish people, homophobic and transphobic behaviour and discourses from politicians as well.

Financial problems:

They face intersectional discrimination to find employment since they are Syrian and LGBTI+. Most of them experience a hostile atmosphere on the job. Even when they try to hide their sexual orientation or gender identity, they cannot stand the homophobic or transphobic comments and attitudes coming from their colleagues. Some of the interviewees described the problem with the following statements:

“I could not find work since nobody wants to employ Syrians. I faced a problem in my work. My colleagues excluded me. As an example, a new intern started to work. When he made a mistake, others asked him are you Syrian. They used Syrian as the same meaning as stupid.” (Velid)

"I live in İstanbul and can not find a job. But when I was in Ankara I also could not find a proper job even I am registered in Ankara. I worked in Ulus for ten days, They did not give me any money. I could not do anything as I worked illegally. If you are a citizen, you will be considered a person with full rights, but having temporary protection is equivalent to being not human." (Hassan)

"I hide my sexual identity. If I did not hide that, I would not find employment. There is no way to work in Turkey as a transgender. People do not respect LGBTI+s in Turkey. I do not have any communication with trans people from Turkey as they mostly work as sex workers. My partner usually works to earn money for us." (Maria).

All participants mentioned that they faced discrimination in their search for employment as Syrians. Also, some of the participants mentioned the impact of homophobia and transphobia in blocking their skills. Even though they try to hide their SOGI, they cannot stand this behaviour or discourse after a while. They added that they couldn't work legally due to regulations in the Temporary Protection Directive regarding working permission. As Hassan mentioned above statement that this creates multiple problems in their life since they do not have any guarantee in work due to the lack of insurance. Also, there is a risk of being deported as they work illegally. Even the authorities turn a blind eye to these illegal work issue for Syrians since there is an accepted assumption that unregistered economy is

an important part of the economy in Turkey, the administrative use “working illegally” as a reason for the deportation order in some cases. Another point is that they are threatened easily to be fired by their employers due to the lack of employment security. They find themselves in a position, which forces them to do almost everything that their employers said. And also participants state that this precarious work makes their financial situation unstable.

The hostility of the Turkish people:

Many of participant who are from Syria and who do not follow gender roles or express himself/herself freely, experience intersectional discrimination due to racism, sexism, heterosexism. That means that either one's status or identity is the reason that they're being discriminated as refugees or othered as a foreigner...

“...I work in Zeytinburnu and live in Esenyurt. Nobody knows that I am LGTI+ but they know I am Syrian so they told me you are a foreigner. Even my landlord or strangers in the street market tell me "you are Syrian, leave from here. For example, when I speak Arabic they said to me shut up, here in Turkey, speak Turkish. Everyone said that I will not rent my flat to Syrians while I was looking for rent. If I were a Turk, I would not face these problems. I can hide my sexual identity, but I cannot hide that I am from Syria. I only said that I am LGBTI+ to one who is LGBTI. I do not tell anything

about my sexual orientation to anyone even if it is necessary” (Mohammad who expressed himself as a gay man).

“I want to change the world with love, but everyone tells me that you have to fight for your country which is another type of violence. One time, the woman dropped her wallet on the bus and I took it back. She said that I supposed you were Syrian, but you gave my wallet me back, so you are a Turk. I said that I am Syrian. She said in that case you are well –educated Syrian. Then she added that we became unemployed because of you. I said that we work illegally without having any guarantee, while at the same time contributing to your economy and EU help us.” (Eyman).

Mohammad mentioned that there is a way to hide his SOGI for him, but hiding his Syrian identity is hard not to face xenophobia from the Turkish people. Eyman stated that Turkish people think that Syrians are a threat to their lives as Syrians steal their job. Hateful political discourse and dominant national policy constitute the other as hateful, dangerous, and a threat to society as Sarah Ahmed (2013) mentioned in her book. That’s why LGBTI+ migrants suffer from the effects of multiple subordinations and so have precarious and desperate lives in Turkey.

