

# Asylum Policy and Practices in Turkey: Constructing the Refugee “Other” in Konya\*

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“(…) The first years of asylum and the refugees’ direct participation in building the new life play important role during the rest of the life of the refugee (…)”

(Ghorashi 2005)

Turkey as a country placed on one of the major routes connecting the Mediterranean migrations with the European Union (EU) borders, serves both as a transit line and lately as an indefinite destination for refugees coming from Asia, the Middle East, and most recently Africa.

According to the United Nations High Commissioner for Refugees (UNHCR) 2008 statistics there are 18,000 refugees in Turkey. Most of them, around 10,000, are Iraqi, 4,000 are Iranian, 1,500 Somali, and 900 refugees are of Afghan origin (USCRI 2009). Compared to the previous statistics along with the UNHCR rate of decision making, there has been an approximately 30% increase in the number of asylum seekers since 2006 (UNHCR 2007). While until very recently Turkey used to be considered as a transit country providing temporary protection to asylum seekers from Iran, Iraq, Syria and partly Afghanistan, since 2004 Turkey has been witnessing a different type of refugee movement commencing from non-border regions such as Africa, Asia, and south Middle East (BMMYK 2008). In 2007 these refugees are estimated to make up approximately 30% of the entire refugee population in Turkey (UNHCR 2007).

Since 2004 there has been a continuously growing number of African refugees coming from Somalia, Congo, Ethiopia, Eritrea, etc. so that in 2007 they constituted 15% of the total of 12,086 refugees (UNHCR 2007a). Coming from non-border countries of origin, most of them are provided protection under the UNHCR’s extended mandate in Turkey. Since the resettlement countries give preference to refugees from countries neighboring the country of origin, the extended mandate status gives less chance for resettlement. According to UNHCR statistics as of the end of August 2008, 2,462 out of 16,000 refugees departed for four resettlement countries. And only 74 of them originated from Africa (UNHCR 2008a). These statistics reveal not only the low chance of the African refugees to resettle, but also the fact that the recent number of African refugees living under

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uncertainty in Turkey is increasing. Since the UNHCR counts both conventional refugees and refugees under the UNHCR's extended mandate under one common refugee category, there are no exact statistics on the number of refugees under extended status mandate.

Introduced as a preventive measure against refoulement practices in Turkey, the refugee status under the UNHCR extended mandate presented the Turkish authorities with a new phenomenon: formation of "protracted refugee situations".<sup>1</sup> While the number of transcontinental refugees steadily increases, the chances for resettlement decrease,<sup>2</sup> and this leads to growth in the number of refugees living under temporary protection for indefinite periods of time in terms of their decreasing chance to resettle.

Together with this final category, Turkey is disposed to deal with two categories of refugees: conventional refugees who are under temporary protection with a certain prospect of resettlement, most of them Iraqi and Iranian refugees, and protracted refugees who are expected to live under temporary protection for an indefinite length of time. Each of these categories requires special policies and approaches. While the first category urges Turkey to stop forced deportations, the emerging "protracted" refugee situations in the country require policies that prioritize local integration and self-reliance policies. Neither the UNHCR nor the Turkish authorities have a particular stance about the future and policies towards these refugees.<sup>3</sup> So far the protracted refugees have been placed under control in 30 satellite cities in Turkey, where local authorities and humanitarian associations are assigned to provide the minimum of their economic and social needs. Caught between the practices of securitization and marginalization, the consistently growing population of refugees living in "protracted" refugee situations increases the potential for further asylum problems in the country.

After a general introduction to the history of African refugees in Turkey, the first section continues with a detailed description of the status, structure, settle-

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<sup>1</sup> The concept of "protracted refugee situation" as adapted from Loescher and Milner's comprehensive definition, refers to a long-term refugee situation that involves a changeable number of refugees who live under *indefinite* (unpredictable but expected to be at least 5 years) outlook, and includes chronic, unresolved, and recurring administrative, social, economic, cultural and psychological problems. The term protracted insecurity situation refers to the link between the long-term refugee situations and state-initiated situations of long-term lack of human security, i.e. lack of social and administrative protection and absence of an immediate prospect for solution. The state cannot or does not want to solve the problems of social insecurity, wide range of illegality, exploitation, human trafficking, smuggling, human rights violations, social and cultural discrimination, tension between the local and the refugee, but instead uses violence and force that aggravate these problems (Loescher – Milner 2005:14–15).

