

BURDEN SHARING OR BURDEN SHIFTING IN PROTECTING REFUGEES

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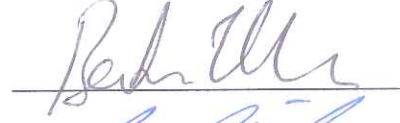
Burden Sharing or Burden Shifting?

Yük Paylaşımı mı yoksa Yük Kaydırması mı?

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Abstract

The aim of this thesis is to analyze whether there is a functioning burden sharing mechanism in the world community in the refugee context or whether the concept has evolved into burden shifting instead. The main argument of the thesis is that the concept of burden sharing is misrepresented and misinterpreted by the developed countries to their own benefit in the short run and the existing regulations function towards a burden shifting system. European Union is the primary focus of this thesis as a representative of the developed world community while Turkey is chosen as a reference country struggling with the refugee burden. While a theoretical approach has been adopted in this study, statistical explanations have been referred to throughout the thesis. The framework of the thesis is divided into five chapters; the first chapter explains the scope of the thesis; second chapter explains in depth what burden sharing is; the third chapter questions whether burden sharing system works as a burden shifting mechanism in practice with a focus on European Union; the fourth chapter examines Turkey in close as a host country and finally the last chapter evaluates the overall impact of ineffective burden sharing mechanism.

Özet

Bu tezin amacı, dünya toplumunda mülteciler bağlamında etkin bir yük paylaşımı mekanizmasının var olup olmadığına bakıp, bu kavramın yük kaydırması anlamını mı kazandığını incelemektir. Tezin ana argümanı, yük paylaşımı kavramının gelişmiş ülkeler tarafından kısa vadede kendi çıkarlarına fayda sağlaması açısından anlamından saptırıldığı ve yanlış yorumlandığı ve mevcut düzenlemelerin yük kaydırmasına sebebiyet verdiğidir. Bu bağlamda gelişmiş dünya toplumunun temsilen Avrupa Birliği öncelikli olarak ele alınmıştır, mülteci yüküyle boğuşan ülkeleri temsilen de Türkiye referans ülke olarak seçilmiştir. Bu çalışmada her ne kadar teorik bir yaklaşımla yürütülmüş olsa da tez boyunca istatistiksel tanımlamalara başvurulmuştur. Tez genel hatlarıyla beş bölümden oluşmaktadır; birinci bölüm tezin ana hatlarından bahsetmektedir; ikinci bölüm yük paylaşımının ne anlamana geldiğini derinlemesine incelemektedir; üçüncü bölüm Avrupa Birliği'ni odak noktası olarak, yük paylaşımı mekanizmasının pratikte yük kaydırmasına geçişini ele almaktadır; dördüncü bölümde Türkiye ev sahibi ülke olarak yakından incelenmektedir ve son bölümde etkisiz yük paylaşımı mekanizmasının genel sonuçları değerlendirilmektedir.

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Abbreviations

ASAM: Association for Solidarity with Asylum Seekers and Migrants

DGMM: Directorate General of Immigration

ECHR: European Court of Human Rights

EU: European Union

ExCom: The Executive Committee of the UNHCR

GDP: Gross domestic product

IDP: Internally displaced people

NGO: Non-governmental organization

PM: Prime Minister

UN: United Nations

UNCLOS: United Nations Convention on the Law of the Sea

UNHCR: United Nations High Commissioner for Refugees

USRAP: United States Refugee Admissions Program

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CHAPTER 1

INTRODUCTION

1.1 THE RATIONALE OF THE RESEARCH

One of the global challenges of the 21st century is the increase in refugee population worldwide. . It has been declared by the UN on the World Refugee Day on 20 June 2014 that the number of refugees, asylum seekers and internally displaced people have exceeded 50 million people for the first time since the World War II.¹ The instability in the underdeveloped parts of the world had given rise to regional disputes, war, famine which has resulted in the epidemic refugee influxes both on the intra and trans-regional level. As societies and economies are becoming steadily more integrated around the world, the increasing figures in refugee population have direct and indirect effects for all countries of the world community, making it a common problem of all. Thence, acknowledging responsibility is a crucial step to be taken in handling of the problem by the individual states. A common problem necessitates a common approach, which bring us to the topic of our concern in this thesis, “burden sharing”. Not only is burden sharing critical in achieving an effective international refugee policy, it has a humanitarian liability while dealing with the refugee plight. Therefore the main goal of the international community should be to find a durable solution in collaboration with each other.

Albeit the call for collaboration, we see that the problem is avoided as far as possible in most instances and that states do not want to penetrate themselves into the “problems of others”. The aim of this thesis is to discover whether in reality the refugee problem is approached in collaboration of states or if the individual states are left abandoned to shoulder the difficulties on their own with the concepts of burden sharing and burden shifting.

¹ UNHCR 2014, “World Refugee Day: Global forced displacement tops 50 million for first time in post-World War II era”, 20 June. See <http://www.unhcr.org/53a155bc6.html> [May 2015]

Turkey composes a main highlight of this thesis as the country that became a focal point of the world on how it is handling the refugee influx upon the Syrian crisis that started in 2011. Turkey has an interesting aspect due to its positioning in the refugee context. Turkey was one of the original signatories of the 1951 Refugee Convention of the United Nations.² However it became a party to the convention with a “geographical limitation”, accepting to grant refugee status on a two-tier asylum policy; while the first tier constitutes the right to grant refugee status to those coming from Europe, the second tier constitutes of those coming from outside the Europe who are not granted refugee status.³ The rationale of this approach was subsequent to the rise of instability in the Middle East, Africa and South-East Asia regions in the 1980s. Nevertheless, the two-tier asylum policy had not stopped mass influx of refugees to Turkey. In 1994, the Turkish government had introduced a decree by law that aimed to give the control of status determination of asylum seekers under the control of government. However, it was faced with criticism of not giving adequate regard for the rights of refugees. Starting from late 1990s, the government began working closely with the UNHCR office in Turkey in the status determination of the asylum seekers, with the understanding that those who are recognized as refugees by UNHCR would eventually be resettled outside of Turkey, while those who are not would be deported.⁴

The increase in numbers of refugees, asylum seekers year by year necessitated the need to form an establishment to take control of the situation by the government. Directorate General of Migration Management was established on 04 April 2013 by law under the Ministry of Interior “*with a view to implement policies and strategies related to migration;*

² Official Gazette 1994, “Regulations for aliens who take refuge in Turkey or aliens who apply for residency permit in Turkey to take refuge in another country and aliens who come in mass to our borders” No.22127, 30 Nov, Ankara, p. 7-11.

³ UN General Assembly 1967, “Convention Relating to the Status of Refugees”, 31 Jan, United Nations, Treaty Series. Also known as the New York Protocol. Whilst the New York Protocol in 1967 had removed the geographical limitations, it permitted states to maintain the ongoing practice if they had become a party to the 1951 convention previously.

⁴ Kemal Kirişçi 2007, “Turkey: A Country of Transition from Emigration to Immigration” Mediterranean Politics, Vol. 12, No. 1, p. 91–97.

ensure coordination between the related agencies and organizations in these matters; carry out the tasks and procedures related to foreigners' entry into, stay in, exit and removal from Turkey, international protection, temporary protection and protection of victims of human trafficking."⁵

Hence in the analysis of effectiveness of burden sharing in the world, Turkey was chosen as a focal point of study due to its interesting background in the refugee context. Starting from its transition from being a country of emigration to a country of immigration, to the extent of taking immense responsibility in refugee context it has taken in the international podium. Turkey has been exposed to mass influx circumstances especially since the 1980s; hundreds of thousands of people had fled from Bulgaria due to the Communist regime in late 80s; the number of Kurds fleeing from Iraq in late 80s, early 90s had over passed 400,000. The government's positive attitude towards the Balkan countries had a pull effect of the migrants coming from that region including, Albanians, Bosnians, Circassians, Pomaks and Tatars.⁶ The latest mass influx from Syria became a highlight of the immigration to Turkey.

1.2 TERMINOLOGY

For those who are unfamiliar with the terminology in the refugee context, it would help to get accustomed to some of the concepts that will frequently be utilized in this thesis.

While the subsequent chapter to follow will provide an in depth explanation of the concept "burden sharing", it should be emphasized that there are various similar concepts that go hand-in-hand with "burden sharing" and more often used as an alternative wording; solidarity, balance of efforts, international cooperation as "burden sharing" itself has been

⁵ Official Gazette 2013, "Aliens and International Protection Law" No. 28615, 11 Apr, Ankara.

⁶ Kemal Kirişçi 2000, "Disaggregating Turkish Citizenship and Immigration Practices" Middle Eastern Studies 36:3, p. 1-22.

used and abused by since it started its life by various parties to advocate diversified policies⁷. Though a clear emphasis is made using the terminology “burden sharing” explicitly, the mentioned alternative wordings may be referenced throughout the thesis.

The main components of this study are “asylum seekers” and “refugees” which are often confused terms that possess different meaning. In addition to these concepts, a new concept has emerged which is critical in understanding of the refugee context in Turkey, the “conditional refugee”. While an asylum seeker is someone who claims to be refugee, but whose statement has not been evaluated yet, a refugee is someone who has proven his/her need of protection under international law. However, during mass influx situations, there is usually not enough capacity to conduct individual asylum interviews for everyone crossing the border, thus in such instances, the groups fleeing are declared as “prima facie” refugees.⁸ “Refugee” is used in its broadest context in this study, characterizing individuals who have left their country of origin that have no prediction of returning back in the near future, including by definition asylum seekers as well. A “conditional refugee” on the other hand is a temporary protection status granted upon a determination process which does not allow resettlement but gives the status temporarily until a third country is designated for the transfer of a refugee.⁹

Refoulement is another terminology that one should be familiar with while going through this study. It is the expulsion of a person who has a right to be recognized as a refugee from the host country. To protect the rights of persons fleeing their country, UNHCR laid out the principle of non-refoulement in the 1950s. As per the UN Convention relating to the status of refugees, contracting states should not expel or return a refugee in any

⁷ Christina Boswell 2013, “Burden-sharing in the New Age of Immigration”, *The Online Journal of the Migration Policy Institute*. See <http://www.migrationpolicy.org/article/burden-sharing-new-age-immigration> [Oct 2014]

⁸ UNHCR 2015, “Asylum-Seekers”. See <http://www.unhcr.org/pages/49c3646c137.html> [Mar 2015]

⁹ Official Gazette 1994, “Regulations for aliens” No.22127, 30 Nov, Ankara, p. 7-11

circumstances to the country of origin where the life or freedom of that person would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.¹⁰ One should note that the principle of non-refoulement does not only apply in respect of the country of origin but to any other country where a person would have fear of persecution or may be denied protection. It is explicitly stated that under no circumstances an alien shall be deported or returned back to a country if the life and freedom of that person would be endangered there due to his race, nationality, religion, social status or political opinion.

Yet another recurrently used concept is the “temporary protection”. It is an exceptional measure, complementary to the international refugee protection regime, used to fill gaps at emergency situations of large scale movements of asylum-seekers that provides immediate protection from refoulement.¹¹ Repatriation is an integral part of temporary protection as the main aim of temporary protection is to enable repatriation when the fundamental conditions in country of origin have changed and the cessation requirements of the refugee definition are met.¹² In most cases, temporary protection leads to repatriation. The fact makes it clear refugee law is a form of human rights protection and does not constitute a back door for permanent immigration. Its main aim is to secure human dignity until the country of origin is safe to return and able to perform its primary duty of protection.¹³

1.3 THE METHODOLOGY AND THE FRAMEWORK

In completion of this thesis, a comprehensive literature review was conducted on the concept of burden sharing. While the study is a case study with a theoretical approach,

¹⁰ UNHCR 1977, Executive Committee of the High Commissioner’s Programme, Note on Non-Refoulement (submitted by the High Commissioner), EC/SCP/2, 23 August, paragraph 4.

¹¹ UNHCR 2014, *Guidelines on Temporary Protection or Stay Arrangements*, February.

¹² Satvinder Singh Juss 2006, “International Migration and Global Justice” Ashgate Publishing, p. 235.

¹³ James C. Hathaway, R. Alexander Neve 1997, “Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection” *Harvard Human Rights Journal* / Vol. 10, p. 210.

statistics will be referred as far as possible in order to present a better understanding of the study of this thesis. Thus, main sources include statistics from UNHCR, World Bank, UN, Eurostat, and European Database in addition to academic resources like books and articles. Secondary resources include but not limited to publications of NGOs, newspaper reports as well as personal knowledge of the writer in the refugee context as a professional in the field.

As economic problems is one of the main driving factors of refugees in the first place and consequently, since the formation of refugees is effecting the world economically, this study has a basis approach stemmed in political economy which focuses more on a political science approach or law from place to place as both are necessary pathways in understanding the refugee context.

In pursuance of the attempt to come to a conclusion of the research question, the analysis is going to primarily focus on the European Union as a representative of the developed community of the world while highlights would also be pointed out from other developed countries to present as examples. The framework of this study will analyze the question under three chapters.

Respectively, the following chapter elaborates on what is meant by burden sharing. It will touch upon the tools that are widely used to fulfill this mission and will introduce the actors contributing to burden sharing concept worldwide. The second half of the chapter is going to question whether the burden sharing system is effective or not given the current circumstances. An emphasis will be made on the Dublin System introduced by the European Union which was established to determine and distribute responsibility to the appropriate state within the European Union.¹⁴

¹⁴ “Asylum” 2014, Ministry of the Interior of the Czech Republic, 07 May. See <http://www.mvcr.cz/mvcren/article/asylum-migration-integration-asylum.aspx?q=Y2hudW09NA%3D%3D> [May 2015]

The second chapter analyzes in depth whether the concept of burden sharing has evolved into burden shifting instead. In this regard, it is important to assess whether the concept of burden-sharing ever existed or not as in practice we have seen that the burden sharing mechanism remained a challenge both in reception and in resettlement. The inefficacy of international solidarity has remained as an obstacle for the formation of a strong international refugee protection regime. Despite the call of international solidarity, burden-sharing has no ground in international treaty law as an obligation. The Universal Declaration of Human Rights is not a binding instrument of international law, hence making it fallacious to argue for the existence of a burden sharing as an obligation on the international level. The instances where assistance indeed materialized depended on political conditions. It is arguable that on a universal level, international law does not embody an obligation to share the burdens incurred by refugee protection.¹⁵ In practice, what we see as a pattern in states' behavior is to shift the burden from one another. In this regard, the question on whether there is a tendency towards burden shifting instead of a burden sharing mechanism will be discussed not only as European Union versus the developing countries but also it will raise up the imparities within the Union as well. The chapter will begin with a brief introduction of the establishment and the expansion of the EU upon the Second World War; it will speak of the general budget shared for humanitarian aid by the Union. The discussion will then continue with the burden that is left on the developing world. The last part of the chapter is going to refer to the de facto solutions that are called upon both by the developed and developing countries consecutively that want to toss out any kind of responsibility. The main points of discussions would include the establishment of artificially constructed "international zones" where states denounce themselves to be unaccountable to the law of the state and the construction of "safe zones" for refugees within crisis regions.

¹⁵ Gregor Noll 2000, *Negotiating Asylum, The EU Acquis, Extraterritorial Protection and the Common Market of Deflection*, Netherlands: Martinus Nijhoff Publishers, p. 282-285.

The last chapter is going to elaborate on Turkey as a country in “developing” phase. The progress of being a country of emigration to immigration will be touched upon. Discussion points will include Turkey’s long-standing pending EU membership and the sanctions of the EU in this regard. The second part of the chapter will analyze the refugee burden on Turkey especially due to its geographical positioning and the impact of the recent Syrian crisis over the country. The final part will present the change of perception of refugees in Turkey over the years, starting from the early years of the establishment of the republic and will discuss the integration problem of refugees. The thesis will finally conclude that burden shifting instead of burden sharing can be observed in the Turkey- European Union case.

CHAPTER 2

BURDEN SHARING

2.1 WHAT IS BURDEN SHARING?

The concept of “burden sharing” emerged as a need to share the responsibility of protecting refugees in mass influx situations. The large-scale influx of refugees in Africa that arose from the decolonization in 1960s led to the invention of the concept in refugee context.¹⁶ The first thing that comes into mind when we talk about burden sharing is generally the financial contribution that one makes to another which is indeed the reality in practice. One of the common types of burden sharing practice that we can observe in world community is the financial aid provided to host countries by the developed nations either through direct contribution or through funding UNHCR in most occasions.¹⁷ Another popular tool of burden sharing is the small number of resettlement programs available which involves moving of refugees from host countries to resettlement countries, meaning the dispersal of refugees among states.¹⁸ Nevertheless, “burden-sharing” does not altogether mean that the mere help from international actors (both on financial and physical level) will be the lifesaver of host countries. On the contrary, the concept ideally hopes for the harmony of cooperation between the national, regional and international level participants. Even UNHCR, an important advocate of burden-sharing, reports in their discussion paper works that the host states should recognize that the heavy burden would be on them while regional and international actors should participate in sharing the responsibility¹⁹. Therefore a comprehensive approach is

¹⁶ UNHCR 2000, “Burden Sharing”. Discussion paper submitted by UNHCR Fifth Annual Plenary Meeting of the APC, p. 1.

¹⁷ Eiko Thielemann 2006, “Towards A Common EU Asylum Policy: The Political Economy of Refugee Burden-Sharing”, University of Texas, Austin, 2-3 March , p. 15-16.

¹⁸ Boswell, “Burden-sharing”.

¹⁹ UNHCR 2000, “Burden Sharing”. p. 2.

necessary while examining burden sharing. The Executive Committee of the UNHCR (ExCom) notes;

“- A mass influx may place unduly heavy burdens on certain countries, and a satisfactory solution could not be achieved without international cooperation.
- States should, within the framework of international solidarity and burden sharing, take all necessary measures to assist, at their request, states that have admitted a mass influx of refugees.”

There are various tools of burden-sharing mechanism, and should be decided on a case by case basis, depending upon the necessity. The different formulas to be implemented have been so far financial contributions to agency programs, procurement of human resources, temporary admission or resettlement of refugees to third countries. An important realization would be that finding solutions to regional problems does not only concern states in that region but also states that are outside of it. For example, the United States has been acting as a third country resettlement option for countries in Middle East and Africa, has been taking refugees from Iraq, Afghanistan, Somalia, Sudan for years.²⁰ Another example would be Humanitarian Evacuation Program for Kosovar refugees where Australia and New Zealand had participated in the program, accepting refugees for resettlement.²¹

Over the years, some specific regions and states have pulled the larger number of refugees although these states have particularly not been very stable in terms of political and socio-economic factors. Contributing financially to these problems of host countries have been seen as one of the most popular tools of burden sharing mechanism by the international

²⁰ Refugees: A Fact Sheet 2014. Immigration Policy Center. See <http://www.immigrationpolicy.org/just-facts/refugees-fact-sheet> [Oct 2014]

²¹ UNHCR 2000, “Burden Sharing”, p. 6.

community. Another tool that is used and widely criticized for many factors is the resettlement of these refugees to third countries. A more comprehensive proposal of finding a solid solution to prevent the burden from generating in the first place has been to detect the actual cause of the formation of refugees; to find ways to prevent the formation of refugees in the first place. There have been debates over how to improve the political, economic, democratic development of countries where refugees are generated from.²² However, this proposal is set for a long term goal rather than a solution for the ongoing problems.