Accommodation issue;

In Istanbul, there were two independent guesthouses. The first one is for all LGBTI+ and another one is for the only transgender. The voluntary

people were struggling to keep these places open and two of them closed since it didn't have a budget to remain open.. These places were important to provide free accommodation without discrimination for people regardless of their identity or status. In Turkey, there is no such facility to provide free accommodation for refugees, migrants and asylum seekers as a social right. Only NGOs provide this facility to their applicant if their budget is enough. In theory the people under temporary protection having the same rights to accommodation as Turkish citizens, but in practice there are few places where Syrians can find shelter and accommodation for free. Istanbul only has twenty female shelters that are designed for women that are in grave risk due to all types of violation. The pre-admission centre also does not accept transgender persons in this place. The reason they city is that shelters don't have enough space nor are they suitable for transgender persons. These restrictions mean that LGBTI+ refugees struggle to find a safe place to stay. One of trans participant stated:

“There were many challenges for me to find a place. I was struggling more as I am trans. One landlord put many rules for the flat, he said; “Nobody will visit you. Only I can visit you.” I did not rent the place. I live in a shared place currently due to the support of UNCHR and my friends. I do not go outside in order to avoid face problems, I am waiting for the day when I will go to a third country.”

Hassan also told me about his experience looking for a flat:

"...I experienced many problems as I am Syrian. No one wanted to rent a flat for us. One landlord said that you are from Syria; you

say that we will be two people in the flat but then you would certainly be 20 people in the flat. Another one said: "I know you will take everything when you leave the flat." If ASAM did not help to find a rent house in Ankara, we would not be able to. But then our neighbour came and shouted at us to leave the apartment. NGOs suggested us to complain about these people, but we did not want to do that because we are foreigners and so we knew that the police would not take any action in our favour. I also faced discrimination in the work in Niğde. I was 17 years old and worked without having any insurance, seven days a week. There was a man who behaved abusively. One day he took me to a hidden place and assaulted me sexually. Afterwards, I quit the job. I started to work in a place where the owner was Syrian, yet he did not give me my salary so I left the job. In a restaurant where I used to work, there was a waiter from Palestine. He found out my SOGI and then he began to verbally harass me." (Hassan)

There are two statements above the following quotes; the first participant mentioned that she was subject to sexual harassment by her landlord while she was looking for a place to rent. Hassan said that he was exposed to social stigmatization by his landlord and also faced the risk of lynching from their neighbours. But they did not make any complaint as they think that the police do not take action in favour of them. Lack of regulations regarding hate speech and discrimination against migrants exacerbates social stigmatization against LGBTI+ migrants.

Inefficient legislative system:

As we mentioned in the previous chapter, Turkey does not determine refugee status based on sexual orientation. But, the administrative court of decisions considers being LGBTI+ under the category of “particular social group” which is considered grounds for having a "well-founded fear of persecution". On the other hand, some of the decisions from administrative court have sometimes requested a clear link between an applicant's gender identity and sexual orientation with "being a member of a particular social group". Also, LGBTI+ rights are not protected in Turkey by the legislative system, meaning they are vulnerable due to the lack of legislation to protect them in the country.

The relevant questions in the interview were about temporary protection and LGBTI+ rights in Turkey. What do subjects think about these regulations or do they think that there is any regulation on behalf of LGBTI+ rights? The explanations of LGBTI+ refugees in the following quote:

“I feel so scared about temporary protection as the government decided to send us back to Syria. This protection is temporarily and one day it will end, so that makes me so scared. I am certainly sure that it does not provide any protection. I am not a normal refugee, which means being a man or woman. Regulations regarding LGBTI+ rights can be found in domestic law, but in practice these laws are never executed for the benefit of LGBTI+ persons. For example, I do not have the right to get married. Arab countries do

not have any regulations but, the government of Turkey aims to have close relations with the EU and UN so they can regulate LGBTI+ rights on the paper. Normal people do whatever they want but I cannot live freely. Even my family told me you were evil in Syria. There is no protection for us either in Syria or in Turkey. I have been discriminated in Turkey but there is no mechanism to apply. I am willing to be resettled in third countries as people in Turkey are against LGBTI+ and refugees, not everyone but most of them exclude us.” (Ahmad).

Mohammad mentioned about his think about temporary protection and LGBTI+ rights in Turkey:

“I want to have citizenship. Having the temporary protection makes me feel bad since I am still considered a foreigner... I do not think that LGBTI+ rights exist in Turkey, here is not the Europe. I think that nobody takes action regarding LGBTI+ rights in Turkey. They only punish people if there is a crime without considering the violation of LGBTI+ rights. One of my friend's wallet was stolen and the police did not do anything as it was obvious she was LGBTI+. Maybe they would have taken action if she were not LGBTI+. Or probably they still wouldn't have taken action because she is Syrian.”