<sup>2</sup> According to UNHCR statistics, by the end of 2008 there were only 4 resettlement countries that accept refugees from Turkey, namely Australia, USA, Canada and Finland.

<sup>3</sup> Interviews with officials in the Governorship in Konya and the UNHCR Office in Ankara, respectively 5 September 2008 in Konya and 15 September 2008 in Ankara.

ment and local perception of the African refugees in Konya. This section is followed by a summary of the legal background of refugee and asylum practices in Turkey, presenting a detailed exposition of the practices of securitization and criminalization of the refugees. Based on an analysis of the legal framework and implementation at the local level, the section emphasizes the negative role of the state practices in constructing an image of the impoverished, “temporary”, “suspicious” and “dependent” refugee.

Drawing on a public survey<sup>4</sup> performed in Konya in September 2008, the third chapter elaborates the role of humanitarian agents in the deprivation and social exclusion of the refugees. After a short definition of the main humanitarian agents and their perception and construction of the refugees, the section investigates the way charity associations (*hayır-associations*) hinder the development of a rights-based approach toward the refugees. The chapter ends with a short elaboration of the refugees’ perception of the notions of refugee rights, responsibilities, *hayır-associations*, and local culture.

The paper concludes that practices focused on prevailing needs and marginalization of the refugees not only prevented refugees from accessing their cultural and social rights, but led to an exclusionary system forcing refugees to choose between two options: (a) living in constant degradation and an indefinite future in Turkey, or (b) moving to the West via the dangerous assistance of human smugglers.

As some refugees confessed, the overall asylum system in Turkey leaves no other option but to cross the Aegean: “(...) at least there is going to be a chance to reach the opposite coast safely. You get there and all life changes, gets better! It is very dangerous, crazy, but it is worth trying especially for those who are strong and young (...)”. This option is especially valid for refugees whose asylum procedure fails, and those who do not have chances for resettlement, i.e. the protracted refugees.

The paper ends with a critical summary on the role of Europeanization in the sphere of asylum and suggestions for a more dignified refugee system grounded in rights-based, participatory and accountable asylum policy developed under the guidance of the 1951 Convention.

### *The Story of African Refugees in Konya*

Since 2004 there has been a continuously growing number of African refugees coming to Turkey from Somalia, Congo, Ethiopia, Eritrea, etc. In 2007 the African refugees constituted 15% of the total of 12,086 (UNHCR 2007a). Most of

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<sup>4</sup> The primary sources of this chapter are based on 28 interviews with refugees, volunteers or functionaries of the humanitarian associations, and local administrators. Each interviewed group was given a ten-question survey.

them come from Somalia, and the majority consists of women and children. Most of these refugees are settled in 31 satellite cities in Turkey where local authorities, NGOs and humanitarian associations are assigned to provide economic and social assistance to the refugees.

In 2008 Konya was the third biggest of the satellite cities, based on number of resident refugees. According to the recent municipality statistics, there are 842 refugees in Konya. African refugees constitute more than half of the refugees, numbering 457 people (see table 1). Most of the African refugees come from Somalia and Sudan. Thus local people are used to calling them all “Somalis”. Konya’s experience with the African refugees started after a short informative meeting of the UNHCR with local NGOs in the city. Known as one of the religiously motivated and conservative cities in Anatolian Turkey, the people of Konya for the first time faced the challenge of living with foreigners of different racial and cultural backgrounds. Coming from the “poor and starving” Africa, the refugees were welcomed as “African brothers” who for centuries had been “exploited and impoverished by the Western colonial powers”. The cute African children evoked sentiments of mercy and desire to help (Özdemir 2007).