European Union countries have long been a final destination for refugees and the increasing numbers are worrying the member states more than ever, with the eruption of Syrian crisis, the EU states are facing the recent refugee crisis in cautious²³. Germany, in 1994, had proposed the dispersal of asylum seekers among the member states based on the capacity of the states, taking into consideration the population, size of the territory and gross domestic product (GDP). Although the proposal was rejected in the first place, future EU legislations included that the responsibility of asylum seekers should be shared in balance within the EU. The tool that has been used to share this burden was to financially contribute to the host states which received the larger numbers of refugees in light of keeping “solidarity” in the region.²⁴

2.1.1 The Actors of Burden-Sharing

Refugee context is a very important topic that concerns the whole world and the participating actors taking part in the ultimate goal of burden sharing is very diverse than one can expect. It starts with states, non-governmental organizations (NGOs), supranational entities, corporations and the list further goes on to individual philanthropists.

²² Philippe Fargues, Christine Fandrich 2012, “Migration after the Arab Spring”, Migration Policy Center Research Report, p.5.

²³ “The World’s Pitiful Response to Syria’s Refugee Crisis” 05 December 2014 , Amnesty International. See <https://www.amnesty.org/en/articles/news/2014/12/world-s-pitiful-response-syria-s-refugee-crisis/> [May 2015]

²⁴ Boswell, “Burden-sharing”.

Beyond doubt, the stance of states plays one of the most crucial parts in burden sharing. The United States has been the biggest contributor among states till now. The U.S. Refugee Admissions Program (USRAP) has resettled more than 69,000 refugees in 2013 and 2014, a little less than 70,000, receiving more than half of all refugees resettled worldwide through UNHCR.²⁵

The supranational European Union is another important actor in burden sharing. The number of asylum seekers applications in the EU had almost reached 450,000.²⁶ Between 2004 and 2013, European Commission had spared more than EUR 1 billion to 400 projects related to migration issues.²⁷ EU has been the second largest donor of UNHCR, following the United States. When we look at individual states within the EU, we see that Germany is the leading state taking these asylum applications. As per UNHCR statistics, the asylum claims in Germany had surpassed even United States. An estimation of 109,600 individual applications were taken by Germany in 2013, which was followed by USA (84,400), South Africa (70,000), France (60,200) and Sweden (54,300).²⁸

The World Bank, an international financial institution of United Nations is another important actor as it is one of the most crucial contributors to developing countries financially wise. For example, Jordan, one of the neighboring states highly affected by the conflict in Syria, has recently been approved a loan of US\$250 million to come over the financial strains which deepened with the influx of refugees from Syria²⁹.

²⁵ Andorra Bruno 2015, “Refugee Admissions and Resettlement Policy”, Congressional Research Service, p. 1-2.

²⁶ Eurostat 2014, Asylum Statistics. See http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Asylum_statistics [Oct 2014]

²⁷ European Commission 2014, “Funding For Humanitarian Aid”. See <http://ec.europa.eu/echo/en/funding-evaluations/funding-for-humanitarian-aid> [Oct 2014]

²⁸ UNHCR 2014, “Facts and Figures on Refugees”. See <http://www.unhcr.org.uk/about-us/key-facts-and-figures.html> [Feb 2015]

²⁹ The World Bank 2014, “World Bank Approves US\$250 Million to Promote Transparency, Accountability and Job Creation in Jordan”. See <http://www.worldbank.org/en/news/press-release/2014/03/13/world-bank-approves-us250-million-to-promote-transparency-accountability-and-job-creation-in-jordan> [Oct 2014]

NGOs constitute another vital role in the burden sharing. They are the second recipients of the global international humanitarian aid, following multilateral organizations. A main objective of international humanitarian aid is assisting governments and local actors when they are overwhelmed or unable to overcome the necessities of the refugee burden.³⁰ On many occasions NGOs play the mediator role between UNHCR, hosting countries, third countries and refugees. While some assist in the transition process to third countries, some NGOs are engaged in assisting the host countries during the phase that refugees are on halt. This could vary from providing educational programs to refugee children, women or providing language courses to providing financial aid to the refugees. NGOs complement the role of UNHCR and governments hosting refugees, thus they play a distinctive role in refugee aid. NGOs could raise policy issues for the benefit of governments affected by the forced migration with other relevant governments. They can function at times where United Nations bodies and governmental agencies are stuck. For example, during the 1980s when providing food in conflict areas of Ethiopia was a challenge, voluntary agencies assisted in food aid around Ethiopia while official aid channels were challenged with the implications of working with the host regime.³¹ Hence, the importance of NGOs in burden-sharing system is self-apparent. The resources of NGOs could vary greatly; they could be financed by international organizations, religious entities, philanthropists, volunteers etc. However, they do face challenges with accessing adequate funding in a timely manner, herein making private donations vital.

Donations from private sector contribute to the burden sharing mechanism though the direct effect might not be visible in first instance. In 2006, UNHCR for example had created a

³⁰ Lydia Poole 2014, "Bringing the Needs-Based Funding Gap: NGO Field Perspectives" Norwegian Refugee Council, Foreword.

³¹ Brian W Neldner 1997, "A critical difference: an NGO perspective on the role of NGOs as partners in providing assistance to refugees", *The Journal of Humanitarian Assistance*. See <https://sites.tufts.edu/jha/archives/107> [May 2015]

Private Sector Fund Raising Section which had raised around \$22 million from private sector. In 2014, UNHCR is hoping to see a raise in the fund they received from private sector, almost \$220 million.³² Multipartite collaboration between developed and host states, intergovernmental, international and private actors that aim for solving trans-sovereign refugee problems would strengthen global governance.³³

Last but not least, the most important player in the burden sharing context is the hosting countries. As per UNHCR, by the end of 2013, the number of refugees worldwide had reached 16.7 million and out of this number, 11.7 million were under UNHCR mandate. Their statistics show that developing states are hosting more than 86% of all refugee population in the world, an increase from %70 ten years ago. In 2013, Pakistan hosted roughly 1.6 million refugees, becoming the leading country hosting the largest number.³⁴ The top hosts of 2013 have been followed by Islamic Republic of Iran (857,400), Lebanon (856,500), Jordan (641,900) and Turkey (609,900).³⁵ So the crucial point to examine here is whether the burden sharing mechanism is taking its toll on the hosting countries.

2.1.2 Is Burden Sharing Effective?

As per UNHCR statistics, there are around 15.4 million refugees worldwide and most of them are residing in the first countries that they had fled to. A very small number of these refugees get a chance to become citizens in these host countries while it is not even an option in majority. Those that are acknowledged to be at higher risk by UNHCR are referred for resettlement to a third country. As per statistics, less than 1 percent overall gets to be resettled

³² UNHCR 2014, Private Sector Partners. See <http://www.unhcr.org/pages/4a0d8c0b6.html> [Oct 2014]

³³ Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long, Nando Sigona 2014, "The Oxford Handbook of Refugee and Forced Migration Studies: Burden Sharing and Refugee Protection", Oxford University Press, p. 535.

³⁴ UNHCR 2014, "Facts and Figures,".

³⁵ UNHCR Global Trends 2013.

Statistics of the year 2014 has not yet been announced by UNHCR.

eventually.³⁶ The statistics reveal out the dreary truth that resettlement option, which is a popular tool of burden-sharing, does not play a savior role in burden sharing mechanism but on the contrary temporary asylum programs in host countries are favored by the developing world. Although UNHCR repeatedly calls international world to increase their resettlement program capacities, it is not realistic to anticipate a dramatic change in the near future.

As mentioned above in the previous section, there are various actors which are potential financial supporters to the refugee protection strife. States, NGOs, companies, philanthropists share a budget for this and this financial contribution is distributed to the host countries that are dealing with refugee costs in first hand. It is the easiest way to provide support in this cause. However, the financial assistance received is not always enough to motivate the hosting countries in accepting greater responsibilities as financial problems is not the only problem of concern³⁷. As mentioned before, developing countries are hosting the majority of worldwide refugees and the least developed countries are also hosting an important number of refugees. These countries not only have financial problems but also are dealing with social and political instabilities. The large number of refugees is only adding up to the existing problems of these states. Therefore the financial assistance channeled to the hosting countries is neither a durable nor a functional tool of burden sharing mechanism. At this point, the role of NGOs in host countries is crucial.

NGOs are an important player in burden sharing mechanism. Not only they may as well contribute in decreasing the overall financial cost and assist in protection related matters, they may also provide an important benefit in assisting refugees to blend in to the social life of hosting countries. They may provide educational trainings, legal counseling, psycho-social

³⁶ U.S. Department of State “Refugee Admissions” 2014.

³⁷ Eiko Thielemann 19 May 2014, “Refugee protection in Europe: A proposal for burden-sharing” Eutopia Magazine. See <http://www.europiamagazine.eu/en/eiko-thielemann/issue/refugee-protection-europe-proposal-burden-sharing?pure=true> [Oct 2014]

counseling etc. which are essential matters. However the legal obligations and registration processes sometimes undermine the work of NGOs. International NGOs do not have a separate status under international law like intergovernmental organizations do. Therefore every NGO must comply with the laws of the country that they wish to operate in.³⁸ In some states, it may be very difficult to establish branches of NGOs which is deterrent for some to go through the legal process. The registration process in some countries is so difficult that it is not only time consuming and costly but also very restrictive that it discourages NGOs to apply for registration in the first place. For example, the Ethiopian government restricts foreign organizations from conducting activities that are related to human rights, women's and children's rights, defining a foreign organization as any group that receives more than 10 percent of its funding from abroad.³⁹ The bureaucratic requirements may hinder NGOs' participating, leading to another breakdown in functionality of burden sharing mechanism. The problem that NGOs face actually is a reflection of the bigger picture.

While the bureaucratic challenges in host states have a hindering effect on effective burden sharing, the bigger picture is the international bureaucratic inconsistency. The root of the inefficiency problem of burden sharing is that there is no decided common ground on how this mechanism would work. Each state has its own set of regulations. Therefore laws and policies are not functional because there are no consistent laws or regulations. There is no common approach to the problem. There have been efforts by the European Union to overcome this problem though the consistency is questionable.

The Dublin Regulation (Convention) so to speak is the substantial step taken to create a law that would determine the responsible state for examining applications of asylum lodged

³⁸ Frits Hondius 2004, *The Tax Treatment of Ngos: Legal, Fiscal and Ethical Standards for Promoting NGOs and their Activities* eds P Bater, F Hondius, P Lieber, Kluwer Law International, The Netherlands, p.xiv

³⁹ NGO Laws in Sub-Saharan Africa June 2011, *The International Center for Not-For-Profit Law*, Volume 3, Issue 3.

in one of the member states of the European Community. The Dublin Convention was signed initially in 1990 which came into practice in 1997. Dublin II Regulation was adopted in the following years in 2003.⁴⁰ As of 2013 it has been replaced by Dublin III.⁴¹ The principle goal of the regulation is to put responsible a single member state of examining an asylum application and the set of hierarchical rules in designating this state in summary are as follows; if an asylum seeker has a family member who has already been granted asylum in a state or who has an application in process there, then application of this asylum seeker would be transferred to the mentioned state; if the asylum seeker already has a residency visa from a member state, then his/her application would be processed there; if the asylum seeker illegally entered or stayed in a member state, then his/her application would be processed there; if there is no visa requirement for the asylum seeker in the member state where s/he applied for asylum, then his/her application would be processed there; if the asylum seeker applies for asylum while s/he is at transit in a member state's airport, that member state would be responsible of processing the application.⁴²

There are also some exceptions that may apply when none of the above is applicable, but in general we see that the Dublin Regulation is tying those states responsible where initial entry was made, which are the periphery countries of the EU such as Greece, Italy and Poland. As a lot of asylum seekers try to transit from these bordering countries to other member states, they are deported back to these first entry countries as per the Dublin

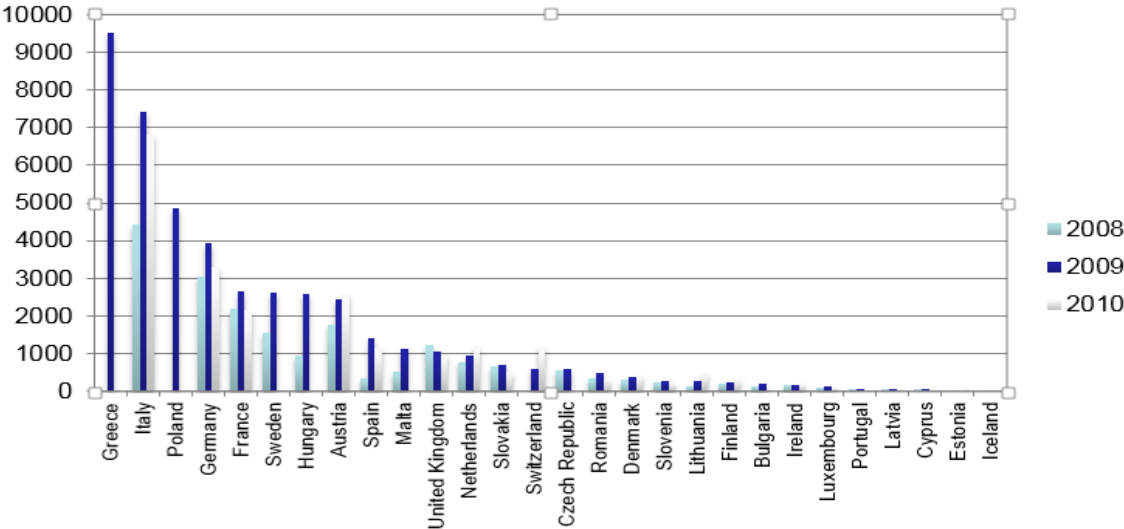
⁴⁰ Official Journal of the European Communities 1997, "Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention", 19 Aug, Vol.40. See [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:41997A0819\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:41997A0819(01)) [May 2015]

⁴¹ Official Journal of the European Union 2013, "Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person". Retrieved in May 2015. See <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex:32013R0604> [May 2015]

⁴² Dublin II Regulation 2011. See http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/133153_en.htm [Oct 2014]

Regulation. Due to the growing numbers that these first entry countries are receiving, they are not able to provide the necessary welfare provision the asylum seekers need.⁴³

The below figure shows the number of Dublin transfer requests received in 2008-2010.⁴⁴ While data is not available for each country in each year, in 2009 we can see that Greece by far has received the largest number of transfer requests, followed by Italy and Poland in that same year.

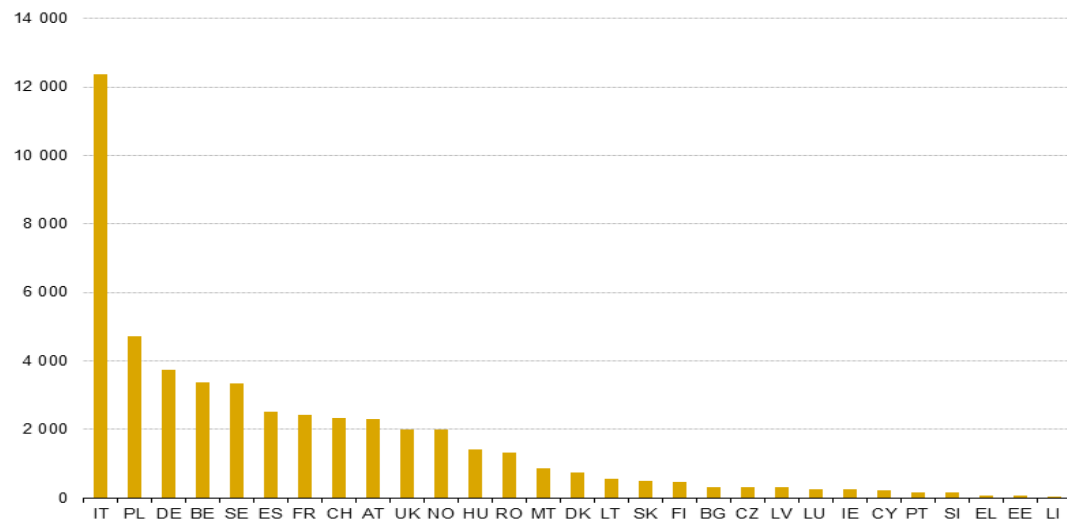


When we look at the recent data published by Eurostat, we see that Greece is off the list. The below figure shows the total number of incoming Dublin requests from partner countries in 2012. We see that Italy is by far receiving the most of these requests followed by Poland.⁴⁵

⁴³ Harriet Grant, John Domokos 2011, “Dublin regulation leaves asylum seekers with their fingers burnt” *The Guardian*, 7 Oct. See <http://www.theguardian.com/world/2011/oct/07/dublin-regulation-european-asylum-seekers> [Oct 2014]

⁴⁴ Thielemann, “Refugee protection in Europe”.

⁴⁵ Eurostat 2014, “Dublin statistics on countries responsible for asylum application”. See http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Dublin_statistics_on_countries_responsible_for_a_sylum_application [Oct 2014]



Excluding NL and IS, for which data for 2012 are not available.

As per Eurostat, between 2008 and 2012, the requests observed in Greece have fallen by 99%. This should not lead us to thinking that there has been a shift in the pattern and that the burden on EU external border countries is an illusion. The reason of the elimination of Greece is nothing but the case of *M.S.S v Belgium & Greece*. In 2011, European Court of Human Rights Grand Chamber found that there was a violation of the articles of Dublin Convention in regards to an applicant’s detention and living conditions in Greece and found deficiencies in the asylum procedure of this applicant. The court had also found that Belgium had violated an article for sending the applicant back to Greece where he was exposed to detention and living conditions which violated the breach of ECHR article.⁴⁶ Upon which UNHCR and other international actors had recommended the suspension of transfer requests to Greece. The case of *M.S.S v Belgium & Greece* not only shows the lack of appropriate handling of an asylum seeker but also compromises the founding rationale of the Dublin Convention. The regime itself is not fair and is inefficient, putting a lot of pressure on EU external border countries which are already dealing with serious challenges in hosting asylum

⁴⁶ ECHR 2011, “Case of *M.S.S. v. Belgium and Greece*” Application No. 30696/09’. See [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050#{"itemid":\["001-103050"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050#{) [Oct 2014]

seekers.⁴⁷ The regime shaped in such a way that it is trying to point fingers at the “responsible” state to handle the problem. Unfortunately the Dublin Convention enables in a way member countries to set transfer of applicants their priority in handling the refugee problem, which in fact shifts the burden to the external bordering member states instead of sharing it.

The Dublin Convention also has an article on the resolution on safe third countries which enables member states to send an asylum seeker to a third country deemed to be ‘safe’ meaning that there should be no risk of persecution as well as no risk of deportation to the country of origin or any other country and also there should be access to a fair asylum procedure. These third countries are not necessarily member states and there is no official list of safe third countries. There is a lack of transparency, regulation and accountability in the process of designating countries as safe third countries and the implementation of the safe third country concept varies greatly from state to state.⁴⁸ The convention makes it possible for member states to send an applicant directly to a third country before making the decision on which member state would be responsible of the application with the assertion that the applicant had travelled to the member state via this country. This on some occasions may lead to an applicant not even being able to file an application in the member state and being stopped at the border and sent back to a safe third country. Implementation changes from state to state. While i.e. in Germany an applicant may not have the chance to file an application to the Federal Office which is the asylum determination party, in United Kingdom all

⁴⁷ Violeta Moreno-Lax 2012, “Dismantling the Dublin System: M.S.S. v. Belgium and Greece” *European Journal of Migration and Law* 14, p. 1–31.