Participants state that they suffer from the effects of multiple subordination in Turkey, but there is no efficient protection system for them in the legislative system. Ahmad said that he is not a normal refugee, and face discrimination but there is no efficient remedy to combat this

discrimination against LGBTI+ in Turkey. He also believes that if there is a law on behalf of LGBTI+ rights due to close relations with EU, that is only on paper not in practice. All participants believe that the government and the majority of the society do not intend to implement any regulations in favour of the LGBTI+ rights. As Mohammad and the rest of the applicants mention that even the LGBTI+ rights exist in Turkey it would be for Turkish citizens not for foreigners. These opinions and experiences indicate that politicians and lawmakers construct heteronormative, gender binary identities through the legislative system, and their discourses that exclude LGBTI+ migrants from the society and make them invisible on migration policy in Turkey.

Support mechanisms

One of the participants Velid expressed himself as bisexual. He lives with his wife and baby in İstanbul. He used to work as an engineer in the factory but then he left s once his brother-in-law learned about the place and threatened him due to his SOGI. Then Velid fled to İstanbul with his family. He is now jobless and his application for support is still being processed by the NGO. He stated:

“I live in Turkey as a refugee, but I have never been supported in Turkey as a refugee. If I were a refugee in Europe, I would be supported. We only were supported for a vaccine for my daughter. I do not think there is a safe place for me in Turkey since I am Syrian and bisexual as well. Most of the people in Turkey do not like

Syrians and they say all Syrians are bad for us. I do not get the reason behind this generalization. I have been struggling more as I am bisexual. I knew that if someone learned from work somehow, I certainly was fired. I want to live like normal people, work and earn money for my family. So I want to be resettled.

Sofya mentioned about her experiences about employment. She used to work as a sex worker until someone stabbed her. She tried to find another job, but no one hires her because she is a transwoman according to her explanation. Nowadays, she is only provided UNCHR cash assistance program, which provides 750 TL for every month. She stated:

"They behaved so badly with me in the hospital. One person said that you are Syrian and said I wouldn't be helped. And almost all banks did not open an account for me because they said they weren't allowed to do so for Syrians. If I had citizenship, then I would not have these problems. But now I am a Syrian trans woman and I do not have any right to be supported. Ongoing support mechanisms are not enough. I have to live with 750 TL in İstanbul, so I only want to leave this country."

Mohammad said that he was fired from work when his boss found out his SOGI, even though he was trying to hide his SOGI. His boss took his phone from his hand and checked his photos. That's when he fired him while assaulting him verbally. Mohammad said:

"There is no support mechanism in Turkey. NGOs only provide legal support, nothing else. Aid is not enough. My friends have got only a small amount of money under NGO's support system. Apart

from this they only arrange a meeting or event to support us morally. But that is not enough. We need to find a job and pay our rent.. NGOs should teach me how I can support myself.”

The above statements from a participant indicate that LGBTI+ migrants have highly limited access to support mechanisms provided by the support programs of national and local government, NGOs, or communities. There are different dimensions from the viewpoint of the provider. The national government has never had this topic in its agenda for LGBTI+ migrants, asylum seekers, refugees, on the contrary, the first aim of the government in its policy regarding support mechanism is for a heterosexual nuclear family. NGOs have a budget problem to support the applicant in a broad and effective way. On the other hand, the support system is based on humanitarian aid rather than creating a durable effective support system. In this regard, LGBTI+ migrants have been subjected to race, class, sexuality, and gender disempowerment due to exclusive policies and regulations in Turkey.

CONCLUSION

In this research, I indicate that there are multiple aspects of migration policy and relevant legislative system on LGBTI+ migrants' lives in Turkey by using semi-structured interviews and my fieldwork experience. There are different dimensions of being LGBTI+ migrant that are influenced by gender, sexuality, race, ethnicity, and class under the legislative system and migration policy of the governments. This research used a qualitative analysis to assess the impact of these dimensions and its intersectional structure on LGBTI+ migrants' lives in Turkey, with consideration to their background stories, legal statuses, and identities. The research gives a preview into the opinions and experiences of LGBTI+ migrants on these intersectional structures, and how these dimensions intersect in their lives. The interviews were conducted with ten participants who currently live in İstanbul.