Table 1: Refugees in Konya according to their country of origin

<i>AFRICA</i>		<i>Middle East</i>		<i>ASIA</i>	
<i>Country</i>	<i>Refugees</i>	<i>Country</i>	<i>Refugees</i>	<i>Country</i>	<i>Refugees</i>
Somalia	380	Iraq	299	Afghanistan	14
Sudan	34	Iran	51	Turkmenistan	3
Ethiopia	13	Palestine	3	Sri Lanka	4
Congo	9	Syria	2	East Turkistan	1
Ivory Coast	7				
Eritrea	6				
Mauritania & Liberia	6				
<i>TOTAL</i>	<i>457</i>		<i>355</i>		<i>22</i>
<i>Governorship Data</i>	<i>842 Refugees</i>				
<i>UNHCR Total</i>	<i>702 Refugees</i>	<i>Somali</i>	<i>332</i>	<i>Iranian</i>	<i>190</i>

Source: *Konya Valiliği İnsan Hakları Raporu*, Kasım 2008.

Loitering around the center of the town, the African refugees came across with peculiarity and sorrow. In a few months the newspapers painted an attractive picture of the African men, who had started to speak Turkish with the typical Konya accent within only four months (Sögütçü 2007). Moreover, the so-called “Africans”

admired the Ottoman past and Turkish hospitality, and impressed everybody with their religiosity. Fulfilling their daily obligations as Muslims, the image of the refugees grew as “good Muslims”, wronged, and compliant people worthy of unlimited help (Biçer 2007). Those “black men” were indigent and in need of very basic things such as “bread and water”, things that everyone in Konya could easily provide.

For almost two years until the end of 2007, the euphoria surrounding the “African brothers” attracted the care and assistance of both local humanitarian associations and local people sharing their neighborhood with refugee settlers. As the refugees’ number grew, the assistance became more and more insufficient, and the refugees’ living conditions worsened (Özteke 2008). Both local media and humanitarian associations brought the problem to the agenda of the local authorities (N.N. 2006). Under the initiative of the governor’s office, a joint council of humanitarian associations and local government representatives gathered to coordinate providing humanitarian assistance to the African refugees. Each humanitarian association took responsibility for a certain number of refugees, while the governor’s office rented 60 houses and apartments and paid the monthly electricity and water expenses. This bottom-up motivated coordination ensured the most basic needs of the refugees for survival were met. As “people who used to starve in Africa”, the refugees were expected to be satisfied with rather poor monthly supplies consisting of bread, flour, sugar, oil, rice, tomato paste and some local beans and lentils that the refugees actually did not know how to prepare. These were foods that local poor people were used to being rather grateful for. Thus no single refugee was expected to call into question such generosity. Moreover, according to the local authorities and the functionaries working in the humanitarian associations, the refugees were rather privileged compared to the local poor. For example, the locals used to give their African neighbors daily food, second-hand clothing, school supplies, etc., things that the local poor would appreciate very much. So, from the local people’s perspective, the needs and problems of the refugees were satisfied. So far, the refugees were the ones to appraise the local hospitality that granted living conditions which were “(...) much better than those in Africa (...)”. Nevertheless, the Turkish hospitality towards the African brothers did not last for long. Within one year the “wronged, and compliant African brothers” became *otherized* as “greedy, wild, prodigal, lazy, ungrateful, dirty, and quarrelsome Somalis”. Often referenced as one of the most refugee-concerned satellite cities in Turkey, Konya presents an appropriate case for observing and understanding the administrative and social policies and conditions that led to the negative turn towards the refugees in Turkey.

### *Securitizing the Refugee: From Active Agent to Passive Subject*

In accord with the EU *acquis* provision on the role of the refugee-concerned NGOs in the asylum policy formation, the 2006 Implementation Direction of

the National Action Plan for Implementation of the EU Accession Criteria in the area of Asylum and Immigration introduced a twofold institutional framework for refugee determination and integration assistance in Turkey. This twofold framework involves *administrative* and *non-state* bodies.

The administrative body is responsible for refugee determination and securitization and involves central and local bodies of the Ministry of the Interior, governorships, municipalities and local branches of the State Foundation for Social Solidarity and Assistance.

For the first time in the history of refugee policy in Turkey, the 2006 Direction officially introduced a non-state body consisting of international organizations, NGOs and humanitarian or charity associations, and “charitable families”. As defined in the National Action Plan for Harmonization with the EU acquis (*İltica ve Göç Alanındaki Avrupa Birliği Müktesebatının Üslenilmesine İlişkin Türkiye Ulusal Eylem Planı*), the non-state body is responsible for providing the necessary accommodation and social assistance and for supporting refugee integration at the local level. Both of these complementary bodies are directly or indirectly coordinated and directed by the Ministry of the Interior (MOI), thus holding competences delineated by official administrative correctives. Yet, in regard to social assistance, the civic actors preserve an immense autonomy both in the content and distribution of the humanitarian assistance, and in the cultural adaptation of the refugees.