⁴⁸ UNHCR 2010, “Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice - Key Findings and Recommendations”, March, p. 69.

application are sent to the asylum division before sending an applicant to a safe third country.⁴⁹

The Dublin Convention enables member states to send an applicant to a safe third country before taking in or viewing an application and this leaves this decision making to the member states as there is no binding rule. Likewise in the rapid transfer requests within the member states which may result in a failure of fully assessing the receiving country's conditions on providing decent living conditions and fair access to asylum procedure (i.e. *M.S.S v Belgium & Greece* case), there are also doubts on whether a full assessment of the safe third country is made or not when requesting a transfer. There are concerns that member states do not fully investigate the third country on whether the applicant may indeed effectively file an application there or not.⁵⁰

The problem that there is no common practice of the Dublin regime within member states casts doubt on whether decisions are made accurately. European Council on Refugees and Exiles has even proposed member states to stop the safe third country concept until a common ground has been reached.⁵¹ The regulations of Dublin in general are left for national laws of member states to decide, which leads procedures to vary greatly. For example in Germany, the German law does not refer to the Dublin Regulation explicitly though it references the EU law in regards to the Asylum Procedure Act as "An application for asylum shall be inadmissible if another country is responsible for processing an asylum application based on European Community law or an international treaty.". Until 2013, the border police had also the authority to initiate Dublin procedures by sending people back the people that approach the borders to the neighboring country. Although the Federal Office for Migration

⁴⁹ European Parliament 2002, "Asylum in the EU Member States", Directorate General for Research, European Parliament Civil Liberties Series.

⁵⁰ European Parliament, "Asylum in the EU,".

⁵¹ European Council on Refugees and Exiles (ECRE) 1999, "European Network Against Racism And Migration Policy Group: Guarding Standards - Shaping the Agenda", May, p. 9.

and Refugees announced to be the only responsible party to carry out the regulations as of July 2013, the border police had continued to carry out Dublin procedures in 2013 and 2014.⁵² The inconsistent laws and regulations thus give no room for any functionality to be obtained of burden sharing.

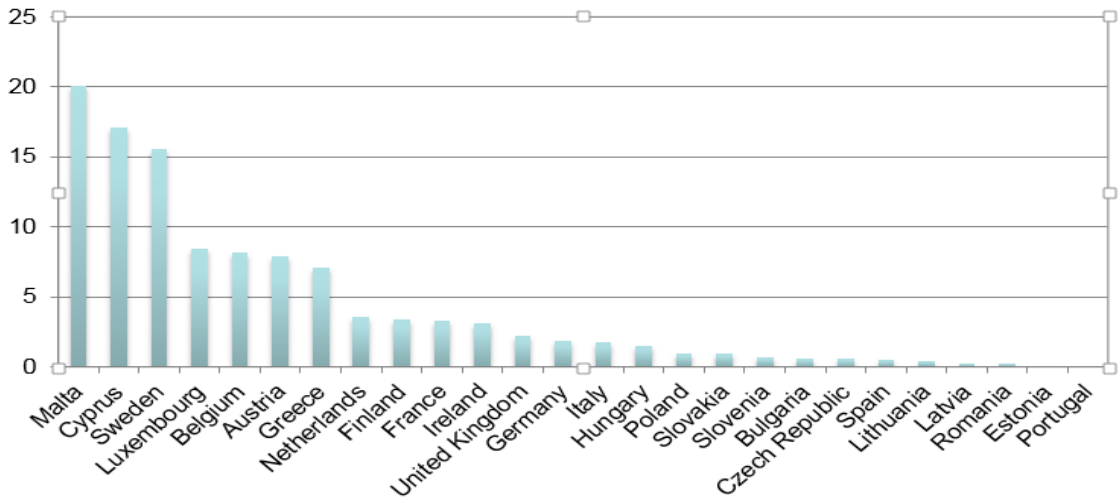
As the harmonization of policies of burden sharing is complicated in so many ways and not fully achieved nor consistent at the time being, another proposal that has stood out in the recent years has been the quota-based burden sharing system. The reasoning behind this proposal is that the number of people each European country would receive should be decided upon the protective capacity of that country which would take into account factors such as population density, economic wealth, and assimilative capacity and so on. Although the intention of the quota based system is attractive, the current determinants are rather debated by receiving countries. The formula initially had calculated population density, size of territory and GDP on equal weight when making a determination and by rule, the country which has filled out its capacity would take in no more refugees and the refugee applicants applying onwards would be transferred to another member country. This was debated on various grounds, while this solution did not sound desirable for countries which had relatively low number of refugees another debatable factor put forward by some council members of the Member States was on the humanitarian side; this would mean the transfer of refugees without their own will.⁵³ The quota based system is taken to the next level by some with the proposal of tradable quota systems. The tradable quota systems propose market-based solutions to overcome the refugee crisis particularly in the EU member states. The idea is that providing refugee protection and asylum is an international public good and that there can be an EU wide market for tradable quotas. The advocates of this proposal suggest that the system

⁵² Informationsverbund Asyl und Migration 2015, Asylum Information Database. See http://www.asylumineurope.org/reports/country/germany/asylum-procedure/procedures/dublin#footnote22_e4jq8e3 [May 2015]

⁵³ Thielemann, "Towards A Common," p. 18.

would allow both the refugees and countries to set their own preferences in this way.⁵⁴ However, counterarguments to this proposal includes reservations on whether this could lead to exploitation of weak countries, whether this would violate the dignity of refugees, marketing them as commodities in a sense, and whether it would fail to take into account the preference of refugees regarding the final country of asylum.⁵⁵

Despite the formulations on the quota based systems, the fact remains that there is no fair distribution of refugees within the EU territory; small countries such as Malta, Sweden and Greece have been taking much greater number of refugees than their capacity. See the graph below, Number of asylum applications lodged in EU Member States per 1,000 inhabitants, 2007-2011.⁵⁶



Another new proposed formulation that also takes into account “unemployment rate” when calculating a state’s capacity, derives that Sweden had taken three times the number it should have taken between 2008 and 2012.⁵⁷ Motivating countries that have originally less

⁵⁴ Hillel Rapoport and Jesús Fernández-Huertas Moraga 2014, “Tradable Refugee-admission Quotas: a Policy Proposal to Reform the EU Asylum Policy” EUI Working Papers, p. 1-2.
⁵⁵ Jaakko Kuosmanen 2012, “What (If Anything) Is Wrong with Trading Refugee Quotas?” Res Publica, p.1.
⁵⁶ Thielemann, “Refugee protection in Europe”.
⁵⁷ Steffen Angenendt, Marcus Engler, Jan Schneider 2013, “Pathways to Fairer Burden-Sharing” German Institute for International and Security Affairs, p. 7.

number of applications into the quota based system is thus critical but realistically difficult since this means accepting an increase of responsibilities.

The down side of this system from the refugees' perspective is not having a word on the country of migration. Language ties, cultural ties, family ties all play a determining role for refugees. When the country they have applied for has reached its capacity, being transferred to another member state where they had no ties could lead to isolation and a lack of assimilation.

2.2 NEGATIVITY IN PUBLIC OPINION

Another subversive factor on the burden sharing mechanism is the negativity in public opinion of receiving countries. Public opinion is a delicate definer in governments' decision making process. "Refugee" by definition is associated with unfavorable circumstances such as war, crisis, insecurity and poverty. For many people accepting refugees into their land bring discomfort with it as it also brings along these negative phenomena. Especially during mass influx situations, where a large group of refugees from a certain territory are migrating xenophobia is likely to manifest in the receiving country. Sharing the territory also means sharing the wealth of the country which could be perceived as a threatening factor in the eyes of public. The negative attitude towards refugees could increase particularly at times when the unemployment rate is high.⁵⁸ Besides the economical factors, welcoming people with a diverse cultural and religious background poses a threat in the eyes of receiving countries.⁵⁹ A CNN reporter puts it that the German Chancellor, Merkel, had confirmed that religious young Muslims are more prone to violence than of young Germans.⁶⁰ Perception of foreigners as a threat factor is a breakpoint in the burden sharing mechanism as it causes member states to be

⁵⁸ Angenendt, Engler, Schneider 2013 "Pathways to Fairer Burden-Sharing", p. 5.

⁵⁹ Lauren McLaren 2003, 'Anti-Immigrant Prejudice in Europe' The University of North Carolina Press, Social Forces, March 2003, 81 (3), p. 909-936

⁶⁰ David Frum 2010, "Germany's Merkel is right -- multiculturalism has failed", *CNN*, 18 Oct. See <http://edition.cnn.com/2010/OPINION/10/18/frum.merkel.multicultural/> [Oct 2014]

even more reluctant in increasing their responsibilities over accepting larger number of refugees.

Explicitly there is a good effort of distributing the overall burden of refugee problem worldwide. However the current mechanism's efficiency and fairness is questionable. There are a number of reasons why the burden sharing system is not effective as desired. The main ostensible causes include the in low capacity resettlement programs; as resettlement option stays as a luxury, contributing to a very small number of refugees worldwide to be resettled to a third country whereas the rest are stuck in the first country of arrival, in limbo. The law restrictions in host countries sometimes obstruct international interference; the NGOs and multilateral organizations that are crucial players in assisting these first countries sometimes are faced with challenges with the bureaucracy of the host countries which prevent them from working in their full capacity to assist the refugees and in relation, to the host countries. The Dublin Regulation which was put forward initially to share the disproportionate burden within the EU states proved to be inefficient, the much criticized quota based system and its variations do not contribute to the burden sharing mechanism as expected due to inconsistent laws and regulations worldwide. Last but not least the perceived threat over national security and xenophobia also pulls back states in contributing more in the burden sharing mechanism. The mentioned problems of ineffectiveness of burden sharing mechanism are only the ones that are more visible to the eye but by no means the only ones. What is more evident is that the lack of an effective burden sharing system has conveyed itself into a burden shifting system. As responsibility becomes a frightening burden to be evaded, the unstandardized law is bent in the interest of the powerful.

CHAPTER 3

BURDEN SHARING OR BURDEN SHIFTING?

One of the epidemic problems of the modern world is the forced migration. The refugee protection is a crucial responsibility that should be borne for the global public good, for security and humanitarian reasons. Motivation of states to contribute in the burden sharing mechanism does not solely rely on good will but rather on their economic and social interest out of it. While states do accept the importance of refugee protection, the economic and social responsibilities are costly and if possible they are to be avoided which brings out the concept of “free ride” on other states undertaking.⁶¹ In political rhetoric, the discussion would continue as the shift of burden to the developing countries, which will also be discussed later in this paper, however it is also important to emphasize that there is an unequal distribution among the Western countries, the European Union in this example, as well.

3.1 THE BURDEN ON EU

As a developed region, Europe has an attractive pull factor over the refugees that are seeking new homes and the number of refugees has been increasing rapidly over the years. The number of asylum seekers that had achieved its peak was in 1992, when the number had reached 672 thousand applications in EU-15, the numbers had decreased over the following years, however starting from 2006 we see that there has been a gradual increase over the course of years and by 2014, the number of applications had reached 626 thousand in EU-28, the highest number since the peak in 1992.⁶² UNHCR announced that the EU countries recorded %24 increase of asylum applications in 2014 when compared to the same period of

⁶¹ Alexander Betts, Gil Loescher 2011, *Refugees in International Relations*, Oxford University Press, p. 58.

⁶² Eurostat 2015, “Asylum Statistics”. See http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics [May 2015]

2013.⁶³ Various factors including the disjointed policies throughout the union elbowed an uneven distribution of refugee applicants in the European Union which unfold in substantial burden sharing problems with a palpable effect on some member states more than others.

3.1.1 Expansion of EU to the East

European Union was established with the purpose of ending the wars between neighboring countries that culminated in the Second World War, to bring peace and stability to the region and to avoid future wars by establishing stronger bonds in-between states. Having its roots from the European Coal and Steel Community, the union was established under its current name in 1993 with the Maastricht Treaty.⁶⁴ What had started off as 6 a members coalition between Italy, France, Germany, Netherlands, Belgium and Luxemburg has over the years grown into a 28 member union. The expansion of the EU happened gradually, towards the east. In 2004, the number of member states had increased from 15 to 25; the newly joined members were Cyprus, Czech Republic, Latvia, Malta, Estonia, Lithuania, Hungary, Poland, Slovenia and Slovakia. Bulgaria joined the union in 2007 and the last member Croatia joined in 2013. The map below shows the member states, of which the extension of EU borders to the east is visible.

⁶³ UNHCR 2015, “2015 UNHCR regional operations profile – Europe” See <http://www.unhcr.org/pages/4a02d9346.html> [May 2015]

⁶⁴ The History of the European Union 2015, European Union. See http://europa.eu/about-eu/eu-history/index_en.htm [March 2015]



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While the highlighted objectives of the European unification included containing stability in the continent, enhancing democracy, furthering the principles of dignity, equality, justice; furthering cultural enrichment, and contribution to the EU budget, we also saw repressive measures implemented over the new member states. As per the quota based system, the responsibilities that a member state would take is to be evaluated based on its capacity. However, we have seen the small member states that had joined the EU in later years, such as Malta and Cyprus shouldering more than they can afford, which brings along the fostered debate on whether expansion of EU to the east is related to shifting the burden towards these exterior countries of the union.

⁶⁵ Countries 2015, European Union. See http://europa.eu/about-eu/countries/index_en.htm [May 2015]

While the Treaty of Maastricht led the way to a common European citizenship, there was already the Schengen Agreement in place which promoted the free movement of persons. With the establishment of the European Union, the Schengen cooperation was gradually expanded to include most EU member states.⁶⁶ However with the expansion of the union towards the east starting from 2004, there had been grave concerns of a mass migration from these new member states to the existing ones. As a solution, temporary mobility restrictions were put in practice until 2011 which affected the new member states, EU-10⁶⁷. Mobility within the old EU-15 (member states before the expansion of 2004) and within EU-10 operated as normal though new member states also had the right to implement restrictions over travel between themselves. EU-10 citizens were only given a preferential priority over non-EU citizens in job openings within EU-15.⁶⁸ The restrictions have not been fully lifted yet, as some citizens of member states still do need a work permit in order to work in certain EU countries. When the newest member, Croatia, joined the EU in 2013, transitional restrictions were implemented on its citizens for access to labor market in the EU territory. Its citizens still need a work permit in certain EU countries⁶⁹ and the vice versa, and the transitional arrangements are applicable until 2020. Another example is Switzerland where restrictions apply to citizens of Bulgaria, Croatia and Romania.⁷⁰ Hence while new members face certain restrictions on enjoying the benefits of EU membership, almost being treated like

⁶⁶ Free movement of persons, asylum and immigration 2015, European Union. See http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/index_en.htm [May 2015]

⁶⁷ Czech Republic, Latvia, Malta, Estonia, Lithuania, Hungary, Poland, Slovenia and Slovakia. Cyprus is excluded from the EU-10 as it was not affected by the transition agreement, thus could be considered among the EU-15.

⁶⁸ EU-25: Member States grapple with the free labour market 2007, EurActiv. See <http://www.euractiv.com/enlargement/eu-25-member-states-grapple-free-labour-market/article-117775> [Oct 2014]

⁶⁹ Nationals of Croatia need a work permit in France, Germany, Austria, Belgium, Cyprus, Greece, Italy, Luxembourg, Malta, Netherlands, Slovenia, Spain, UK. For more information, see EU Work Permits http://europa.eu/youreurope/citizens/work/work-abroad/work-permits/index_en.htm [Oct 2014]

⁷⁰ European Commission 2014, 'EU Work Permits 2014'. See http://europa.eu/youreurope/citizens/work/work-abroad/work-permits/index_en.htm [Oct 2014]

a stepchild, when it comes to sharing the burden of EU, they are expected to take responsibility to the fullest.

Becoming full members with transitional arrangements on table was not the only challenge that new member states had to overcome. By becoming full members of the EU in 2004, the 10 new member states became bound to the Dublin II convention through which the responsibility of an asylum seeker is allocated to the first member state of arrival in the EU. This binding criterion of the convention brought a whole new insight to the asylum seeker distribution in the EU upon the expansion of the union in 2004. The newly members of the Union which were now the east bordering countries of EU had faced an immense responsibility of the refugee intake which lies at the heart of the discussion on whether the expansion of the EU had encouraged shifting the burden to the newly member states.

With the EU borders shifting towards east, we have also seen a shift of asylum seekers from countries that are geographically in the middle of EU such as Germany and Austria towards the eastern member states like Poland and Cyprus.⁷¹ While “solidarity” is a key ingredient in the composition of the European Union, at least in reference, on balance the inconsistency on agreeing upon a fair distributive system especially in mass influx situations casts doubts on the sincerity of the initiatives towards an ‘ever closer union’.⁷²

The expansion of the European Union in 2004 embraced countries which had previously created refugees of their own. Integration of these countries with the union changed the whole pattern of refugee flow in the region, refugee producing countries now changing their role as the receiving countries. In a decade, the former communist countries which became a part of the EU went from producing 61,000 refugee applications to receiving

⁷¹ Barry Junker 2006, “Burden Sharing or Burden Shifting? Asylum and Expansion in the European Union”, *Georgetown Immigration Law Journal*, Vol. 20, p. 293.

⁷² Eiko Thielemann 2006, “Burden Sharing: The International Politics of Refugee Protection” *The Center for Comparative Immigration Studies*, University of California, San Diego, p. 13.

28,000 applications in 2004.⁷³ Since “land” has been the most common refugee route to Europe, the countries which have been on route to Europe had now become the Europe itself. As an immediate reflection in numbers, there has been a clear shift of refugee applications from the interior to the border. The refugee applications had started increasing dramatically in the new states upon the eve of expansion. To give an example of this change, the last quarter of 2004 saw double the number of applications in the first quarter of same year in Poland. As the Dublin II regulations meant applications being processed in the country where first entry was made and/or which country first grants a visa, Poland became a common first country of application. Another good example to show the effect on bordering countries is the Czech Republic, which had become one of the interior states of EU with the extension. Though a new member, Czech Republic geographically wise is not one of the bordering countries and the beneficial effect is reflected in numbers; in 2004, the applications had decreased by more than 50 percent when compared with the previous year.

Be it in the east or in the core, the agenda of EU in 2000 was “for a stronger and wider Europe”. The image that the refugee burden within EU being shifted towards its east border does not look like the union has a fair integrity within. As some countries shouldering more than the others, the union had to spare a fund to assist its comrades.

3.1.2 EU Budget on Humanitarian Aid

The budget shared for humanitarian aid by the European Union amounts to €1 billion per year. European Union Humanitarian Office (ECHO) funds more than 200 organizations that are engaged in humanitarian aid worldwide of which includes NGOs, United Nations bodies and international organizations.⁷⁴ EU provides funding in major regions where there is

⁷³ Junker, “Burden Sharing,”. For more information see the Asylum Levels and Trends in Industrialized Countries Report of UNHCR between January and June 2004 at <http://www.unhcr.org/4132fc594.html>

⁷⁴ European Commission 2014. “Funding for Humanitarian Aid” See <http://ec.europa.eu/echo/en/funding-evaluations/funding-for-humanitarian-aid> [Oct 2014]

war, economic crisis, protection need or post-conflict instability throughout the world including conflict zones of Middle East and Africa.⁷⁵ In the past few years, the crisis in Syria has attracted an increasing interest of the international community. As of Jan 2015, EU funding had reached €817 million to humanitarian aid excluding the contributions of member states separately which amounts in total to €3.2 billion from the EU region (including funding of EU and EU member states)⁷⁶. Funding in EU is not necessarily gathered for transfer into conflict zones but also for member states that are struggling with large influxes of asylum seekers that are beyond their capacity intake.