The first aim in the research was to highlight the limitations of Turkey's legislative system and migration policy while accounting for the historical context of gender/sexuality and power/knowledge relations from the perspective of the LGBTI+s. As an example, seeking asylum as an LGBTI+ migrant is classified under the "membership to a particular social group." Grounds for asylum on this basis is only recognized by the court if the identity is considered fixed or undisputed, and if there is enough evidence that proves that the person has a well founded fear of persecution based on his/her membership or affiliation to a certain social group in his/her country of origin, according to the Geneva Convention and UNHCR

guidelines. Under these circumstances, there have been cases in ECHR, which were found inadmissible due to lack of proof regarding the participation in a “particular social group and relevant fear of persecution.” If there were the possibility to hide your SOGI in “the country of origin”, you would live in the place where you left, according to the general acceptance of the ECHR and policy of many countries. The issue is who determines these definitions and categories, and how these have been implemented in territories so easily. Hence who is eligible to be recognized as a “viable subject” accordingly?

The queer feminist perspective is important to analyse embodied subject referring to Butler's theorisation of the political subject and its relevance with gender performativity and practising (Butler, 2015). Trans-, gender queer, and gender non-conforming people have been marginalised from the society because of not fitting in heteronormative standards of practising gender. Certain statuses, gender identities, and sexual orientations are eligible to be recognised as a subject by prevailing power structures, other forms of identities, and statuses are excluded from the society by "Othering" due to these heteronormative standards of the governments.

In this research, the participants were asked whether they have ever involved in the LGBTI+ movement in Turkey, and what they think about the LGBTI+ movements? All participants said that they do not want to get in trouble in Turkey by getting involved in the LGBTI+ movement. One of the participants added that “this movement is for Turkish citizens, not for us, additionally some people from the LGBTI+ community do not want us

to join them, as they think that we will go back to Syria or third countries one day.” Another participant said, “I try to support the movement by joining private or close events, not public ones. That way I can protect myself from the authorities.” Being a refugee, asylum seeker, and migrant gives them a precarious status, which differs from being a citizen, and their recognition of their legal status is based on the temporary protection policy that treats Syrians as guests and Turkish citizens as a host community. Hanna Arendt (1973) states the difference between the right of humanity and the right of citizens and emphasizes that people without rights, those who do not have citizenship in the country they reside. There is, thus, a huge difference between citizen and non-citizen in terms of having human rights, since there is an inherent contradiction between the concept of universal individual rights and the nation/state system.

From the other side, LGBTI+ rights movement has been an important part of the human rights advocacy, and has helped the broader human rights movement overcome enormous challenges to lobby governments to change discriminatory laws. There are positive effects of this movement on LGBTI+ migrant rights, one of which is that it has created a safe environment in some parts of Turkey. It has increased the possibility of accessing written rights, the chance for solidarity, and increased the chances of LGBTI+ migrants to live a “liveable life” in Turkey. On the other hand, there is no effective legislative system to protect LGBTI+ rights. The discourse of politicians discriminates against LGBTI+, and often references to morality to reproduce hateful discourses that frame LGBTI+ persons as non-conforming people. During the interviews, all

participants said that there isn't any effective legislative system on behalf of LGBTI+ rights in Turkey, adding that these regulations only exist in theory but not in the practice. That's because, they added, society and government do not share a priority or have any intention to protect LGBTI+ rights.

There is a clear need to focus on LGBTI+ migrant's rights in Turkey by politicians, academics, lawmakers, and practitioners. The close relation between the migration policy and legislative system makes legislative regulations flexible, according to the host country. From a policy perspective, this is an accepted norm by most countries and institutions, including the European Human Rights Court since the right of asylum remains outside the ambit of the ECHR and its protocols. Additionally, the recognition of a refugee in international human rights regimes is based on essentialist notions of identity. The definitions, regulations, and discourses constitute statuses and identities. In turn, migrants and asylum seekers must strive to fit their experiences within these rigid categories in order to be recognized as a refugee, according to normative standards for "liveable life".

Turkish migration policy as it relates to Syrians offers one good example across the world to explain the perspective of "Governmentality" on migration policy. The Law on Foreigners and International Protection (LFIP) was taken from international law and then modified while still adhering to international conventions that were signed and ratified by Turkey. However, reservations such as restriction on travel, lack of protection of LGBTI+ rights, impracticable working permission, insufficient protection mechanism due to restrictive, and distinctive and

exclusionary structure that take the form of temporary protection ultimately condemn Syrians to live with precarious and temporary legal status. In this regard, the question of why there is not any regulation regarding asylum policy based on SOGI needs to be asked, considering the acute discrimination that LGBTI+ migrants face coupled with the constant risk that they could be detained and deported at any time.