In practice, there are two administrative procedures foreseen with regard to refugees apprehended within the Turkish national borders. As long as the refugee does not make an application for asylum him/herself to the official authorities, he/she is treated as an illegal migrant, called fugitive (*kaçak*) in the local language, and jailed in the MOI’s so-called foreigners’ guesthouses (*misafirhaneler*)<sup>5</sup> until decision for refoulement is approved. “Guesthouses” are access-prohibited miserable halls or buildings where *kaçak* migrants are barred from freedom of movement, access to information, and right to appeal. According to the data of the 2008 UNHCR Report, 65,000 *kaçak* migrants were arrested for being a priori subject to national security considerations in regard to illegal passage of the national borders.

Unlike the refugees escaping from neighboring countries such as Iran, Iraq and Syria, the African refugees are usually victims of human smugglers who leave them stranded at anonymous places along the Bosphorus instead of bringing them to Greece or Italy (N.N. 2008). The African refugees – especially the women and accompanying children – guided by smugglers’ partners in Istanbul, undergo the second procedure and apply for asylum themselves as the only safe option to reaching the final destination. The refugees who apply for asylum themselves undergo a parallel asylum procedure for “asylum seeker under tem-

<sup>5</sup> Recently the name of these detention centers has been changed and adopted to the EU conditionalities in regard to the asylum policy and fight against illegal migration. The new name of the foreigners guesthouses is *geri gönderim merkezleri*, which literally means “repatriation centers”.

porary protection regime”, where the UNHCR’s recommendation for asylum and refugee status is subject to final approval by the Ministry of the Interior. The Ministry of the Interior is the administrative body that decides whether an asylum applicant deserves access to the asylum procedure or not.

According to Article 12 of the 1994 Regulations, the asylum applicant follows a rather EU-adjusted securitization procedure which involves:

- purge of the so called “fake refugees”, “terrorists, trouble makers, suspicious subjects, agents and saboteurs”,
- identity, crime, Automatic Finger Identification Systems (AFIS) and disease determination check,
- physical hygiene.

This rather discriminatory procedure follows with categorization of the refugees as dangerous-safe, reliable-suspicious, worthwhile-harmful, etc. and compulsory dispatch to the relevant satellite cities. According to the 2006 Directive, except for some particular cases related to family reunification or health problems, the refugee has no other choice but to settle in the designated satellite city. Satellite cities are sites where refugees live under regular surveillance and inspection by the local Foreigners Department of the Ministry of the Interior. The refugees do not have the right to leave the city without official permission from the Foreigners Department. While refugees are not allowed to work, they do have the right to attend public schools, use health services, and benefit from the humanitarian assistance provided by the local municipality funds or charitable associations. As a provision for these rights, the refugee has to pay a regular residence fee (twice a year) as required by the Law for Foreigners (*5683 sayılı Yabancıların Türkiyede İkamet ve Seyahatleri Hakkında Kanun*). In order to be issued an official refugee identity card, refugees have to pay a residence (*ikamet*) fee that amounts to two annual minimum wages in the country. No civil or official assistance is foreseen for unaccompanied, crowded or deprived refugee families that are unable to come up with this high amount unless a right to work is provided.<sup>6</sup> In March 2010 the Ministry of the Interior issued a new circular on the residence fees for Asylum Applicants, Asylum Seekers and Refugees in Turkey. This circular aims at harmonizing the practices in the different satellite cities and leaves the “residence fee exemption” decision to the individual evaluation of the police officers at the local Foreigners Departments. The police officers define which asylum seeker is “poor enough” to be exempt from the residence fee, as well as which applicant for exemption is reliable.<sup>7</sup> As such this provisional circular does not suggest any change in the ongoing practice.

<sup>6</sup> The yearly amount per family consisting of a single woman and 6 children reaches 3,200 USD. This is an amount that many local employees would not be able to raise within one year. The paid fees are written and signed in the residence documents of the refugees.