As explained above, despite the quota-based system, some countries have been trying to accommodate more than their capacity would allow. To serve as a solution, European member states had agreed to set up the European Refugee Fund (ERF) which would transfer funds to the needy states to serve as an equalizer to the disproportionate distribution of asylum seekers/refugees within the EU territory.⁷⁷ The purpose is to enable fair, standard and effective asylum procedures applicable and reachable in the member countries where there are strains on reception capacities. Between 2008 and 2013, approximately €630 million was gathered by ERF.⁷⁸ However the main issue with this solution is that this is a monetary fund only and is a short term solution which does not answer to incapacity problem of receiving countries, such as infrastructural problems, population density, territorial size of the country, high unemployment rates and so on. The redistributive measures taken are only monetary and

⁷⁵ Humanitarian Aid 2014, European Commission. See http://ec.europa.eu/echo/what/humanitarian-aid_en [Oct 2014]

⁷⁶ European Commission 2015, “Syrian Crisis”. See http://ec.europa.eu/echo/files/infographics/infographic_syriancrisis_en.pdf#view=fit [Jan 2015]

⁷⁷ Refugee Fund 2014, European Commission. See http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/refugee-fund/index_en.htm [Jan 2015]

⁷⁸ UNHCR 2015, “European Refugee Fund”. See <http://www.unhcr.org/pages/49c3646c305.html> [Jan 2015]

do not tackle with transfer/movement of people between member states. As Barry Juncker puts it short “Money moves, people do not”⁷⁹.

Another instrument that was developed by the European Union to financially assist countries in need has been the European Neighborhood Policy (ENP). ENP was developed in 2004 to assist the countries that are geographically positioned to the east and south of European territory with the prerequisites of commitments to human rights, rule of law, principles of market economy and other common values put forward by the Union. The ENP covers 16 countries which are Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestine, Syria, Tunisia and Ukraine.⁸⁰ It is important to emphasize here as a side note that Turkey, a country that is struggling with an ever increasing number of refugees, while by definition should have been included in the list of countries covered by ENP, its ongoing evaluation as part of the EU enlargement agenda keeps it out of the list. Development of neighboring states of EU could be seen as a step forward in decreasing number of refugees. However the agenda of the EU stays the same, to provide financial aid to these neighboring countries so *they* can deal with the refugee inflow better. The Commissioner for Enlargement and European Neighborhood Policy Štefan Füle had stated in a press release on 23 September 2014 regarding the EU’s steps on Syria crisis; “Capacities in neighboring countries are stretched to their limits: I would like to reiterate the European citizens' solidarity with all of those affected by the Syrian crisis and the EU’s commitment to support the governments and host communities of Syria's neighbors so they can deal effectively with the increasing flow of refugees”.⁸¹

⁷⁹ Juncker, “Burden Sharing or Burden Shifting?” p. 298.

⁸⁰ European External Action Service 2015, ‘European Neighborhood Policy’. See <http://eeas.europa.eu/enp/> [Jun 2015]

⁸¹ European Commission 2014, ‘Syria crisis: EU steps up assistance’ See http://europa.eu/rapid/press-release_IP-14-1034_en.htm [Jun 2015]

In addition to the bodies developed by the EU to provide financial assistance to the states whose asylum systems are under particular pressure, an agency was created by the Union to help them strengthen their systems to fulfill their reception systems as well besides the monetary assistance. The European Asylum Support Office (EASO) has been in operation since 2011, providing training to administrations and courts of member states responsible for asylum matters.⁸² For instance, Italy had recently signed a new support plan with EASO which will be implemented over a 12 month period, until April 2016. An operational support would be provided in administrative preparation of asylum files, in organizing the backlog of cases that are pending with the Dublin procedure as well as strengthening the capacity of reception measures. EASO is also providing training of the personnel that are employed in the asylum commission of Italy.⁸³ Despite the progress achieved with the support of EASO in reception of refugees for international protection, the fact remains that the solutions being sought by the Union in assisting states under migratory pressure do not include the *movement* of people.

With bordering countries being overwhelmed with shouldering the sudden responsibility of taking refugee applications, we have seen the solutions presented as suggestions to seek protection elsewhere. While the EU extension towards east saw a shift of burden from old member states to the new ones, the next phase of suggestions shift the burden from the bordering EU states to the developing world. The reception of refugees has changed phase over the last decades in the European Union. The refugee flow upon the Second World War in the EU was mostly of people with similar cultural background that had no difficulty with assimilation, in addition to them promoting capitalist approach as opposed to communism was favored by the EU. Furthermore, the newcomers were fulfilling the post-war

⁸² EUR-Lex 2014, “European Asylum Support Office”. See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:j10022> [Jun 2015]

⁸³ European Asylum Support Office 2015, “Newsletter – March 2015”. See <http://www.emnbelgium.be/sites/default/files/attachments/easo-newsletter-march-2015.pdf> [Jun 2015]

shortage of labor in the region. Since then, the conditions have greatly changed in the EU. First of all, the refugee population has changed, the once European rooted population now constitutes of people from poorer countries mainly from the developing world which have a different cultural and social background. The second factor that has changed is the decreased need of labor force⁸⁴. With the development of industrialism and the cheap labor force being bought elsewhere thanks to capitalism, the need of especially unskilled labor force had decreased dramatically in the EU. With no ideological or economic value left for welcoming a mass influx of foreigners, it has become irritating to deal with refugee burden for the developed world. Thus, we have witnessed a set of precautions taken step by step to leave the refugees outside of the EU frontiers as much as possible.

3.2 BURDEN ON DEVELOPING WORLD

The developed world is anxious that if they allowed entry to their territory, refugees would never return back home. The power of institutionalization and industrialization also helps them to make and implement the law to enable non-entry practices. Politicians of the developed world believe that an uncontrolled influx of refugees would destabilize their society and promote the shift of asylum seeker elsewhere, in the developing world⁸⁵. As the most important burden starts when the refugee steps a foot on the land of the host country, developed countries have put forward practices that would prevent refugees from entry in the first place; mandatory travel documents being a strong measure taken on this ground.⁸⁶ Having their way to the developed world being blocked, refugees that seek asylum are left with no choice but to move on to the lands of the developing world where border controls and law regulations are not as well established as in developed world. Relieved from the physical

⁸⁴ Hathaway, "Making International," p.119.

⁸⁵ Belachew Gebreworld 2007, "Africa and Fortress Europe Threats and Opportunities", Migration Theories and African Migration to Europe. Hampshire: Ashgate Publishing., p.89.

⁸⁶ Fatimah Mateen, and Brian Tittmore 1995, "The Right to Seek Asylum: A Dwindling Right?" Human Rights Brief 2, no. 2: p.1, p.11, p.14.

burden, the developed world volunteers to provide fiscal assistance to the needy states that are shouldering the burden. However providing financial aid to host countries is not the only cost of keeping refugees away for the developed world as the non-entry practices of states are also costly. For example, the policy in Australia is to send boat-borne asylum seekers to a third country and to process the illegal maritime arrivals offshore rather than let them in Australia for processing. It is estimated that it costs the half a million dollars for an asylum seeker as such to be processed offshore, excluding costs of customs and naval operations. It is argued by the Refugee Council that processing asylum seekers offshore costs five times it would have cost in Australia.⁸⁷ This example shows that despite the incurring costs, the developed states still prefer to push away the refugees to the countries of the developing world.

In return of financial and/or development assistance from the international community, developing countries are expected to host mass influx of refugees. Over the years, we have witnessed the emergence of a new kind of morality in the context of burden sharing. The concept almost evolved in meaning as ‘the obligations of the Western community to assist the less developed countries encountering genuine difficulties dealing with refugee matters’. The less developed countries are offered benefits that would have been otherwise inaccessible to them in return of accepting refugees to their land. While the cornerstone of burden sharing is supposedly its humanitarian nature, we see that equity and redistribution have become its indispensable elements⁸⁸. The NGOs, social/financial assistance programs running in or around crisis zones are largely funded by Western countries that are physically far less affected by the refugee affairs. While Member States are by law bound to third country resettlement agreements, they choose to avoid it wherever possible and seek for alternative

⁸⁷ Markus Mannheim 2013, “Boat people: warning on rising cost of refugees”. See <http://www.canberratimes.com.au/national/public-service/boat-people-warning-on-rising-cost-of-refugees--up-to-500000-each-20131222-2ztax.html> [May 2015]

⁸⁸ Jean-Pierre Fonteyne 1980, ‘Burden Sharing: An Analysis of the Nature and Function of International Solidarity in Cases of Mass Influx’ *10 Australian Yearbook of International Law*, p.179.

solutions to keep the refugees outside the EU border. It is a fact that most of today's refugees are fleeing within from one developing world to another one of the neighboring countries. It is presumed that 14 million refugees out of 15 are accommodated in the developing countries.⁸⁹

As per United Nations, there is no commonly agreed definition of developing countries.⁹⁰ However, a developing country is usually referred as a “country with a relatively low standard of living, undeveloped industrial base, and moderate to low Human Development Index (HDI)”⁹¹. The index measures factors such as poverty, literacy, education and life expectancy. Therefore the problem with developing world hosting the major refugee population is self-explanatory. While struggling with extreme problems on their own, large-scale refugee flows cause enormous pressure on these countries. It is explicit that the capacity to undertake the refugee needs cannot be the same for a developing country versus a developed, meaning an industrialized one. It is important that well organized institutions are at place for the functionality of refugee hosting⁹², otherwise it would constitute big challenges not only for the host countries but for the refugee population as well. Instability concerns are higher to erupt with refugee inflow in countries with inadequate democratic institutions and weak government structures.

Since it is presumed that refugees are safe and do not face the risk of refoulement, the developed countries seem to be in no rush in finding a durable solution for these refugees that are in halt in the developing world. This sometimes means a life in limbo for the refugees. Not only that refugees get stuck in a transit state with no way going back or forth. For example, Turkey, which is overwhelmed with the massive influx of Syrian refugees since the crisis

⁸⁹ Thilemann E 2006, “Burden Sharing: The International Politics of Refugee Protection”, p. 3.

⁹⁰ United Nations 2015, “Share of Imports from Developing Countries and LDCS”. See http://www.un.org/esa/sustdev/natlinfo/indicators/methodology_sheets/global_econ_partnership/imports_from_devcountries.pdf [May 2015]

⁹¹ What is a Developing Country 2015. Educational Pathways International. See http://www.educationalpathwaysinternational.org/?page_id=97 [Feb 2015]

⁹² Mathias Czaika 2005, “A Refugee Burden Index: methodology and its application” Institute for Economic Research, University of Freiburg, Migration Letters, Volume: 2, No: 2, p. 101 – 125.

erupted in Syria, is also facing a five-fold jump in non-Syrian refugees since 2011, including people from Iraq, Afghanistan and Somalia. The former UNHCR Turkey's spokesman had reported that newly arrived refugees could remain in Turkey for up to 10 years to be resettled to a third country. On the other hand many refugees would not even get the chance to be resettled regardless of how long they wait as resettlement options are scarce.⁹³ The hosting developing countries get discontent from this uncertainty as well. The discomfort is bilateral. Accommodating refugees for protracted period of times raises instability, tension and conflict within the public in low-income developing countries.

There is a strong emphasis on regional cooperation in dealing with refugee crisis. Some argue that it is beneficial and practical on various grounds that refugees are hosted by states that are in close proximity to their country of origins. A few reasons to back up this reasoning would be the closer cultural background of refugees with the hosting public in relation to geographical ground or the convenience of repatriation when/if the origin country conditions improve. The ones who are in favor of this particular view also suggest that extraregional solutions should only be sought for those in need of emergent resettlement such as people with medical needs that cannot find treatment in the host developing country⁹⁴. The advocates of this view suggest that in order to have a success with this model, there should be a clear burden sharing regime in practice, where the developed world is fully taking its responsibilities in assisting the host states. Although the developing world gives promises of funding and signs international agreements for the sake of burden sharing, the realization of promises does not happen as abundantly. Pledged donations are either delayed or abandoned on various occasions. For example, the Australian government which was a core funding body of the Refugee Council of Australia, a non-governmental organization that is engaged in

⁹³ Noah Blaser 2014, "Turkey's 'other' refugees languish in limbo". *Aljazeera*. See <http://www.aljazeera.com/news/middleeast/2014/11/turkey-other-refugees-languish-limbo-2014111083938134850.html> [May 2015]

refugee assistance both nationally and internationally, had cut off the budget promise it had made by more than half a million dollars in 2014 with no explanation other than pleading cost savings. This decision of the Immigration Minister of Australia was interpreted as an inconsiderate decision regarding the concerns of non-governmental organizations that seek to support refugees.⁹⁵ As per this view, if the developed world is to pull together its responsibilities and take the fiscal support as crucial as it is, the refugee burden could be better handled. This way, seeking asylum in the developing states would also not be the result of a blockage but also a desirable option for the refugees who would know that their rights for protection would be met and that they would not be vulnerable in the host country⁹⁶. However, this assumption almost asserts that the developing countries would be able to cope with a mass influx if the right amount of monetary fund is received. Though the financial burden of accommodating refugees is undeniable, it is not possible to assume that it is the only problem.

As mentioned above, developing countries have moderate to low HDI, meaning that developing countries are facing infrastructural problems as well as low education levels, unemployment, democratization issues and so on. Therefore it is almost impossible to expect that refugees would be accommodated on equal terms in a developing country as they would in a developed one. No matter how much the monetary donation would be, it would never be adequate to overcome the general problem of dealing with a mass influx situation. Infrastructural, political reforms would need to be in place in the host countries to level up to shoulder the weight and this would indeed take decades if not more to achieve while refugee problems are urgent and mass influx situations are instantaneous. The view point that refugees should be hosted in close to their origin countries takes it for granted that if each party plays

⁹⁵ Paul Farrell 2014, "Coalition cuts refugee council funding despite budget promise". *The Guardian*. See <http://www.theguardian.com/world/2014/may/30/coalition-cuts-refugee-council-funding-despite-budget-promise> [May 2015]

⁹⁶ Hathaway, "Making International," p. 206-207.

its role right in burden sharing, then the problem would be handled. They suggest that roles should be designated on the capacity of different states, in which we see that the developing world is giving the role of providing physical space for the temporary protection period. The developed world has the role of providing the financial resources and only if necessary⁹⁷ providing the resettlement option. With this differentiated model of role casting, it is believed that states would be able to participate within their capacity limits, promoting to a maximized refugee protection program.⁹⁸ This view does not take into consideration that providing space brings along massive responsibility to the host country which is challenged with “development” problems. The monetary fund would not immediately solve the problems of the host countries as national development is a continuous, slow and delicate progression. In the era of capitalism, the developing world is especially fragile to financial crisis, fluctuations in exchange rates, oil and gas prices etc. Foremost, the countries that are in the same region of conflict zones where the refugees are fleeing from are more prone to becoming a conflict zone itself. When we think of how the Arab Spring splattered from one country to another in the same geographical zone,⁹⁹ it is not hard to predict the risk of war or other perceived threat to move from origin country to the borders of the host country.

Another challenging assertion of the view promoting hosting of refugees in neighboring states is the presumption that if temporary protection is provided in a good standard, most refugees would go back home when/if the origin country situation enables. Thus governments should be open to arrival of refugees and count on the financial support from the international world¹⁰⁰. Though it might be right, the temporary protection period is vague, could last for long years that neither serves the need of refugees nor the hosts.

⁹⁷ It is debatable on what grounds the “necessary” circumstances are designated.

⁹⁸ Hathaway, “Making International” p. 210-211.

⁹⁹ Ioana E. Matesan 2012, “The Impact of the Arab Spring on Islamist Strategies”, *Journal of Strategic Security* Vol.5 No.2, p. 29.

¹⁰⁰ Hathaway, “Making International,” p. 210.

Consequently giving away the responsibility of providing space to the developing world alone is unjust, given the protracted waiting period plus the host country conditions.

United Nations points out that four-fifths of the refugee population in the world is accommodated in the developing countries and that increasing the resettlement places they offer is a critical way for sharing the burden by the developed nations. It is put forward that 25 developed countries are currently accepting around 10% of the estimated figure of 800,000 refugees in need of resettlement. The 84,000 figure makes hardly 1% of all the refugees in consideration of UNHCR worldwide.¹⁰¹ As expressed in out loud by the UN Secretary-General Ban Ki-moon on World Refugee Day on 20 June 2011 “The burden of helping the world's forcibly displaced people is starkly uneven. Poor countries host vastly more displaced people than wealthier ones. While anti-refugee sentiment is heard loudest in industrialized countries, developing nations host 80 per cent of the world's refugees. This situation demands an equitable solution.”¹⁰² The economic cost of massive refugee population is reflected explicitly on figures; in Pakistan, being one of the top host countries in terms of receiving numbers, for each US dollar per capita GDP (Gross Domestic Product) there are 710 refugees while in comparison, an industrialized country like Germany has only 17 refugees for each US dollar per capita GDP. The contrast is huge.

As mentioned above, there are various reasons on why the developed world has become so hesitant on accepting refugees when compared to a few decades ago. While the UNHCR caseload consisted of 2.1 million refugees of Europeans by the end of Second World War, as of today, the UNHCR embraces 120 countries with more than five times the amount of refugees back then.¹⁰³ The conflict of interests and the increase in numbers has resulted in

¹⁰¹ United Nations Global Issues 2015, “Overview of Forced Displacement”. See <http://www.un.org/en/globalissues/briefingpapers/refugees/overviewofforceddisplacement.html> [Feb 2015]

¹⁰²United Nations 2011, “Secretary-General's message on World Refugee Day”, New York 20 June. See <http://www.un.org/sg/statements/?nid=5357> [Feb 2015]

¹⁰³ UNRIC 2014, “New report: Developing countries host 80% of refugees”. See <http://www.unric.org/en/world-refugee-day/26978-new-report-developing-countries-host-80-of-refugees-> [Feb 2015]

what we see as a shift of burden from one party to another. The powerful European countries that were once open to accepting refugees from Europe slowly started changing their procedures as the face of refugee population started to shift. We saw the formation of a powerful union which looked after their own interests, the European Union. Born out of a necessity, the expansion of the European Union set the east bordering countries being tasked as watchman of EU, dealing with the mass of refugee problems. On top of it, what has become more visible recently is passing the buck to the developing world altogether.

3.3 DE FACTO SOLUTIONS

3.3.1 Setting the boundaries

As evident that the developing world has secured as much as possible by international law and agreements control over its borders, some particular instances do not have a provision in law. Developed states have come up with artificial boundaries and arbitrary interpretations of law to deny responsibility. Mainly, the artificially constructed “international zones” in airports and international maritime boundaries fall into this category and thus are subject to unlawful interpretation of states.

The international zones at airports are supposedly extraterritorial zones that are not bound to the law of the state. However this has been ruled out by the European Court of Human Rights, the court had declared that despite its name international zones have no legal grounds. A famous example to breach of law would be the case of *Amuur v. France* in 1996. Four Somali citizens who had escaped from the country of origin and travelled to France via Syria were retained in the airport. Although they had intended to seek for asylum, they were denied an application with the accusation that they had falsified passports and with the so called pledge that they were not in the France territory. As the report of Parliamentary Assembly of the Council of Europe noted regarding the incident “Asylum-seekers are

detained in a so-called international zone at the airport, which means that they are not yet on French territory and the French authorities are therefore not under a legal obligation to examine the request as they would be if a request was made by someone already on French territory.” The report further on says that neither interpreter nor legal assistance was provided to the applicants as assistance was only allowed to asylum applicants after entry to France. Since French authorities did not recognize that these Somalis were on French territory, they were denied these rights. The report also points out to the fact that an international zone has no legal background and is a tool used to avoid obligations. The applicants were detained in a hotel and were under police surveillance for 20 days until being sent back to Syria. As the Court examined the case afterwards, France was found to have breached the right of personal liberty under the international law. Not only the Court did not find “international zone” as binding, it declared that the hotel where the applicants were detained could not have been considered as part of any extraterritorial status and thus the applicants should have been subjected to the French law. Upon this incident, there had been amendments on rules in France, such as giving permanent access to the international zone, be it rail, sea or air zone, to the UNHCR representatives or if requested by the applicant, an interpreter, doctor or lawyer assistance to be provided or that the waiting period should not exceed 48 hours in the waiting zone.¹⁰⁴ These decisions adapted by the French Parliament are positive but late developments as they were not applicable at the time of the Somali citizens who were sent back to Syria. The case of *Amuur v. France* is relevant in terms of showing how much the developed states are eager to stop refugees from entering their territory.