Most of the participants have the temporary protection status and others have a residence permit. Temporary protection was taken from international refugee law, but it is the only example, which has been implemented for a considerable period of time in Turkey. All of the participants said that this status reminds them that they are “guests” in Turkey and that one day they will be forced to return to their country of origin, “...it is so obvious, even from the name of status, “temporary”, and also last developments in Turkey, the operation of Idlib, and opening the Greece-Turkey border indicates the intention of the government to [make] us [return].”

NGOs are the only places where LGBTI+ migrants can express themselves freely, yet participants mentioned that the capacity and power of the NGOs are not enough to make their lives bearable in Turkey. The impact of neo-liberalization also needs to be accounted for. Due to the neoliberal policy of donors and the neoliberal mode of governmentality in Turkey, NGOs designate their stated goals accordingly. So, NGOs launch project on the instructions of their donors, and not necessarily based on the needs of the LGBTI+ migrants community.

Despite the on-going LGBTI+ migrants' rights violation, there is no application to the Constitutional Court and European Human Rights Court on behalf of the LGBTI+ asylum seekers, refugees, and migrants in Turkey, expect interim measures. This indicates that human rights advocacy on behalf of the LGBTI+ rights is not efficient due to multiple reasons. One of these reasons is the overwork of the NGOs resulting from the demands of the donors. Another one is the lack of solidarity between the national NGOs in terms of human rights advocacy due to the neoliberal system's effect on NGOs and political conjecture. In this regard, the UNCHR has an important role for LGBTI+ migrants' lives in Turkey due its role as a donor of local NGOs. As a result of this collaboration, participants criticised the national and international NGOs respectively. Participants specifically scrutinized the UNCHR's support mechanisms and the long and ambiguous resettlement process (Banks & Hulme & Edwards, 2015).

Another finding in this research was that participants do not want to be labelled with any stigmatized categorises such as refugees, migrant, guest, or foreigner. They only want to be considered as a "viable subject" who has the same rights as other citizens. They want to be called "normal people" as one participant told me. They also want to support themselves without getting any assistance from the government or NGOs. All participants think that these aims cannot be reached in Turkey. Under these circumstances, all participants are willing to resettle to third countries due to these ineffective protection mechanisms, lack of support, and the ambiguity for their future.

Current research, taking gender, sexuality, race/ethnicity, class dimensions of the intersection for LGBTI+ migrants into consideration, reveals the importance of introducing regulations in the society that can protect everyone. That's why there is a need to consider intersectional dynamics to understand the high levels of failure migration policy across the world in terms of the LGBTI+ migrant rights, specifically in Turkey. LGBTI+ migrants have been exposed to intersectional discrimination from the "host country" Turkey, the society, Syrian community as well as in some cases, LGBTI+s from Turkey due to their SOGI and/or refugee statuses. It shows us that there is a need to pay attention to the concept of intersectionality, which illustrates that a human experience is far more complex than traditional binary. Binarism often classifies people as citizens and refugees, or in other words, as citizens and anti-citizens. (Kaya, 2010). As long as this binarism is not resolved, one cannot expect to have any improvement in the lives of refugees in general, and LGBTI+ groups in particular.

Turkey is the in-between zone of migration policy where the EU asylum system and national dominant regulations come together in the area of migration policies. LGBTI+ migrants are affected negatively in both theory and practice due to Turkey's dynamics regarding its asylum system. Also, Syrian LGBTI+ migrants are invisible in this migration policies and the only current policy regarding Syrian LGBTI+ migrants is the resettlement process due to the exclusive government policies and relevant regulations regarding SOGI in the legislative system, specifically temporary protection directive. Beside this resettlement policy, there is no specific

regulation in Turkey migration law regarding SOGI. These lack of arrangements relevant to patriarchal norms across the world is a cause to rethink migration policy through the perspective of sexuality and gender to make LGBTI+ migrants visible in a way of their expression rather than constructing and shaping their identities and statuses under norms. There is a need to underline the multiple grounds of identity in the migration research through the transversal politics. Human rights advocating and relevant policy need to be defended over the rights, as the legislative system constitutes certain identities and statuses. Further research regarding LGBTI+ migrant should scrutinize the themes of sexuality and gender identity, and the way of transformation of identities and statuses in migration policy approaching contributions from feminist/queer theories. Additionally the further research should focus on the interface of migration, race/ethnicity, class, gender, and sexuality by an inclusive understanding of politics in terms of the migrant rights. In this regard, the research on the migration policy and the legislative system should consider intersectional identities and find a way to implement inclusive intersectional strategies since it requires solidarity, capacity, and cooperation with other groups.

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