<sup>7</sup> See the circular at: [http://www.icisleri.gov.tr/default.icisleri\\_2.aspx?id=4537](http://www.icisleri.gov.tr/default.icisleri_2.aspx?id=4537).

In accordance with Law 4817 Right of Employment for Foreigners (*4817 sayılı Yabancıların Çalışma İzinleri Hakkında Kanun*) (Aybay 2007: 157–160), the refugees in Konya are foreseen to follow the same procedure required of foreign investors and migrant workers. This involves permission from the Ministry of Employment and Social Security (*Çalışma ve Sosyal Güvenlik Bakanlığı*), evidence of special skills and attributes, private application by the employer, an additional fee for the work permit, and giving priority to the local unemployed. Considering the fact that most of the African refugees cannot pay the basic residence fee because they lack any source of financial assistance, we can easily infer that this work permit procedure does nothing to accommodate the African refugees. Similarly, the high unemployment rate in the country and the common tendency to exploit irregular migrants in the extensive black market of the country, constitute fundamental obstacles in the operation of this system. And finally, it is important to underline that at no point during the administrative investigation are refugees ever asked about their employment skills or expectations.<sup>8</sup> In January 2010 some articles of the Implementation Regulation of the Law for Work Permits of the Foreigners have been changed. The changes pretend to provide free employment opportunities to the asylum seekers and refugees. However, the changed articles include free work permits only for asylum seekers and refugees and leave asylum applicants out.<sup>9</sup> This is an important detail because most of the asylum seekers in Turkey are registered as asylum applicants. There are a very small number of asylum seekers that do not fall under the delimitation of the geographical restrictions placed by the 1967 Protocol. Thus this provision does not change the practice either. So, from the very beginning any chances for self-reliance are administratively prevented.<sup>10</sup>

Without having any chance for self-reliance, the refugees are attributed the status of compatriot (*hemşehri*) established under Law 5393 for Local Administration and Municipalities (*5393 sayılı Yerel Yönetimler ve Belediyeler Kanunu*), which allows refugees to seek humanitarian assistance from local NGOs, charity associations, and charitable citizens.<sup>11</sup> Under this regulation the refugee integration

<sup>8</sup> The 2006 Implementation Regulation and the information flyers do not include questions about employment skills or history.

<sup>9</sup> Regarding the changes, see: 27469 sayılı Resmi Gazete, 21 Ocak 2010 tarihli Yabancıların Çalışma İzinleri Hakkında Kanunun Uygulama Yönetmeliği'ne ilişkin Değişiklikler.

<sup>10</sup> A refugee woman from Ivory Coast complained that as a hair dresser she would probably find illegal work in metropolitan cities such as Istanbul more readily than in such conservative, male-dominated and exclusive cities as Konya (interview carried out by the author, Konya, 02. 09. 2008).

<sup>11</sup> The refugee assistance brochures prepared by the Foreigners Directorate and Ministry of the Interior advises refugees to resort to the charity organizations, NGOs and municipality funds for humanitarian assistance. See Ministry of Internal Affairs, General Directorate of Security, 2007.



policy becomes disconnected in respect of universal refugee rights and human dignity. It is initially left to the willingness and goodwill of the humanitarian associations, which in the case of Konya are represented primarily by Islamic charity organizations such as Ribat Education Foundation (*Ribat Eğitim Vakfı*), Ravza Education Foundation (*Ravza Eğitim Vakfı*), Dost-Eli Association (*Dost-Eli Derneği*), The Human Right and Freedoms Humanitarian Aid Foundation (*İnsani Hak ve Hürriyetleri İnsani Yardım Vakfı*, IHH), etc<sup>12</sup>. In addition, this integration paradigm appears to be designed to remind the temporary status of the refugees.

All of these restrictive regulations tend to construct the refugee as a beggar, subject to the locals' mercy, and to make their destiny dependent on the personal attributes and tolerance of the local bureaucrats involved in the social services. Obviously not at all dignified, all of these official practices construct the refugee within the framework of the security and poverty discourses. Thus these practices suppress the rights-based active agency of the refugees and turn them into passive consumers and, lately, ungrateful beggars incapable of self-reliance and human dignity.