The territorial sea boundaries constitute a resembling point of discussion on declaring whose responsibility the refugees found in maritime areas would fall. According to the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS), each state is

¹⁰⁴ European Court of Human Rights 1996, “Case of *Amuur v. France*” Application no. 19776/92

entitled to draw its territorial sea line up to 12 nautical miles¹⁰⁵ which in fact also affects its migration zone. Article 33 is regarding the contiguous zone which refers to the zone that stretches over the territorial zone no more than 24 nautical miles. It gives the right to exercise control to the coastal State *if necessary* on the contiguous zone to prevent or punish if necessary the infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea.¹⁰⁶ The “if necessary” part is open to unlawful interpretations of states that rescinds the non-refoulement principle of the Refugee Convention that no state shall expel or return a refugee to his/her country of origin where there is a threat over the life and freedom based on his/her race, ethnicity, religion, nationality, political opinion, or membership to a social group.

For instance, to give an extreme example, Australia had declared its islands as outside of migration zone, meaning that people who step a foot on its island would not be considered as having entered Australia’s territory, the Australian government would not be obliged to apply its Migration Act on its islands.¹⁰⁷ This model resembles in many ways what had happened in France, as both states attempt to evade responsibility under international law by declaring part of their territory to be either in an “international zone” or an “excised offshore”. Implausibly, we see that the developed world is adopting more and more exclusive measures that would prevent refugees from entering their territory from land and international waters.

The German Federal Ministry of Interior’s following argument; “State practice and predominant legal opinion are that the principle of non-refoulement in the Geneva Refugee Convention does not apply on the high seas to persons alleging persecution, since the high

¹⁰⁵ UN Oceans&Law of the Sea Part II “Territorial Sea and Contiguous Zone” Article 3.

¹⁰⁶ Ibid., Article 33.

¹⁰⁷ Migration Act 1958, 2005, Australia. Prepared by the Office of Legislative Drafting and Publishing, Attorney-General’s Department, Canberra, Section 8.

seas are extraterritorial.”¹⁰⁸ explicitly manifests the viewpoint of developed countries. On the contrary to the German Federal Ministry of Interior’s argument, the Refugee Convention does bind the states in the extraterritorial. The only place that the non-refoulement principle would not be applicable is one’s country of origin, other than that any other place, such as a state territory, an international zone, an off-shore zone, or a so-called “outside of migration zone” is bound to the Refugee Convention’s non-refoulement act.¹⁰⁹ The decision of the European Court of Human Rights in the case of *Hirsi Jamaa and Others v. Italy* is an important example in this regard. In February 2012, a case was filed against Italy with the allegation that Italy had violated the European Convention on Human Rights for sending a group of refugees to Libya with the pretext that they were in high seas and not in Italy territory. The decision of the court was that the applicants fell in the jurisdiction of Italy, regardless of being present in the territory of the State or not and that they faced the risk of being subjected to ill-treatment in Libya. The court declared that Italy’s responsibility covered the extraterritorial State, including the high seas and that the state’s obligation of non-refoulement included refugees who had not entered their territory as well.¹¹⁰ Therefore the argument that the Refugee Convention does not apply on high seas is an unlawful argument and border officials are obliged to operate in extraterritorial areas including high seas and coastal waters of third countries. If the EU states were to abide with the non-refoulement principle, the border officials would be obliged to assist the people found in high seas, and would be prohibited from forcing them to turn back or to transfer them to non-EU states or to prevent them from continuing their route. As per ExCom conclusions, “The state within whose sovereign territory, or territorial waters, interception takes place has the primary responsibility for

¹⁰⁸ BMI 2005, “Effektiver Schutz für Flüchtlinge, wirkungsvolle Bekämpfung illegaler Migration”, Press release, p.2. See http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/Archiv/presseerl/Schily_ueberlegungen.pdf [Oct 2014]

¹⁰⁹ Andreas Fischer-Lescano, Tillmann Löhr 2007, “Border Controls at Sea: Requirements under International Human Rights and Refugee Law” *European Center for Constitutional and Human Rights (ECCHR)* Sep, p. 9.

¹¹⁰ ECHR 2012, “Case of *Hirsi Jamaa and Others v. Italy*” Application No. 27765/09”.

addressing any protection needs of intercepted persons.”¹¹¹ However it is a fact that they try to avoid responsibility by misinterpretation of law and regulations whenever possible even it means unlawful practices.

We see that states are making up a legal fiction to avoid responsibility and to lower the standards of protection. The fear of invasion by a mass influx of refugees is pushing states to take disproportionate measures against the arrival of unwanted refugees. People who flee their country to protect their human dignity find themselves in degrading circumstances, being deprived of basic rights in the states that they wished to save their lives. Developed states interpret the law in an arbitrary way, not prioritizing the well being of humans but well being of their own interests which highlights the tyrannical side of states instead of their humanitarian characteristics.

3.3.2 Refugee Camps aka Safe Zones

The number of refugees had continued to increase over the years while the heavy weight of the burden increasingly shifting towards the developing world. The massive increase of capacity need to host the numbers has been overwhelming for these countries.¹¹² These developments made asylum seeking abroad a serious challenge for the world community which brought along de facto solutions to the refugee problems; new solutions that go beyond resettlement to third countries, repatriation and integration to local communities. These solutions are not necessarily agreed upon by taking into account the existing refugee law, human rights and humanitarian law. Thus, one might as well call them as ‘unlawful’ solutions of the international community in discussions of refugee crisis.

¹¹¹ UNHCR 2003, ExCom Conclusion on Protection Safeguards in Interception Measures, No. 97 (LIV). See <http://www.unhcr.org/3f93b2894.html> [Feb 2015]

¹¹² UNHCR 2014, “Facts and Figures,”.

Hosting refugees bring along incredibly important responsibilities to the states. Given the fact that the current stream of burden is flowing to the developing world which is already striving with their own problems such as unemployment, high crime rates, inadequate health facilities, lack of education, refugees that move into these countries not only become more vulnerable and less likely to receive protection rights, they also become victimized by the local population of the hosting state. As xenophobia arises at times of economic and political instability, refugees are usually targeted as convenient scapegoats. The already existing problems of the state become more visible and unfairly linked with the refugees.¹¹³ The rising number of Syrian refugees in Turkey has already increased xenophobic attitudes towards refugees in Syria. A group of locals had attacked refugees in a southeastern province of Sanliurfa, in a rally titled “We don’t want Syrians”.¹¹⁴ A solution that has been proposed on what to do with the ‘unwanted’ refugee population has been building refugee camps or ‘safe zones’ that would keep them altogether in a confined space, to prevent potential refugees from leaving country of origins to apply for asylum elsewhere.¹¹⁵ These confined spaces could either be actually placed in the country of origin -or so to speak in the country of ‘conflict’- or in a designated area in the hosting country which is along the borders – especially if the host country is a neighboring state -. The refugee camps built in Syria, with the incentives of a Turkish NGO and its strategic partner Qatar charity, close to Turkish borders are a good example for this.¹¹⁶ While refugee camps are primarily a temporary solution, we see that they are used more and more as a durable solution, with many refugees spending years living in

¹¹³ Oksana Yakushko 2009, *Xenophobia: Understanding the Roots and Consequences of Negative Attitudes toward Immigrants* University of Nebraska-Lincoln, Educational Psychology Papers and Publications, p. 4.5

¹¹⁴ “Locals attack Syrian refugees in Turkey’s southeast, wound 3”, 2015. *Today’s Zaman*. See http://www.todayszaman.com/national_locals-attack-syrian-refugees-in-turkeys-southeast-wound-3_381012.html [May 2015]

¹¹⁵ Andrzej Bolesta 2005, “The European Union Policy on Asylum and Immigration”, *Globalization and Social Stress*, p. 198.

¹¹⁶ “Container camp for six thousand Syrians” 2014, 10 Feb, IHH. See <http://www.ihh.org.tr/en/main/activity/acil-yardimlar/1/ihhdan-6-bin-kisilik-konteyner-kent/2742> [Jan 2015]

limbo¹¹⁷. The hosting countries are in favor of this solution as not only it goes in line with the non-refoulement agreement it also draws international attention for foreign aid flow to these countries¹¹⁸. The reward for the refugees is however questionable on many aspects.

The refugee camps even if built in host countries prevent refugees from integrating into the host countries, keeping them confined, thus 'enabling' host countries to keep intact their national interest. While on the other hand, international community is funding projects to build camps in extra-territorial land, forestalling migration that would have potentially fall into their responsibility for resettlement. For example, as per the United Nations Relief and Works Agency (UNRWA), 5 million Palestinian refugees registered with them are living in 58 refugee camps spread in Jordan, Lebanon, Syria, West Bank and Gaza Strip, where UNRWA is running education, health and social services programs. United States being the largest donor in 2013 of UNRWA, with a contribution of more than \$130 million was followed by the European Union with its contribution of more than \$106 million.¹¹⁹ Apart from these two large donors, UNRWA projects are funded by governments of Saudi Arabia, Japan, Netherlands and UAE.¹²⁰ The funding from various governments is pointing out to the support of refugee camps by the international community.

The refugees stay in the camps for long years, as the average length of time spent in exile reached 17 years by 2003.¹²¹ The lengthy waiting period of Somali refugees that fled the civil war which broke out in Somali in 1991 sets a dramatic example. One of the first refugees to have fled Somalia to Kenya says in 2011 that he has never stepped a foot outside the

¹¹⁷ Karen Jacobsen 2001, "The forgotten solution: local integration for refugees in developing countries" UNHCR Working Paper No.45, p. 6-7.

¹¹⁸ Rebecca Napier-Moore 2005, "Entrenched relations and the permanence of long-term refugee camp situations" Sussex Migration Working Paper No. 28, p. 14.

¹¹⁹ UNRWA 2015, "Frequently Asked Questions". See <http://www.unrwa.org/who-we-are/frequently-asked-questions> [May 2015]

¹²⁰ UNRWA 2015, "Infrastructure and Camp Improvement". See <http://www.unrwa.org/activity/infrastructure-camp-improvement-gaza-strip> [May 2015]

¹²¹ UNHCR 2007, "The State of the World's Refugees 2006, Chapter 5: Protracted refugee situations: the search for practical solutions", p. 109.

Dadaab refugee complex in 20 years.¹²² While they are protected against refoulement, they cannot exercise their right for resettlement to a third country either. With this de facto solution, people can enjoy their ‘right to remain’ instead of their ‘right to be resettled’ while states get the international coverage of running a humanitarian operation through funding the camps¹²³.

Another skeptical aspect of the ‘safe zones’ is their safety. While camps are built in “safe zones”, some are still built within the boundaries of a state declared as a conflict zone or in the best case scenario, along the borders of a conflict zone. Thus the guarantee of safety while conflict continues in surrounding areas is hard to assure. The protection standards for the refugees in developing countries have worsened. On various occasions, refugee camps have become recruiting grounds to the war continuing in neighboring countries.¹²⁴ The geographical proximity makes the host country vulnerable to the spill of conflict within its borders. Furthermore, the protracted waiting periods pushes refugees to get armed and join the conflict in their origin countries. This not only jeopardizes the lives of refugees but also the stability of the host country.

The location of the camps is yet another topic open for debate. On most occasions, the camps are built in physically isolated locations. Host countries logically do not want to give up on valuable land, thus choose to provide infertile areas with no economic return for allocation of refugees. If in fact the camp is in the country of origin or in close proximity such as the border, people are left with no choice but to stay confined in these remote areas since fear of insecurity outside the camp overrides confinement in a camp. Likewise, another driving factor to stay in the camps is to receive humanitarian aid. Most of the international

¹²² “Dadaab Refugee Camps: 20 years of living in crisis”. *The Guardian*. See <http://www.theguardian.com/global-development/2011/mar/24/dadaab-refugee-camps-living-in-crisis> [May 2015]

¹²³ Napier-Moore, “Entrenched relations,” p. 6.

¹²⁴ Thomas M. Leonard 2006, “Encyclopedia of the Developing World” Taylor&Francis Group, 1353.

and/or local humanitarian aid is directed to refugee camps or safe zones. It is without doubt easier to transfer aid in bulk to one place where it could be redistributed within. The humanitarian aid system itself is encouraging refugees to stay together, which is easier to control in many aspects from the host countries and for NGOs as well. In general, only refugees that reside in the refugee camps are entitled to receive the humanitarian assistance¹²⁵. Given these facts, refugees are left with no choice but to accept to remain in camps or simply become victims of opportunist who would convince them join armed groups. A former child soldier in Democratic Republic of Congo admits that he accepted the offer of recruiters in the camp since he had nothing else to do. In situations of poverty, insecurity and uncertainty with no future expectancy, joining an armed group may seem as a way out.¹²⁶

As a hot conflict zone still today, Syria is a good example of safe zones. Recently, Foreign Minister of France has proposed setting up safe zones in Syria which would be out of the reach of government forces and militants.¹²⁷ Since 2011, the Turkish government has built well-ordered refugee camps, as of February 2014, the number of refugee camps the government had created reached 22, which were managed by its Disaster and Emergency Management Presidency.¹²⁸ The Turkey based international NGO; Humanitarian Relief Foundation (IHH) has built container camps alongside the Syria-Turkish border accommodating thousands of Syrians. They have just announced that a new container camp accommodating 6000 Syrians is to be built in the upcoming months, close to the Turkish border in 2015 for the internally displaced people who lost their houses which would include

¹²⁵ Eric Werker 2007, "Refugee Camp Economies", Oxford University Press, *Journal of Refugee Studies*. 20 (3), p. 461-480.

¹²⁶ Caitlin Hannahan 2015, "Bleak refugee camp life leads children to join armed groups" Jesuit Refugee Service. See http://www.jrsusa.org/news_detail.cfm?TN=NEWS-20150120031505 [May 2015]

¹²⁷ "France pushing for 'safe zones' in Syria" 25 Nov 2014. *Al Arabiya*. See <http://english.alarabiya.net/en/News/middle-east/2014/11/25/France-pushing-for-safe-zones-in-Syria.html> [Jan 2015]

¹²⁸ Kemal Kirişçi, Raj Salooja 2014, "Northern Exodus: How Turkey Can Integrate Syrian Refugees" Foreign Affairs. See <https://www.foreignaffairs.com/articles/turkey/2014-04-15/northern-exodus> [May 2015]

needed facilities¹²⁹. One of the highly criticized factors of the refugee camps is the living conditions, the fact that most of the housing system is based on tents sheltering people with no other facilities. There is no denying in the usefulness of modern refugee camps with containers as shelters and with facilities like a health clinic, mosque, school etc. However it doesn't change the fact these are confined grounds. If in the country of origin, people who would leave the camp are challenged with the safety threat assuming that they are safe in the camp. If in a host country, then leaving the camp is not an option in the first place in general. Especially it's a dilemma for those who become refugees in their home countries.

For refugees that are in urgent need of protection from a conflict zone, camps or safety zones may very well be effective for life sustaining needs in the short term. However, as mentioned above, in most circumstances people spend a protracted period of years in these camps while conflicts continue in their country of origins. Since they are not offered resettlement to a third country nor integration to the host country, they live a life in limbo for years, refugee children grow up in these camps, they learn to become a refugee. With no prospect of future plans, being a refugee becomes an identity for them, which makes the safe areas approach questionable under the human rights law. Encouraging people to live in these "safe zones" which are within/or in close proximity with the boundaries of a state declared as conflict zone is in contradiction with the responsibility of the international community to protect human beings, to maintain the wellbeing of people and to prevent human suffering.

The new phenomenon is not to have migration and not to let displaced people become refugees in the first place. Resettlement and integration which are considered as durable solutions to the refugee plight are not favored by the world community. While resettlement to third countries may be the preferred goal of a refugee, the numbers tell that only a small percent is able to achieve this goal, thus making resettlement option hardly a durable solution

¹²⁹ "Container camp," 2015. IHH.

for the rest of the refugee population. As mentioned above, less than 1 percent of overall refugees get the chance to be resettled worldwide.¹³⁰ Integration on the other hand, could be in many ways beneficial for the refugees, as by all means it would enable them to live a normal life, sustain an economic self-sufficiency, host countries perceive it as a threat against their national interest not only for security related reasons but also for lack of economic and social capacity to leverage a mass influx of refugees. Keeping the refugees where they originally belong or at most keeping them in close proximity to their origin country, en masse, seem to be the high most objective of the international community.

The general tendency of the humanitarianism in today's world could be interpreted in many ways to the colonialism in history. During colonial times, exploitation of new territories was made in linkage with charity and through philanthropic acts.¹³¹ Foreigners had entered new territories to impose systems of aid which they had considered were morally right. There has been a tendency for outsiders to mistake the poverty of one country's incompetence and a lack of capacity to organize relief operations.¹³² The humanitarian aid system of today could in one way be interpreted in a hierarchical order in that sense, as the developed world funding the developing world to assist the less developed communities. The solutions proposed to make burden sharing system efficiency do not seem to break the rule. The initiatives taken continue to leave the developing world dependant on the assistance of developed states. It is plausible to think that the developed states want the developing world to stay as it is and permit assistance only up to the level that it would continue to serve to their needs and be their market of manufactured goods. The decisions are given in calculation of operating budget and not on humanitarian grounds so to speak.

¹³⁰ U.S. Department of State "Refugee Admissions," 2014.

¹³¹ Barbara E. Harrell-Bond 1986, *Imposing Aid*, Chapter 2. Oxford University Press. Introduction.

¹³² Napier-Moore, "Entrenched relations," p. 11.

The burden on refugee hosting countries is more than they can shoulder and there is an alarming reality that the developing world could soon follow the example of industrialized states and decide to drop off responsibilities. The reservations from the host countries perspectives are understandable; therefore it is important to take into account the needs of host countries as well as refugees while running international humanitarian programs and agreements. Moreover, it is important to realize that the solution to host countries problems cannot be solved merely by financial aid. As the concept of “asylum” is at stake for refugee protection to continue in world, it should be recognized that developing countries needs exceeds economic aid and social and political assistance should be provided by the international actors¹³³. It is explicit that the developed world is not going to take any major step in terms of increasing their resettlement programs, therefore realistic expectations and requests should be put forward by international organizations such as United Nations and unbending reforms in the refugee law that are not open to interpretations are needed.

¹³³ Sanjuga Vas Dev 2002, “The Reluctant Host: The Socio-Cultural Impact of Refugees on Developing Communities”. University of Adelaide, Mots Pluriels No.21. See <http://motspluriels.arts.uwa.edu.au/MP2102s.html#fn14> [May 2015]

CHAPTER 4

A DEVELOPING COUNTRY, TURKEY

A few decades ago, one would have called Turkey as a country of emigration rather than a country of immigration.¹³⁴ Mass influx of people had taken place towards European countries and to other lands far away mainly as labor force. As per UNHCR statistics, 490,000 Turkish citizens had applied for asylum in European countries between the years 1983 and 2000; as of 2007 it was estimated that more than 3 million Turkish nationals were living abroad, out of which 2.7 million resided in Europe.¹³⁵ In 2012, Eurostat announced that 53,800 Turkish citizens were granted citizenship in an EU member state.¹³⁶ Nonetheless, Turkey is referred as more and more as a country of immigration in the recent years and the tendency is likely to proceed in the same way as the economy continues to grow in Turkey and the government stays on course of democratization.¹³⁷ The World Bank classifies low and middle income economies as developing economies, Turkey with its Gross National Income (GNI) of \$10,970 in 2013 falls into the upper middle income economy group which is classified under the developing economies¹³⁸. Although there is not a sharp definitive line on classifying countries as developed or developing, World Bank had established a global poverty line through which economies could be compared in reference internationally. Economies that fall below \$12,616 of GNI are classified as developing countries by the World

¹³⁴ Kemal Kirişçi 2003, "Turkey: A Transformation from Emigration to Immigration". Migration Policy Institute See <http://www.migrationpolicy.org/article/turkey-transformation-emigration-immigration> [Feb 2015]

¹³⁵ Kirişçi 2007, "Turkey: A Country of Transition," p. 92.