Caught within this externalizing, discriminatory and humiliating framework, the African refugees are not only deprived of any chance to prove themselves as "reliable and socially productive" people, but also forced to violate the legal system and trespass into the illegal space. In the simplest case, refugees who cannot pay their regular residence fees are punished with additional fines and the termination of the asylum procedure or the discontinuation of health services. Because of the registration fees and the related fines, many refugees are not able to finalize their resettlement. In 2008 out of the 162 African refugees accepted for resettlement, only 74 had the chance to depart from the country (UNHCR 2008).

Within this system, refugees who seek self-reliance thus attempt to work illegally and risk being expelled or falling under social and physical exploitation. And finally even with the intention to work, a refugee attempting to leave the satellite city illegally risks being apprehended as a *kaçak* migrant or becoming the victim of human trafficking. Article 19-22 of the Law on Residence and Travel of Foreigners (*5683 sayılı Yabancıların İkamet ve Seyahatleri Hakkında Kanun*) put forward a very broad definition of violation of the Law<sup>13</sup> summarized in general as "(...) violation of the political and administrative requirements (...)" In general all refugees are a priori subject to the public order and national security protection

<sup>12</sup> For *İnsani Hak ve Hürriyetleri İnsani Yardım Vakfı*, see [www.ihh.org.tr](http://www.ihh.org.tr); *Ravza Eğitim Vakfı* (Konya), see [www.ravzavakfi.org](http://www.ravzavakfi.org); *Ribat Eğitim Vakfı*, see <http://www.ribat.org.tr/> and <http://www.ribatasevi.com/>; *Dost-Eli Derneği*, see <http://www.dosteli.org.tr/>.

<sup>13</sup> There is no finalized refugee law in Turkey, the legal framework is constructed by the 2004 National Action Plan followed by provisional regulations and decisions adopted from the Law for Foreigners. The Asylum and Immigration Law (*Göç ve İltica Yasası*) is expected to be enacted by 2011.

clauses. In short, they are expected to obey the law and respect the public order and common peace. This final obligation becomes further assured under the corrective discourses and practices of the humanitarian associations and charitable actors. The asylum orientation leaflet of the Ministry of Internal Affairs, General Directorate of Security, printed in 2007, assigns a significant social role to the humanitarian actors, charity organizations and charitable families.

### *Othertization Through Charity: Building the Refugee “Other”*

Since the introduction of the 2006 Implementation Direction of the “National Action Plan for Implementation of the EU Accession Criteria” in the area of Asylum and Immigration, the local municipalities and NGOs became significant executors of refugee assistance in Turkey. Accordingly, they share a broad area of competences and facilities in regard to the refugees in Konya, too. As was observed during the first refugee arrivals, these societal actors applied immense pressure in establishing better living conditions for the refugees and asylum seekers. They put pressure on the Konya governorship to further its concern for and services to the “African brothers” by using their influence over the local media and municipalities. Under the guidance of the governorship, the charity associations had considerable success in establishing local coordination and division of labor in their work with the refugees. Organized within a Council for Refugee Assistance, these institutions share some common values, definitions, assumptions and approaches in regard to the rights and needs of the African refugees. These similarities make it possible to create a more generalized analysis of the humanitarian aid in the case of Konya.

Besides the international organizations such as Amnesty International (AI) and the UNHCR, there are two types of refugee-concerned NGOs in Turkey in general:

- Rights-based NGOs that provide legal assistance and struggle to enhance refugee rights in the country (Helsinki Citizens Assembly (*Helsinki Yurttaşlar Derneği*)<sup>14</sup>, Refugee Solidarity Association (*Mülteci-Der*)<sup>15</sup>, Şefkat Association (*Şefkat Der*)<sup>16</sup>, etc.).
- Humanitarian associations and foundations with religious missions, so-called charity (*hayır*) associations that aim to redistribute wealth from the upper class to the poorer segments of society, and thus appear as main agents of the poverty discourse in Turkey.

<sup>14</sup> See at: <http://www.hyd.org.tr/>.

<sup>15</sup> See at: <http://www.multeci.org.tr/>.

<sup>16</sup> See at: <http://www.sefkatder.org/>.