¹³⁶ Eurostat 2014, "Migration and migrant population statistics". See http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics [Mar 2015]

¹³⁷ Kirişçi 2007, "Turkey: A Country of Transition," p. 97.

¹³⁸ Turkey 2015, World Bank Data. See <http://data.worldbank.org/country/turkey> [Feb 2015]

Bank.¹³⁹ In reflection, Turkey has been hesitant and protective of its interests in providing durable solution suggestions to the refugee problem solving.

In an attractive geographical position, Turkey has long been on the route of asylum seekers, serving as a bridge between the continents of Asia and Europe. The heavenly location of Turkey is making it a setback for the country in the refugee context. Neighboring the unstable countries and conflict zones of mainly Iraq, Syria and Iran has positioned Turkey as the direct getaway point. There are 13 points of entry between Turkey and its neighbors Georgia, Armenia, Iran, Iraq and 10 more on the sea coasts of Aegean and Mediterranean. Managing the control over its sea and land borders have been troublesome and costly for the Turkish authorities, making the country seek for cooperation with the EU for assistance.¹⁴⁰

In response to its exposed geographical location, while signing the 1951 UN Refugee Convention, Turkey had adhered to a geographical limitation.¹⁴¹ Herein, it is important to distinguish a refugee from an asylum seeker in lexical meaning. With adherence to the geographical limitation, Turkey had declared that it would only accept Europeans as refugees and would grant others coming outside of Europe the status of “asylum seeker” and the right for temporary protection until their “refugee” applications are finalized for resettlement to a third country. As explained in the beginning chapter, the new concept of “conditional refugee” is also introduced and is used in Turkey. While criticized for adhering to such limitation despite the new steps are taken to control the asylum in the country such as the new

¹³⁹ “New Country Classifications”, 2015. World Bank. See <http://data.worldbank.org/news/new-country-classifications> [Feb 2015]

¹⁴⁰ Catherine Macmillan 2012, “Europeanisation and migration and asylum policies in Turkey”, Chp.12 Turkey and the European Union : processes of Europeanisation, Burlington, VT : Ashgate, p. 251.

¹⁴¹ UNHCR, “States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol”. The following States adopted alternative (a), the geographical limitation: Congo, Madagascar, Monaco and Turkey. Turkey expressly maintained its declaration of geographical limitation upon acceding to the 1967 Protocol.

asylum law that is implemented¹⁴², Turkey's long term pending EU membership is another factor on why the country is unwilling to lift it. As officially recognized as an EU acceding country for full membership on 12 December 1999, Turkey has still not been granted full membership after more than a decade. Turkey is hesitant to lift the limitation which would certainly increase the burden it is already shouldering, before the country is confident that the full membership is on the horizon.¹⁴³

4.1 TURKEY AND ITS PENDING EU MEMBERSHIP

While EU member states do not speak with one voice on Turkey's full membership, the cracking voices make a loud noise. In an interview on BBC in 2006, the European Commission President José Manuel Barroso has said "...Turkey is a long term problem. It's a long term issue. We cannot expect Turkey to become a member let's say in less than fifteen, twenty years...I believe it's a country that comes from a different tradition. There are efforts in the right direction. But nowadays there are in fact news that are not encouraging in terms of they coming closer to us."¹⁴⁴ Although Turkey was expected to become a full member approximately in 10 years after the negotiations had started in 2005, the current circumstances do not look promising. The discourse from EU member states did not get any better than EU Commission's President Barroso's statement in 2006. Upon a series of mass demonstrations that initially sparked in Istanbul and swiftly expanded nationwide to protest an urban development plan, Turkey had received worldwide criticism on how it handled the situation, mainly the US and the EU voices their concerns on how the Turkish government handled the

¹⁴² Jonathon Burch 2013, "Turkey has new law on asylum, but sets limits for non-Europeans". *Reuters*. See <http://www.reuters.com/article/2013/04/12/us-turkey-refugees-idUSBRE93B0XO20130412> [May 2015]

¹⁴³ Kemal Kirişçi 2005, "To Lift or Not to Lift the Geographical Limitation to the 1951 Geneva Convention Relating to the Status of Refugees: Turkey's Pre-accession to the EU and Asylum" Draft paper prepared for The 4th METU International Relations Conference, p. 11.

¹⁴⁴ EU relations, 2006. Huw Edwards interviewed Jose Manuel Barroso, EU President. BBC News. See http://news.bbc.co.uk/2/hi/programmes/sunday_am/6052808.stm [Oct 2014]

protests.¹⁴⁵ Restrictions on human rights in Turkey which had already been a thought-provoking distress for EU resurfaced. Restrictions on freedom of speech, expression and freedom of press in Turkey once again raised the questions on the eligibility of Turkey's pending membership to the EU. In June 2013, Germany ceased the EU negotiation talks with Turkey, stating that Germany was not ready to give support to Turkey under such circumstances.¹⁴⁶

It is now a dilemma whether Turkey would ever be granted full membership to the EU or not, however the initial idea of including Turkey as part of the union could be interpreted as the continuation of EU expansion towards the east. As mentioned in Chapter 3, the EU expanded from 15 member states to 25 in 2004. It is possible to link the expansion with the negotiation talks that started with Turkey just after one year, in 2005. As the expansion in 2004 had shifted burden towards the new member states bordering EU, Turkey could be perceived as a gatekeeper for EU, protecting the union from waves of irregular migration, due to its geographical location.¹⁴⁷ As the majority of asylum seekers from Middle East are purposed to make it to the developed countries such as Germany, United Kingdom and other West European countries, they usually follow a pattern route that transits Turkey.¹⁴⁸

Origin Country	Transit one	Transit two	Final Destination
Iraq, Iran, Syria	Turkey	Bulgaria, Greece	Balkans, Italy, Western Europe
Iraq, Iran, Syria	Turkey	Bulgaria	Romania, Hungary, Austria, Czech Republic, Slovakia, Germany

¹⁴⁵ Can Girgic 2013, "Istanbul park sit-in turns into furious anti-government protest", Euractiv. See <http://www.euractiv.com/enlargement/istanbul-park-sit-turns-furious-news-528253> [May 2015]

¹⁴⁶ Daniel Dombey, James Fontanella-Khan in Brussels, Quentin Peel 2013, "Germany blocks Turkey's bid to join EU". *Financial Times*. See <http://www.ft.com/intl/cms/s/0/2432cc2c-d9c0-11e2-bab1-00144feab7de.html?siteedition=intl#axzz3TDdsdXEP> [Oct 2014]

¹⁴⁷ Macmillan, "Europeanisation and migration," p. 249.

¹⁴⁸ Celia Mannaert 2003, "Irregular migration and asylum in Turkey" UNHCR, New Issues in Refugee Research, Working Paper No.89, p. 4.

Yet difficult to estimate in numbers, the irregular immigration figures in Turkey ranged from 150,000 to one million in the late years of 2000s. Likewise the precise number of illegal migrants that transit through Turkey is difficult to estimate, the figures were approximated to be more than 180,000 nationals of Afghanistan, Bangladesh, Pakistan, Iran, Iraq and Syria by the late 2000s.¹⁴⁹ The figures have continued to increase especially after the Syrian crisis in 2011. Between 2010 and 2013, a major political determinant of policies related to migration in Turkey was affected with the political instabilities in the Arab countries, specifically Syria. In this period, the irregular migration moves from Middle East and Africa have risen.¹⁵⁰

Facing such an immense irregular migration wave at its doorstep, Turkey's positioning in the transit migration route has been on the agenda of EU Commission reports on Turkey.¹⁵¹ As mentioned above, being a developing country with such exposed borders to other developing countries, Turkey has been struggling with control over its borders. The inability of state institutions to prevent the illegal asylum flows into the country constitutes a threat for the European Union. The European Commission had been negotiating with Turkey in to conclude a readmission treaty that would enable EU member states to send back illegal migrants that transited through Turkey. On 16 December 2013, an agreement was signed between the EU and Turkey regarding the readmission of illegal residents¹⁵² which entered into force on 1 October 2014¹⁵³. In like manner, Turkey has been trying to sign similar treaties with states where the illegal migrants are coming from.¹⁵⁴ However it is not as easy to come

¹⁴⁹ Kirişçi, "Turkey: A Country of Transition," p. 93-94.

¹⁵⁰ Ahmet Icduygu 2013, "Turkey and International Migration". MiReKoc, p. 5.

¹⁵¹ Macmillan, "Europeanisation and migration," p. 249.

¹⁵² Official Gazette, 2014, "EU Turkey Readmission Agreement Regarding the Illegal Residents". No. 29044.

¹⁵³ European Commission 2014, "Statement of Commissioner Malmström on the entry into force of the Readmission Agreement between Turkey and the EU", 01 Oct. See http://europa.eu/rapid/press-release_STATEMENT-14-285_en.htm [May 2015]

¹⁵⁴ Kirişçi, "Turkey: A Country of Transition," p. 94.

to terms on such agreements which results on EU pressurizing Turkey to institute stricter border controls.

The EU leaders have on various occasions expressed the need for Turkey to tighten its security controls over its borders. In 2002, the British and Spanish leaders have warned Turkey that sanctions would be implemented if Turkey did not meet their expectations in border controls.¹⁵⁵ The minatory expressions made by representatives of the EU towards Turkey could be interpreted as Turkey's pending membership could be jeopardized if the state did not carried out the specific sanctions of the EU.

4.1.1 Expectations from Turkey

The geographical limitation put forward by Turkey has been receiving criticism from the EU. The union has been pushing Turkey to revise its preferred policy of “resettlement and repatriation” and to grant refugee status to the asylum seekers entering its territory in the name of burden sharing. Although the EU Commission report in Oct 2014 is somewhat satisfied with the new Law on Foreigners and International Protection that entered into force in April 2014 which introduced the “conditional refugee” status in Turkey, the commission is still preserving the request for Turkey to lift the geographical limitation.¹⁵⁶

The EU requests shape in such a way that renders the union in a guarded “fortress”. As full membership to the EU goes through co-operation, Turkey would have so much to lose if it revised its geographical limitation adherence and did not get a full membership in the end. In such scenario, Turkey would overflow with refugees who did not make it to Europe. Thus, in response to EU's expectations of aligning itself with EU policy matters of asylum and migration, Turkey first and foremost expects EU to share Turkey's physical burden of asylum

¹⁵⁵ Macmillan, “Europeanisation and migration,” p. 249.

¹⁵⁶ European Commission 2014, “REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap” Brussels, p. 16.

seekers and to take those non-European asylum seekers as refugees as well as reassuring that Turkey's full membership accession is of priority.¹⁵⁷ On the other hand, a top priority for the EU is Turkey to strengthen its border control system which is not yet fulfilled as per the Commission's report in 2014.¹⁵⁸

The Justice and Home Affairs (JHA) of European Union necessitates Turkey to upgrade its governmental institutions, to form a professional civilian border control unit within the Ministry of Interior. The civilian border control unit would supposedly protect the borders from attacks of terrorist groups as well as prevent illegal entry in alignment with the Schengen acquis. As Turkey has been struggling with terrorist groups trying to infiltrate through its eastern borders, especially from Iraq, the border controls have been primarily based on the foundation of national defense rather than preserving public security by preventing illegal migration, smuggling or enforcement of law let alone Schengen acquis.¹⁵⁹ Therefore a shift from military to non-military border control units not only requires legislative work but is also challenging in its nature.

Another challenge for Turkey is the cost of implementing the visa requirements of Schengen acquis. If Turkey was to implement the Schengen visa requirements, not only it would dramatically decrease the number of foreigners coming to Turkey, it would also create an immense cost of administrative work for the country. Millions of people would have been subjected to Schengen visa requirements if Turkey was to adopt its policies whereas currently it is implementing a "sticker visa" system which is easier to obtain for visitors. Issuing visas in accordance with Schengen acquis would pose burden on Turkey's representations abroad, not only it would lower the number of visitors.¹⁶⁰ Though it might possibly lead to a fall in

¹⁵⁷ Mannaert, "Irregular migration," p. 13.

¹⁵⁸ European Commission 2014, "REPORT FROM THE COMMISSION," p. 8.

¹⁵⁹ Kemal Kirişçi 2007, "Border Management and EU-Turkish Relations: Convergence or Deadlock" CARIM Research Report, p. 21.

¹⁶⁰ Kirişçi, "Border Management," p. 38

numbers of asylum seekers who would have been destined to go to Europe via Turkey, it would also lead to a decrease in number of tourists, undermining the economic income derived from there. It is even argued that the foreseen decrease of number of asylum seekers could also prove wrong and there is a potential group of people coming back and forth from neighboring countries, enjoying the easiness of entry to Turkey and in case their passage would be obstructed, they may decide to stay in Turkey altogether and apply for asylum.¹⁶¹

The European Union's expectation from Turkey is to change its policy and practice, to establish new institutions that would eventually be in the benefit of EU. In return, Turkey had asked for financial support to align with that of EU; however EU had responded in limited financial aid assistance as the union expects Turkey to compensate the costs on its own as part of its full membership accession process.¹⁶² The approach of EU makes its forthrightness towards Turkey's full membership questionable as the union is asking Turkey to take responsibilities of a member state while on the other hand not granting the privileges that would have been otherwise available if it was a member state, such as the right to move and reside freely in the territory of Member States for the citizens¹⁶³ or the privileges of being exempted from all direct taxes of assets, revenues and other properties and being exempted from any customs duties and any restrictions on imports and exports for the government.¹⁶⁴ The EU *acquis* that Turkey is expected to follow and the institutional changes that are requested require substantial legislative work. With lack of institutionalization as a developing country; the set goal is higher than the capacity allowance of Turkey.

¹⁶¹ Kirişçi, "Border Management and EU-Turkish Relations", p. 42.

¹⁶² *Ibid.*, p. 21.

¹⁶³ Official Journal of the European Union 2012, "Consolidated version of the Treaty on the Functioning of the European Union", Part Two, Non-discrimination and citizenship of the Union, 26 Oct, Vol. 55, Article 20. See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2012:326:TOC> [May 2015]

¹⁶⁴ Protocol on the privileges and immunities of the European Communities 2001, Consolidated version, Article 3 and 4. See

http://www.cvce.eu/en/obj/protocol_on_the_privileges_and_immunities_of_the_european_communities_brussels_8_april_1965_consolidated_version_2001-en-a4e16963-aca5-47a4-9984-f5ba4ba71588.html [May 2015]

The relationship between EU and Turkey has been up-and-down over the years. When Germany had halted the negotiations in 2013, Turkish EU Minister had stated that EU needed Turkey more than Turkey did EU, emphasizing the big percentage of foreign direct investment of EU in Turkey.¹⁶⁵ On another occasion, the Turkish Economy Minister had pointed to the high volume of external trade between Turkey and Europe, criticizing the visa requirement on Turkey while goods moved freely.¹⁶⁶ In light of the facts, cooperation is in mutual benefit of Turkey and Europe and discarding Turkey from a full membership would be in disadvantage of both parties. The desired goals predicted for Turkey are in alignment with the interests of the EU integrity, the EU member states and their public; hence Turkey would need the assistance of EU on route to reaching these goals.

4.2 THE BURDEN ON TURKEY

The reluctance of EU on providing financial aid to Turkey in dealing with immigration problems brings out the question whether EU is sharing the burden with EU or shifting it altogether to Turkey.

While Turkey has always had a big population of asylum seekers over the last decades, the situation got out of control as the numbers increased dramatically with the Syrian crisis in 2011. Turkey had immediately declared a temporary protection regime for Syrians fleeing from conflict however the increasing numbers did not only come from Syria but also from Iraq.¹⁶⁷ With the threat of increase in irregular movements to European countries, states have been taking strict border control measures. As mentioned above, EU has been pressurizing Turkey to tighten up its border controls to curb irregular movements. However,

¹⁶⁵ Dombey, Fontanella-Khan, Peel, "Germany blocks,".

¹⁶⁶ "Çağlayan'dan vize uygulamasına tepki: 'AB insanlık suçu işliyor'" 2012, EurActiv. See <http://www.euractiv.com.tr/ab-ve-turkiye/article/alayandan-vize-uygulamasina-tepki-ab-insanlik-sucu-isliyor-026105> [Oct 2014]

¹⁶⁷ "UNHCR regional operations profile" 2015. Europe, UNHCR Global Appeal 2015 Update. See <http://www.unhcr.org/pages/4a02d9346.html> [Feb 2015]

this would not prevent people from trying to find their ways out of their country where conflict is going on, it would just lead to them taking further risks for illegal entry, jeopardizing their lives in the hands of smugglers which would have already been at stake if they had chosen to stay behind. With this in mind, it would not be wrong to argue that Turkey had done a good job by not obstructing the means of entry for particularly in the Syria case.

All the same, the hospitality of Turkey has its costs. On 30 August 2012, shortly after a year of the beginning of unrest in Syria, the Minister of Foreign Affairs of Turkey, Ahmet Davutoglu, had touched upon the lack of support from the international actors in a speech at the UN Security Council in New York;

“We have already informed the international community of our readiness to accept assistance offers. While expressing our gratitude to those countries which have responded, I must also tell that the overall response fell far short of what was required. As to the UNHCR’s appeal for 193 million Dollars under the Regional Response Plan, the international community has so far funded 65 million Dollars, or 34 % of it. However, the share of Turkey from this amount can be considered only symbolic....there is an increasing sense in Turkey that, through making such a sacrifice and tackling an enormous issue all by itself, we are leading the international community to complacency and inaction. We feel that the open door policy of Turkey and the other neighbors of Syria is actually absorbing the potential international reaction, as the tragic consequences of the brutality by the regime in Syria are all being dealt with by the neighboring countries.”¹⁶⁸

More than two years later, on 04 Nov 2014, the Finance Minister Mehmet Simsek declared that \$4.5 billion was spent for the Syrian refugees out of which \$2.3 billion was from the central government’s budget in response to a parliamentary question from deputies. He had expressed that the cost on government is not limited to the government’s budget but also that local authorities were contributing as well. ¹⁶⁹ Likewise, a couple of days before Mr.

¹⁶⁸ Speech Delivered by Mr. Ahmet Davutoğlu, Minister of Foreign Affairs of the Republic of Turkey at the UN Security Council, 30 August 2012, New York, Republic of Turkey Ministry of Foreign Affairs. See http://www.mfa.gov.tr/speech-delivered-by-mr_-ahmet-davuto%C4%9Flu_-minister-of-foreign-affairs-of-the-republic-of-turkey-at-the-un-security-council_30-august-2012_-new-york.en.mfa [Mar 2015]

¹⁶⁹ “Turkey spends \$4.5 billion on Syrian refugees” 2014. *Anadolu Agency*. 04 Nov, Ankara. See <http://www.aa.com.tr/en/news/414843--turkey-spends-4-5-billion-on-syrian-refugees-minister> [Feb 2015]

Simsek made his declarations on figures, Turkish Deputy Foreign Minister had expressed the need of foreign aid, saying "Turkey is hosting more than 1.5 million Syrians and so far has spent more than \$4 billion. Unfortunately, we only received \$200 million to \$250 million from abroad". He had further argued that Syria's neighbors were shouldering already more than they could, such as Lebanon and Jordan, which was putting their own national security and stability at stake and called Western countries to share the burden on neighboring countries of conflict regions.¹⁷⁰

The cost of the Syrian crisis has reached to an extent beyond capacity of one holder. The Executive Committee's approved budget of \$343.3 million had fallen behind the needs of asylum seekers in the year 2014, thus UNHCR had taken supplementary budget to assist the Syrian and Iraqi refugees the previous year. UNHCR has recently announced that they had to increase their operational budget for Europe in 2015 furthermore to \$480.5 million. A critical factor has been the budget fluctuations in Eastern Europe where distributed budget has increased from \$125.7 million in 2010 to \$365.7 million in 2015. The budget fluctuations in Eastern Europe is said to be mainly as the impact of Syrian crisis on Turkey as well as the continuation of increase of Iraqi refugees. As per UNHCR, the number of people of concern to them is expected to increase to 5.3 million in 2015.¹⁷¹ As the financial needs of UNHCR are ever increasing, it is also asking for financial contributions.