The *hayır*-associations are the main agents of humanitarian assistance in Konya. One important characteristic of their approach is their charity-based understanding of the refugee problematic. In contrast to the rights-based NGOs, the charity associations cultivate a refugee definition fundamentally different from the universal human rights perspective. Based on the holy Koran, the definition of the refugee is grounded on the faithful flight (*hicret*) of Mohammed from Mecca to Medina (İbn Kesîr, Tefsiru'l-Kur'âni'l-Azim, I, 542). This definition implies a triumphal escape from the violence and torture of the enemies of Islam ending in holy salvation in the Muslim world. Fleeing the world of ungodliness (*darü'l-harp*) and reaching the world of Islam (*darü'l-İslâm*) is a sacred obligation, while the opposite is self-torture and thus appraised as *haram* and sin until the very day of resurrection. This means that any Muslim has to flee from the land of ungodliness to the land of Islam (İbn Kesîr Tefsîr, I, 542). As introduced so far, the Islamic ethic favors emigration (*hicret*) for the release and purge of the faith (Ustaosmanoğlu 2008). Starting from this point, local interpretations of *hicret* foresee escape from:

- rebellion to obedience and worship;
- the canonically wrong to the legitimate;
- persecution to justice;
- fierceness to godliness;
- spiritual captivity to freedom of the faith.

Caught within these sacredly framed associations, the African refugee as a Muslim who escaped the *darü'l-harp* is expected to obey the justice and law of the Muslims in *darü'l-Islam*, i.e. Konya and Turkey, to show godliness and enjoy full freedom of his faith. Thus refugees are expected to show submission to the Islamic ethic and understanding and to become compliant, faithful, thankful, frugal, and satisfied with what they are given. In practice this normalizing approach situates the refugees in a docile, passive and inoffensive position of inferiority while automatically raising the ones who help, i.e. the humanitarian associations, to a superior position. Accordingly, this hierarchical relation lacks a universal human rights-based perspective and is based on the Islamic understanding of the charity-intention (*hayır-niyet*) correlation. Those who help and provide humanitarian assistance and those who enjoy it are both obliged to consider the consent of God. Those who provide assistance should do so within the limits of their wealth; thus the ones who benefit from it should be able to feel satisfied under the consent of God. This approach opens a social space for categorization of the refugees among opposing categories such as believers – nonbelievers, good Muslims – bad Muslims, obedient – rebellious, greedy – frugal, etc. Applied as such, this is a discriminative approach which itself contradicts the equality principle laid down in the proclamation of universal refugee rights.

Indeed, during an interview regarding the obligations of the refugees, both the local bureaucrats and the *hayır*-functionaries expressed themselves in categories

such as “respect and good adjustment to the local ethic and customs”, cleanliness, and frugality.<sup>17</sup> All these descriptions point at a general perception of the refugees as greedy, dirty, and resistant to socialization. So far, no case of public disobedience or crime caused by a refugee has been reported in Konya; indeed refugees are afraid that any ordinary disagreement or conflict with locals could interrupt their asylum procedures. From this point of view, a refugee is not supposed to have rights, but rather obligations toward the host people and host state. Indeed, almost all of the interviewed functionaries working in the *hayır*-associations had difficulty defining the concept of refugee rights. Instead, they were inclined to express the “basic right of being human”, which ultimately was seen as equivalent to basic human needs such as shelter, food, health, and clothing. Both the refugees and the humanitarian functionaries tended to identify the concept of right with the concept of essential needs, i.e. refugee rights = basic needs. This equation completes the hierarchical relation between the donor and the needy, prevents awareness of and access to refugee rights, and contradicts the major principle of humanitarian assistance defined as a temporary support aimed at a dignified transition to self-reliance of the refugees.

In fact almost all of the functionaries and local bureaucrats confess that this dependency relation with the refugees is no longer manageable since “(...) it is very expensive and unaffordable; moreover, it is subject to the disapproval and complaints of the locals (...)” says one of the bureaucrats, who himself is a former refugee from Iraq. “Somalis are very expensive to care after; they are used to consuming very expensive luxury goods: meat, chicken, sugar, milk, while local people feel satisfied with bread, rice, oil and beans or lentils. How long we can afford all this; Somalis have to begin to rely on themselves”. None of those interviewed had a positive opinion when asked whether refugees are able to live on their own. The reason for that was confessed as lack of work or laziness, as implied: “(...) they are choosy about work, want well-paid and easy jobs (...) There were attempts to engage refugees in income generating activities such as carpet weaving and handcrafts, but it did not attract interest among the refugees (...) the problem is that they do not want to work (...)”.