UNHCR has recently warned its donors in an annual pledging conference that the world's humanitarian financial system is close to bankruptcy. When compared to last year, the donations have decreased from \$671.6 million to \$500.8 million whereas UNHCR's needs have continued to increase. UNHCR relies on financial assistance from governments and

¹⁷⁰ Ayhan Simsek 2014, "Turkish Deputy Foreign Minister: West should do more for Syria refugees", *Anadolu Agency*, 30 Oct, Berlin. See <http://www.aa.com.tr/en/rss/412674--turkish-deputy-foreign-minister-west-should-do-more-for-syria-refugees> [Feb 2015]

¹⁷¹ UNHCR regional operations profile – Europe, UNHCR Global Appeal 2015 Update, p. 5.

private donors, as the agency received a slight piece of United Nation's budget. Hence, shortage of donations would mean cutting off of running programs such as vocational skills trainings, educational activities to be able to continue providing the basic needs like water, sanitation, shelter for the refugees.¹⁷²

The donations to UNHCR had decreased by more than a hundred million dollars when compared to last year while the costs are increasing at an unstoppable pace. While the funding may be sufficient for UNHCR to provide the basic needs to refugees, it is not sufficient to provide sustainable solutions. As mentioned earlier, monetary funding on its own could only serve as a short term solution, more structural and developmental support should be sought to overcome the problems in the long run which requires international assistance, from states and NGOs. If UNHCR is complaining of insufficient funding that is going to hinder its activities for development, then the international community should take responsibility and assist UNHCR at its full capacity.

4.2.1 Refoulement to Turkey

As mentioned above, due to its geographical positioning, Turkey is a key destination point for asylum seekers on their journey to the developed world. While Turkey does not grant refugee status and only adheres to temporary protection, in practice we see that the “temporary” period often goes beyond its meaning. Not only the developed countries are reluctant on taking refugees from Turkey, they are furthermore bending the protocols and pushing back refugees to Turkey which shall not be considered as a safe third country to begin with due to its geographical limitation adherence with the Geneva Convention. As refugees fleeing from close proximity to Turkish borders such as Iran and Afghanistan more often choose to travel to Europe –more specifically Greece- in transit to Turkey, Turkey is the

¹⁷² “UN refugee agency posts largest-ever budget as funding pledges drop by a quarter” 2014. UN News Centre. See <http://www.un.org/apps/news/story.asp?NewsID=49559#.VPWf73yUfSg> [Feb 2015]

one country that a refugee travels through before stepping a foot on the land of European Union. Particularly Greece is criticized for pushing back refugees to Turkey.¹⁷³

As Turkey has adhered to the 1951 Geneva Convention with a geographical limitation, it should not be considered as a “safe third country” since to be considered as a safe third country, the state must have had adhered to the Geneva Convention without any geographical limitation. Thus Turkey does not indeed fit to the definition of a safe third country to begin with.¹⁷⁴ However, on 8 November 2001, Turkey and Greece had signed a protocol on the implementation of Article 8 of the agreement between the Turkish Republic and the Greece Republic on combating crime, especially terrorism, organized crime, illicit drug trafficking and illegal migration, which was approved by the council of ministers on 12 March 2002.¹⁷⁵ This is essentially a bilateral readmission agreement between the two governments. Hence when the EU member states send back refugees to Greece, Greece could send the refugees that have entered their territory through Turkey back to Turkey adhering to the readmission agreement between the two governments. Thus, whether Turkey is a safe third country or not loses its significance. The Special Rapporteur on the human rights of migrants, François Crépeau, had raised his concerns regarding the readmission agreement between Turkey and Greece, noting that the agreement was focused exclusively on combating illegal migration and urged Greece to respect its obligations to human rights, and respect the principles of non-refoulement of migrants.¹⁷⁶

¹⁷³ “Pro Asyl accuses Greece of systematically pushing back refugees at the Greek-Turkish border” 2013. ECRE. See <http://ecre.org/component/content/article/70-weekly-bulletin-articles/486-pro-asyl-accuses-greece-of-systematically-pushing-back-refugees-at-the-greek-turkish-border.html> [May 2015]

¹⁷⁴ Nazare Albuquerque Abell, “The Compatibility of Readmission Agreements with the 1951 Convention relating to the Status of Refugees” *International Journal of Refugee Law* Vol. 11 No.1, Oxford University Press 1999, p. 74

¹⁷⁵ Official Gazette 2002, “International Agreement”, No. 24735, 24 Apr.

¹⁷⁶ UN 2013, “Report of the Special Rapporteur on the human rights of migrants, François Crépeau on his mission to Greece”, Human Rights Council, Twenty-third session, p. 9-10.

We see that states provide their own interpretations of the Geneva Convention guidelines. Since the guidelines do not have any law enforcement over the states, do not possess any binding obligations and are merely suggestions to states to ensure consistency, states tend to reach marginalized conclusions. It is in their interest to hinder any possible refugee arrival to the EU. Thus they come up with their own individual policies on crucial topics such as returning asylum seekers to safe third countries, deciding on unfounded asylum claims, by supposedly taking into consideration of UNHCR's Executive Committee's guidelines.¹⁷⁷

European countries adhere to the safe third country concept, which relieves the pressure on them while putting huge financial burdens on poor countries of first refuge. When it is more than they can shoulder, the host countries should not be blamed for putting refoulement in practice as the blame is on each and every player who did not take its share in the international burden sharing system.¹⁷⁸ Turkey had explicitly put forward a geographical limitation while signing the Geneva Convention and could send the returnees from EU back to their country of origin since they were only in transit in Turkey. The readmission agreement signed between EU-Turkey is also paradoxical in that sense.

The readmission agreement signed between EU and Turkey initiated simultaneously the EU-Turkey visa liberalization talks. It was a mandatory requirement in the visa liberalization roadmap in addition to the requirements of stricter border controls, a visa policy that would prevent irregular migration, to put in practice migration systems in international standards, to establish systems to counteract organized crime, smuggling and human

¹⁷⁷ Abell, "The Compatibility," p. 73.

¹⁷⁸ *Ibid.*, p. 68.

trafficking, to establish a police and judicial structure in line with EU member states, and respect human rights, minorities and vulnerable groups.¹⁷⁹

The UN Special Rapporteur on the human rights of migrants, François Crépeau, had conducted a country visit to Turkey in June 2012. He had reported his discontent with Turkey prioritizing detention as a solution for EU's pressure on increasing border security, adding that EU was funding the building of new detention centers in Turkey. He had advised Turkish authorities to provide migrants access to basic services such as healthcare and education regardless of their immigration status, criticizing the current status of detention centers for providing insufficient access to these needs as well as no access to legal assistance. He complained about the congested and unclean conditions and inadequate food provided at these centers. He proposed Turkish authorities to let the illegal migrants to live and work in designated cities of Turkey freely.¹⁸⁰ As per the criticism of Mr. Crépeau, the current conditions in Turkey are not in favor of promoting human dignity for migrants in general. Assuming that the readmitted illegal migrants from the EU are not going to be let live freely in Turkey, they are likely to face the similar living conditions and services which were criticized by Mr. Crépeau.

By signing the readmission agreement Turkey would be obliged to readmit third country nationals as well as stateless persons that entered in the EU with the prerequisites that the concerned person holds a valid visa or residency permit issued by Turkey, or the concerned person had entered the EU territory illegally via Turkey with the exception of persons in airside transit for whom the relevant EU country had already issued a visa or

¹⁷⁹ European Commission, "Statement of Commissioner,".

¹⁸⁰ "UN Special Rapporteur on the human rights of migrants concludes second country visit in his regional study on the human rights of migrants at the borders of the European Union: Visit to Turkey." 2012, United Nations Human Rights. 29 Jun, See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12307&LangID=E#sthash.Dm0YayH3.dpuf> [May 2015]

residency permit for.¹⁸¹ The readmission process of third country nationals and stateless people will be enforced three years after the agreement came into force except for those who are nationals of third countries which Turkey has bilateral readmission agreements with.¹⁸² The agreement also refers to the rights of refugees, emphasizing that the rights and procedural guarantees of persons applying for asylum should be maintained, especially of those who have a pending application examination that have a right to remain in a Member State.¹⁸³ However it is essential to recall at this point the critique of the UN Special Rapporteur on the human rights of migrants on Greece mentioned above, regarding the prevention of illegal migration taking precedence over the principles of non-refoulement of migrants. We will see over the years to come whether EU will be requesting the readmission of people who could be considered as refugees or not.

The entry into force of the readmission agreement between Turkey and EU was faced with criticism from several parties. Deputies of the main opposition party had pointed out that Turkey would face challenges to accommodate the large number of migrants, predicting that Turkey would become a hub of illegal migrants once the readmissions start.¹⁸⁴ For the time being, it is unclear what is going to happen once the three year period is over; the readmitted migrants could be detained, they could be deported or could be sent to a third safe country. On 4 April 2013, the Official Gazette of Turkey published the definition of a safe third country, emphasizing that the conditions of whether a country could be considered as a safe third country would be evaluated case by case for each person.¹⁸⁵ As mentioned above, Turkey adheres to the Geneva Convention with a geographical limitation, meaning that it is likely that

¹⁸¹ “Council Decision of 14 April 2014 on the conclusion of the Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation” 2014, *Official Journal of the European Union*, 7 May, L 134, Vol. 57. Article 4.

¹⁸² *Ibid.*, Article 24.

¹⁸³ *Ibid.*, Article 18.

¹⁸⁴ “EU-Turkey readmission agreement ratified by Parliament” 2014, *Today's Zaman*, 26 June. See http://www.todayszaman.com/diplomacy_eu-turkey-readmission-agreement-ratified-by-parliament_351412.html [May 2015]

¹⁸⁵ Official Gazette, “Aliens and,”.

Turkey would try to implement the safe third country process but in the meantime the government would need space to accommodate the illegal migrants readmitted from the EU. It is likely that detention centers would be a resort for the Turkish government though this may not be a favorable solution keeping in mind the criticism of the UN Special Rapporteur on the human rights of migrants noted above. It is paradoxical that while Turkey cannot be considered a safe third country, hence EU countries in all reason cannot adhere to it for sending migrants to Turkey, with the readmission agreement in place with the EU, Turkey is still going to receive migrants from the EU.

One of the most questionable rationales of this practice is the asylum right in EU being dependant on a direct route from the country of origin. Geographically wise the only way that refugees fleeing persecution in their home country to seek asylum in an EU country in a direct route is via airway. Considering the strict Schengen acquis and strict airline rules, this is almost an inapplicable option for refugees of the poor, developing countries. Besides, stopovers in seaports or airports also break the direct route. The difficulty in transportation via airway leads movement through land on most occasions, in transit. As direct movement from country of persecution to country of final destination is not an option, the transit should not retain one's right to apply for asylum in the destined country. Whereas, states like Norway, Austria and Germany does not take it into consideration and return asylum seekers to the transit country regardless of their length of duration in transit.¹⁸⁶

While it was not a general practice to overturn asylum seekers at their doorsteps to the transit countries – on the basis that asylum application was not made elsewhere-, the application of the safe third country concept had gained popularity within the EU over the years. Turkish officials had mentioned their concerns to the UNHCR Executive committee regarding one's right to choose the country to seek asylum while acknowledging the

¹⁸⁶ Abell, "The Compatibility," p. 77.

importance of non-refoulement act on the other hand.¹⁸⁷ It is a clear fact that behind the burden sharing dilemma is the states' reluctance to take responsibility. By bending the guidelines in their own interest, avoiding the responsibility as much as possible, the developed states are hindering what could have worked out as a natural way of burden sharing.

Refugees from the east, travelling to Europe through Turkey, initially enter Greece and from there they make their way to their destined country. With adherence to the Dublin Convention, they were sent back to Greece from the final destination as the responsibility is the country of first arrival within EU territory.¹⁸⁸ From there, they were likely to be sent back to Turkey in accordance with the readmission agreement. The circumstances have changed slightly, as mentioned in the earlier chapters European Court of Human Rights had found violation of the Dublin Convention, Article 3 and Article 13, in detention and living conditions as well as shortcomings in the asylum procedure of Greece.¹⁸⁹ Since then international bodies have recommended suspension of transfer requests to Greece. However, this has not changed if not increased the indirect burdensome effect of the safe third country protocol on Turkey and the burden on Greece has just been transferred to other periphery countries of the EU.

4.3 PERCEPTION OF ASYLUM SEEKERS IN TURKEY

Hospitality is a key element in Turkish culture.¹⁹⁰ It is a characteristic that is glorified by the Turkish public which dates back to the dates of the Ottoman Empire. With the regression of the Ottoman Empire towards its last years, there occurred a pull effect especially of the Turkish speaking and Muslim people living in old Ottoman territories to Istanbul and Anatolia region who were welcomed warmly by the Turkish society. The influx from former

¹⁸⁷ Ibid., p. 77.

¹⁸⁸ Ibid., p. 74.

¹⁸⁹ ECHR, "Case of M.S.S.,".

¹⁹⁰ "Turkish Hospitality" 2015, GoTurkeyTourism. See <http://www.goturkeytourism.com/about-turkey/turkish-hospitality.html> [May 2015]

Ottoman territories had continued upon the collapse of the empire and the establishment of the Turkish Republic. The hospitable attitude was kept intact in the migration policies towards those who were expected to blend in with the society easily due to similar cultural and ethnical backgrounds. These people had been categorized as “muhacirs” since they represent an influx of people with similar background to Turkish society and assumed to have easily blended with the Turkish identity. Nonetheless, starting with the late 1970s early 80s, the face of immigration had a striking change in Turkey.¹⁹¹

Contrary to the immigrants with close ties to Turkish Identity who had migrated to Turkey in the early years of the public, the new influx of people was a new group of refugees in large volumes and compared to the migrants of early years of the Republic, they have difficulty in incorporating into the society. In comparison to the migration flows in the early years of the republic, the government had no control over these flows which had erupted as a result of political turmoil in country of origins.¹⁹² The political destabilization in the region had caused massive immigration flows from the Middle East; Iran, Iraq, Afghanistan, Syria and the Turkish public does not categorize altogether these newcomers as they do not yet differentiate a refugee from an economic migrant.¹⁹³ As per ASAM’s research in 2011, when the Turkish interviewees were asked whether there are any foreigners living in their cities, they had difficulty in answering the question. The interviewees were accustomed to people who emigrated from Turkey, not to people who migrated to it. While %47,2 of them had answered that there were no foreigners living in their cities, %15,9 had said that they had no idea about it. When they were asked whether they were aware of any legal arrangements

¹⁹¹ Ahmet İçduygu, Kemal Kirişçi 2009, *Land of Diverse Migrations, Challenges of Emigration and Immigration in Turkey*, Istanbul Bilgi University Press, p. 460-461.

¹⁹² İçduygu, Kirişçi, *Land of Diverse Migrations*, p. 461.

¹⁹³ Juliette Tolay 2013, “Deconstructing Turkish Public Attitudes Towards Refugees: Empowering Rights Over Politicization and Self-Gratification” *Usak Yearbook* Vol.6, p. 1-29.

regarding refugees in Turkey, %97,6 of them had given a negative response.¹⁹⁴ These answers show that the Turkish public's perception of refugees is newly evolving and until recently any foreigner was just a foreigner for them. As the number of outsiders coming to Turkey either to seek temporary asylum or due to irregular migratory moves dramatically increased with the Syrian crisis that started in 2011¹⁹⁵, the realization hit the public in a sudden. Although Turkey had already been receiving big number of refugee over the last decades, it was never apparent as it is today in the daily life. Thus it could be argued that Turkish public had been underpoliticized regarding the refugee concept until the Syrian crisis.

As a perception of these migrants have started to evolve in the eyes of the Turkish public, it is important to examine the types of migrants coming to Turkey. The visa requirements for the countries that Turkey is receiving the large number of migrants are not strict. There is no visa requirement between Turkey and Syria, Iran for 90 days of stay¹⁹⁶ while Iraqi citizens can get a visa upon arrival or are able to get an e-visa for free and in ease¹⁹⁷. This enables people to enter Turkey on legal terms and permit them to extend their stay legally as well. While some of those work and live in Turkey, re-visit their country of origin in periodically and come back to Turkey, some among them also apply to UNHCR to get a refugee status. Despite the ease of legally entry, there are a large number of people entering Turkey illegally as well. In a study conducted on illegal migration to Turkey, it was put forward that almost 70 percent of migrants had in mind to move to Europe directly via Turkey while around 10 percent wanted to save some money in Turkey and then move to Europe. The rest of them either wanted to stay in Turkey, work illegally or had other

¹⁹⁴ ASAM, "Askıdaki Yaşamlar," p. 22-23.

¹⁹⁵ Icduygu 2013, "Turkey and," MiReKoc, p.5

¹⁹⁶ "Visa Information for Foreigners" Republic of Turkey Ministry of Foreign Affairs. See <http://www.mfa.gov.tr/visa-information-for-foreigners.en.mfa> [Feb 2015]

¹⁹⁷ "Turkey restarts online visa service for Iraqis" 2014. Hurriyet Daily News. See <http://www.hurriyetdailynews.com/turkey-restarts-online-visa-service-for-iraqis.aspx?PageID=238&NID=72509&NewsCatID=510> [Mar 2015]

reasons.¹⁹⁸ It is quite difficult to achieve accurate percentages as it is hard to capture data on illegal migration.

Since Turkey grants temporary protection right to refugees in Turkey, among the applicants are both migrants who have entered Turkey on legal terms and who have entered the country in illegal ways. It is argued that the asylum application procedure in Turkey is being abused by the illegal migrants who wish to avoid the risk of deportation. It is put forward that 31 percent of asylum application between 1995 and 2010 had entered Turkey illegally.¹⁹⁹ Occupancy of areas of employment by aliens is put forward as a causality of the xenophobia in the world.²⁰⁰ As argued above, Turkish society is already having trouble with differentiating an economic migrant from a refugee and when the two are mixed, meaning that when the economic migrant attains a refugee status for the sake of legalizing his status in Turkey, it is impossible to distinguish the two.

It is argued that there is the perception of “good- bad migrants” in Turkey. While good migrants are involved in illegal works such as selling simple goods on streets and market places, bad migrants are considered to be involved in crimes like drug dealing, theft, prostitution.²⁰¹ From this perspective, it is difficult to distinguish a real refugee from a so-called “bad migrant” in the eyes of public. At some point, it is possible to relate any foreigner coming from a third world country with crime and as having a negative effect on national security.

An NGO in Turkey, ASAM (Association for Solidarity with Asylum Seekers and Migrants) had conducted a thorough research on perception of refugees in Turkey that was

¹⁹⁸ Bülent Çiçekli, Oğuzhan Ömer Demir 2013, *Türkiye Koridorunda Yasadışı Göçmenler*, Karınca Publications, Ankara, p.176

¹⁹⁹ Ibid., p.167.

²⁰⁰ Ibid., p. 156.

²⁰¹ Ibid., p. 144-145.

published in 2011. The table on the next page shows some of the responses that the Turkish public had given on questions about refugees in specific.

	Positive	Undecided	Negative
General perception scale of citizens' on Asylum Seekers/Refugees in Turkey	17.9%	71.5%	10.6%
	Absolutely agree/ agree	Undecided	Disagree/ Absolutely disagree
Asylum seekers and refugees are harmful to Turkey	34.59 %	24.06%	41.35%
Asylum seekers and refugees are helpless people	64.52%	12.80%	22.68%
Asylum seekers and refugees are compatible people	28.19%	43.72%	28.09%
Asylum seekers and refugees are poor people	65.06%	18.37%	16.27%
I would be uncomfortable with the aid provided to the asylum seekers/refugees while there are a lot of Turkish citizens in need of help	59.79%	5.19%	35.01%
Asylum seekers and refugees carry diseases	35.82%	33.15%	31.02%
Asylum seekers and refugees have a tendency towards crime	34.05%	33.72%	32.23%
I wouldn't be uncomfortable with having asylum seeker/refugee neighbors	52.15%	11.85%	36.01%
I wouldn't be uncomfortable with having an asylum seeker/refugee working at my workplace	67.69	8.71%	23.6%
I would be uncomfortable with having my child share the same school desk with an asylum seeker/refugee child	31.56%	7.35%	61.09%
I wouldn't be uncomfortable with having someone in my family marry an asylum seeker or refugee	31.33%	13.93%	54.73%
I wouldn't have employed asylum seekers and refugees if I was an employer	35.5%	10.78%	53.71%
I would have rented my house to asylum seekers and refugees if I owned a house	42.89%	11.63%	45.49%

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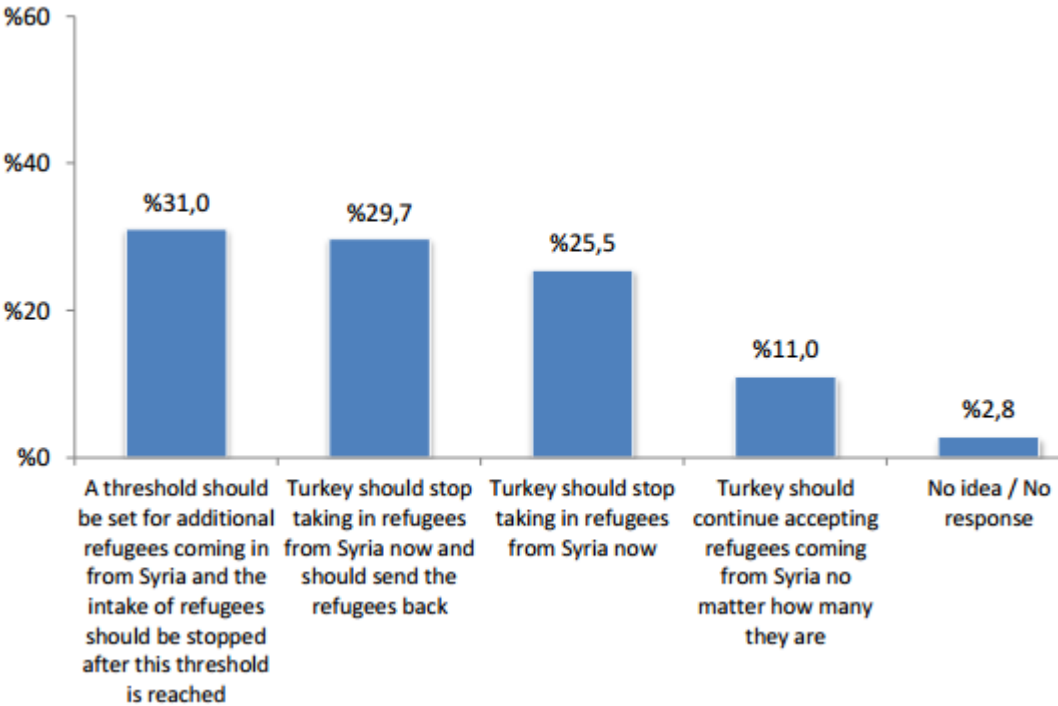
²⁰² ASAM 2011, "Askıdaki Yaşamlar & Alğıdaki Yaşamlar Projesi Araştırma Raporu", Ankara, p. 38-45.

Although the responses here do not look very negative, one should bear in mind that this research was published in 2011, four years ago, the year when the Syrian crisis had begun. It is important and instructive to get an idea of the perception of Turkish public on refugees right before the Syrian influx to Turkey started but reasonable to assume that this perception had slide toward more negativism. This data also strengthens the argument that Turkish society was indifferent to the concept of “refugee” before the Syrian crisis. The table shows that 71.5% responded that they had undecided attitude towards refugees while only 10 percent had negative perception and almost 18 percent had a positive perception. Two questions are rather more relevant to us in this research, which are “refugees are harmful to Turkey” and “refugees have a tendency towards crime”. Though percentage wise the responses are rather close to each other, we see that a bigger percentage, 41.35% did not correlate refugees with having a harmful effect on their country while 34.49% did believe that refugees were harmful to Turkey, 24.06% were undecided. Likewise, the response to the question on whether refugees had a tendency towards crime is split almost equally between positive, negative and undecided responses. Those who associated crime with refugees are slightly higher in percentage than those who didn’t, 34.05% to 32.23% while the undecided responses make up 33.72%. The critical constituent on both responses is the bigger percentage that the undecided responses made up. Upon the Syrian crises, on various occasions, we have seen in the tabloids the accusations of refugees with crime. It was published in a newspaper that 866 notices were placed on the official gazette of Turkey for wanted Syrians that were found guilty of crimes on smuggling, theft bodily harm but were unfound. It said that this number has dramatically increased over the last years, from 104 in 2012 to 147 in 2013 and to 615 in the first nine months of 2014.²⁰³ With various tabloids correlating crime with Syrians,

²⁰³ Hasan Bozkurt, Selim Ercan 2014“Suç İşleyen 866 Suriyeliye Ulaşılamıyor” *Bugün Newspaper*. See <http://www.bugun.com.tr/gundem/adeta-suc-makinasi-haberi/1256229> [Mar 2015]

it is a reasonable assumption that the undecided responses given to ASAM in 2011 towards these two questions moved towards negative perceptions of refugees.

A recent survey conducted in 2014 by Centre for Economics and Foreign Policy Studies (edam) gives us a better understanding on the perception of Syrians by the Turkish public. The table below shows us responses given to some questions regarding the Syrian crisis by the Turkish public. Edam’s survey had come with the outcome that 86 percent of the participants did not want Syrian refugees to be allowed in to Turkey no matter what while only 11 percent supported further intake, the rest were undecided. An important finding is that almost 30 percent argued that Syrian refugees already in Turkey should be sent back to Syria.²⁰⁴



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The survey’s sample size was 1515 people above age 18.²⁰⁶ This is clearly not the best sample size to generalize the public opinion of a country with more than 75 million of

²⁰⁴ “Reaction mounting against Syrian refugees in Turkey” 2014, Public Opinion Surveys of Turkish foreign policy, EDAM, p. 1.

²⁰⁵ Ibid., p. 1.

population however it still gives us an idea. The negativity towards the Syrian refugees flow into Turkey does not only correlate with the fear of their negative effect toward national security only but also is in relation with its effect on the direct effect on the daily life of Turkish public. With the influx of Syrians, rent prices had dramatically increased, especially in the bordering cities; wages had dropped in certain sectors as Syrian nationals accept to work under low wages.

As the demand for rental houses increased with the newcomers from Syria, there has been an increase in rental prices in all cities of Turkey. The direct effect is on the low income population that is finding difficulty in finding affordable accommodation. It is even argued that some landlords force the Turkish tenants to leave the houses so they can rent the houses with higher prices to Syrian refugees who accept to pay more as they usually share houses with other families. With the increase in demand, besides the rental prices, there has been an increase in inflation in the border cities for basic food products. Another complaint of the Turkish public is the effect of Syrians over wages. Locals argue that Syrians are stealing their jobs, taking away job opportunities from them; some blame the Syrians for losing their jobs. Since they work illegally, they accept to work for low wages which also creates unfair competition between companies that hire illegal workers and those who do not.²⁰⁷ These reasons have manifested the non-existent phenomenon until recently in Turkey, xenophobia. The growing anger against refugees reached the point of physical assaults and attacks on refugees throughout the country, from Izmir, an urban city in Aegean region of Turkey, to Anatolian provinces. The government had made a declaration in August 2014 upon the increasing xenophobia within society, saying that precautionary actions would be taken against mendicancy, prostitution and polygamy that became visible with the inflow of

²⁰⁶ Ibid., p. 1.

²⁰⁷ “Effects of the Syrian Refugees on Turkey” 2015, Center for Middle Eastern Strategic Studies, Report No: 195, p. 17.

Syrians, saying that Syrians that live on the streets are already being transferred to shelters by local governors. The declaration had also promised to find solutions for the negative effect of Syrians that entered the workforce in Turkey.²⁰⁸

The Vice President of USAK Selçuk Çolakoğlu gave his opinion over the measures to be taken to overcome the social unrest of the many people disturbed by the presence of Syrian refugees that had outgrown a million now in Turkey. He had argued that it is not only the Syrian refugees that have grown in numbers but also the Iraqis and the growing figures are putting a great pressure on Turkey's economy. The fact that Syrian refugees are not only residing in camps but live throughout the country, their presence is felt everywhere. He asserted that the refugees' prevalence in mendicancy and illegal workforce indicate security concerns for the country which showed itself in xenophobic behavior of Turkish public. Since it is not expected for the refugees to return to their home countries any time soon, Çolakoğlu had argued that a new strategy should be formed in collaboration with the international bodies to overcome these burdens that Turkey cannot afford on its own, otherwise he says that enmity towards Syrians may get worse and things may get out of control.²⁰⁹

The growing notion is the negative effect of Syrians on national security. As there is no visa requirement between Turkey and Syria, there is an open border between two countries. With the presence of instability and terror in a few kilometers away from Turkey, the residents of the border cities are at unease. As mentioned previously, the new incomers share relatively less if not none common cultural or ethnical ties with the Turkish society. It is argued that there is a clash of traditions between the resident and newcomers especially in the borders. Turkish people in majority are from the Sunni sect of Moslem religion. While an

²⁰⁸“Xenophobia against Syrian refugees on rise: Turkish government” 2014, *Hurriyet Daily News*. See <http://www.hurriyetdailynews.com/xenophobia-against-syrian-refugees-on-rise-turkish-government-.aspx?PageID=238&NID=70857&NewsCatID=341> [Mar 2015]

²⁰⁹ Jeyan İdil Aslan 2014, “Prof. Selçuk Çolakoğlu evaluates the new Turkish foreign policy perspective”. JTW Exclusive Interview with Prof. Selçuk Çolakoğlu. *Journal of Turkish Weekly*, p. 1.

Alawite minority of Shiite sect lives in one of the border cities accommodating a great number of refugees from Syria, the fact that the government of Syria is ruled by Shiites is creating tension.²¹⁰ The refugees that come from Syria are from mixed political positions; some are supporters of the current regime while some are rebellions. Furthermore, a border city that is highly affect, Hatay, is known to be an open minded city, welcoming people of all religious backgrounds, with indulgence. There are various worship grounds for Moslems, Christians as well as Jews. The city is precious for all religions and there is a so to speak “religion tourism” in the city. The fact that the rebels of the Syrian crisis shaped into radical Islamists in time is problematic for the area. The Islamists are thick bearded, fanatic men while people of Hatay are mostly secular, who dress up in shorts, sundresses.²¹¹ This is apparently affecting the daily life of citizens since there is now a different population presence that the public is estranged to.

The public seem to correlate these religious newcomers with the rebels against the Syrian regime. The Turkish public in the region is supporting the Syrian government and is blaming the Turkish government for letting in the rebels for the sake of establishing a Sunni supremacy with the collapse of Syrian Shiite government. The opposition parties accuse the Turkish government for training radicals to fight against the Syrian regime. Although the government denies such accusation, their acknowledgement of the rebels in border cities of Turkey is thought-provoking in terms of the safety concerns of the public, as a government official’s statement that “the presence of fighters in the border cities is overstated” does not deny the fact that it is real. Inherently, the Turkish society is concerned that these rebels present in their land would at some point turn back against Turkey.²¹²

²¹⁰ Karin Brulliard 2012, “Turkey faces questions on Syria policy” The Washington Post. See http://www.washingtonpost.com/world/middle_east/turkey-faces-questions-on-syria-policy/2012/09/07/3c9ae47e-f7db-11e1-8398-0327ab83ab91_story.html [Mar 2015]

²¹¹ Ibid.

²¹² Ibid.

4.3.1 The Integration Problem of Refugees

On the contrary to the migration in the early years of Turkish Republic, the recent migratory moves are for temporary periods and more commonly, the migrants have no interest in blending in with the Turkish society. As for the recent influx group Syrians, they choose to live in ghettos which may trigger security problems in the long run. The fact that they live in ghettos exposes them to more criminal and violent activities, the children that are growing within such environment are prone to identity crises when they grow older. Considering the fact that Syrians are not expected to return to their origin country any time soon, the children who are outcast are a potential source of crime for Turkey in the near future.²¹³

There could be various factors on why the refugees choose to stay introvert; cultural, linguistic barriers as well as protection related reasons. For example, as for the Syrians, the Turkish public's distance and accusatory attitude towards them have caused Syrians to organize to protect themselves.²¹⁴ It is important that an intermediary action be taken so that a balance is found between the hosting society and the refugees to prevent further conflicts. Hence it is important that the measures taken diminish alienation between two parties rather than reinforce it.

²¹³ "Effects of the Syrian," p. 20

²¹⁴ *Ibid.*, p. 19.

CHAPTER 5

CONCLUSION

The refugee problem is just as critical as environmental, energy, food, economy related problems of the world. Hence it is a problem of the world community and not only concerns the host and origin countries of refugees. In this context, it is critical that the problem is approached on the international level. A thorough understanding of burden sharing concept is vital for a healthy approach. The tools used under the burden sharing system have mainly been the resettlement programs and financial contributions to temporary host countries. This thesis analyzed whether the current tools of burden sharing system are effective in practice and the main finding of the research has been that while such tools are essential and their benefit is undoubted, the weak interpretations of usage of these tools by developed countries conduce to burden shifting rather than burden sharing.

While the main goal of the refugees fleeing country of origin is to reach developed countries, the European countries being the most attractive ones, they usually end up staying in limbo in neighboring countries that are in the phase of “developing”. The trajectory of the refugee problem over the years evolved to the extent of responsibility being mainly left on the neighboring countries aka the safe third countries that are not as developed as the Western countries of the world. The regulations and the course of actions taken by the European countries have become more protective of their boundaries and privileged in taking direct responsibility of refugee problems. Their assistance becoming merely limited to indirect financial contribution to countries that are struggling with the physical burden of refugees. Turkey, a country that is considered as “developing”, has been one of the most affected countries of all from the refugee problem. With its geographical positioning, exposed to wars just beyond its borders has been facing a great challenge over the last few decades.

The burden on Turkey has been increasing ascendantly in the refugee context. Once a country known of emigration, Turkey has today become one of the countries that is receiving the biggest number of migration figures. Though the burden has outgrown and became much more visible since the Syrian crisis, it is essential to note that its existence dates back before the Syrian influx as there were and are still large group of refugees fleeing to Turkey from Iraq, Iran, Afghanistan and other African countries. The reason that the refugee problem became an apparent issue in Turkey's agenda is that the effect of Syrian crisis has grown out of proportion that Turkey cannot handle on its own anymore unlike the existent refugee inflows before. Despite the close interest of international actors on the Syrian crisis, a little support is provided by them to the neighboring countries of Syria which are dealing with the direct effects.

The Turkish Minister of Foreign Affairs speech that was delivered shortly after the crisis erupted in Syria included crucial suggestions on how to overcome the problems. He had proposed solving the problem of IDPs within the borders of Syria and if it was necessary for Syrians to leave the country for safety, he proposed not only the neighboring countries to absorb the fugitives but the whole international arena to be supportive. The minister had also suggested the formation of a joint committee inclusive of the neighbor countries of Syria that were under pressure and UNHCR to tackle the refugee crisis. In 2012, when this meeting was held, the minister had expressed his disappointment in no tangible solutions put forward up until then for the Syrian crises and had criticized the UN.²¹⁵ Almost three years later, on 05 March 2015, Ahmet Davutoglu who is now the Turkish PM complain from the same problems, the inaction of the UN and international community on the Syrian conflict and called international community to give more support on the humanitarian crisis. He said "No country has been affected more than Turkey because of the Syrian crisis. We have 2 million

²¹⁵ Speech Delivered by Mr. Ahmet Davutoğlu, 30 August 2012.

refugees. In some cities like Kilis, Syrians outnumber the Turkish citizens. Turkey received in three days 200,000 refugees from Kobani. This is more than the total number of refugees having been taken by all European countries in the last three years.”²¹⁶

World is now more integrated than ever before. With communication, business, finance intertwined worldwide, stability and existence of one country is dependent on other countries. A crisis happening elsewhere has an either direct or indirect effect on each country. An international cooperation is a responsibility and a must to overcome big problems concerning the world and refugee problem is one of the most crucial of all.

The term refugee brings along fearsome tags such as crime, poverty, instability and most importantly terror. It is a fact that some groups use crisis zones into their advantage to engage in terrorist activities. To overcome this fact, international cooperation in this regard is also encouraged. Countries that hold intelligence reports on terrorists should share this information with each other in order to prevent terrorist acts as is a current dilemma that Turkey is facing at the moment. Turkey is receiving criticism from its own public for not taking adequate measures on preventing the entry of terrorists that take advantage of the open-border policy during the Syrian crisis. Turkey is expecting international community to share intelligence reports to protect its national security.²¹⁷ On the other hand, the collaboration should be reciprocal. While international collaboration is expected by the countries that are heavily pressured with the refugee load, they should also take steps that would enable international actors' assistance. As mentioned earlier, bureaucracy and the national law regulations sometimes hinder assistance of international actors. An expert on Turkey, Professor Henri Barkey had criticized Turkey for limiting UN's involvement in the refugee

²¹⁶ “Turkey PM criticizes lack of Syria conflict strategy” 2015. Anadolu Agency. See <http://www.aa.com.tr/en/news/474522--turkey-pm-criticizes-lack-of-syria-conflict-strategy> [Mar 2015]

²¹⁷ Ibid.

camps, arguing that such limitation was a cause of the infiltration of Sunni rebels to the border cities of Turkey.²¹⁸

The main argument of the thesis is that the concept of burden sharing is misrepresented and has evolved into a burden shifting system instead. The powerful, developed states are interpreting the law and regulation that promote burden sharing in the way that benefits their own interest, and they avoid any direct responsibility of the refugee problem. However if there is any benefit into it, it is solely prevailing in the short run only as the more the burden is demolished to the developing countries, the more instability is promoted which is at the expense of the stability of world community in the long run. A thorough understanding of burden sharing is a must to overcome the refugee problem. The concept should not be interpreted in ways that would lead to the shift of the burden. States should be open to an international, mutual collaboration. The declaration made by the UN in 2014 regarding the number of refugees, in broad definition, exceeding 50 million people for the first time since the World War II²¹⁹ is the grim reality. The figure speaks for itself. The refugee problem cannot be ignored and callousness is unacceptable. The international law and regulations should not permit states to interpret regulations to their own benefit and should not permit for evasiveness of responsibility. Responsibility should be scattered internationally, taking into account of the capacity of states to shoulder the necessities, otherwise the refugee problem is going to drag developing countries that are in direct affect into chaos which would result in more instability worldwide.

²¹⁸ Brulliard, "Turkey faces,".

²¹⁹ UNHCR, "World Refugee,".

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