Contained by this argumentation, the Konya governorship disseminated news that implies self-reliance not as a right, but as an obligation: “The rents of the refugees will not be paid anymore; thus refugees have to learn to rely on themselves”. The motivation behind this statement seems apparent: placing the whole burden on the shoulders of the refugees. It is obviously ridiculous to expect such self-reliance from people who are not legally protected against physical and social exploitation at the workplace. Indeed, working 12 hours a day in an inhu-

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<sup>17</sup> Some women refugees complained of discriminatory practices related to not wearing the headscarf. The refugee from Ivory Coast was denied assistance on the grounds that she does not exercise the required practices (Konya, 4 September 2008).

mane, dangerous and harmful working environment for a monthly salary of 70 US-Dollars (1/4 of the minimum salary) is not only a sign of simple exploitation but also has degrading effects on the refugee workers. Because of that, most of the refugees expressed that there is not a distinctive difference between working in these conditions and begging for assistance. Both are degrading, and while such working kills miserably, begging from the associations is much more manageable, as the refugee says: "If we find food we eat; if not we go to sleep hungry; at the end we are here temporarily".

None of the humanitarian functionaries agreed with the fact that actually their superior and uninformed approach constructed the refugees as subjects of the locals' peace of the soul and salvation. It seems easy and straightforward to blame the disempowered "other": "They do not want to work, and go around and beg for aid; they are lazy and never satisfied. Even when there was enough food for all, they used to fight for eggs, sugar, flour, etc. They do not know how to live together, to share. Local people were right to protest the way they (Somalis, Nurcan Özgür-Baklacoğlu) throw the all lentils, beans and cans in the trash. It is a sin. We gave them blankets, carpets and stoves; they throw them on the street, so how can we persuade the locals to keep making donations (...)". A better solution for these problems also seems agreed between the *hayır*-associations: "(...) the government should build them a camp on the outskirts of the city. It will be safer and more comfortable for them; they are happier amongst themselves, share the same culture, feel more secure, and it is easier to manage just the distribution of the food (...) some Somalis used to collect aid from many associations (...)". There were some functionaries who proceeded equal distribution of the refugees between the local *hayır*-associations as well as shared a more liberal approach to the settlement issue, yet, "(...) in a camp or out, it does not really matter, the state and UNHCR should take care of the humanitarian needs of these people; we hardly get by our local indigents (...) Why doesn't the rich West take them; they have more money (...)".

In fact there seems to be a division between the refugees' preferences in regard to settlement. Some refugees prefer the in-camp, and others, the out-camp setting. Cultural, religious, and social factors obviously play a definitive role in this division. Yet, from a practical perspective, the out-camp setting opens a wider space for self-realization, provides more freedom of movement and has rather positive results for the refugee families. Indeed the refugees who lived separately in apartments by their own choice (they have the right to search for an apartment) show a more critical approach toward the local policies and practices. Contrary to that, the out-camp setting holds particular danger for women and child refugees and also creates a financial burden for the refugees, who have to pay for the local transport in order to receive the monthly assistance packages. Nevertheless, as observed in the case of Kumkapı, a well-known district of Africans in Istanbul, such a safety problem can be avoided through district-based settlement, which opens the

way for solidarity and cooperation between the refugees. Although district-based settlement holds the risk of ghettoization, it provides a safe space for “us” against the side-effects of socialization, i.e. exclusion, abuse and marginalization. Indeed, some residents in the Karatay municipality organized a demonstration against the refugees living in the neighborhood, demanding a “clean, peaceful, and quiet neighborhood”. The arguments behind this slogan emanate from the prejudice that Somali refugees are “very noisy, dirty, and quarrelsome”, a view familiar from the interviews with the functionaries and local bureaucrats as well.

Beside the security problems such as the negative reactions of the local people, and constant financial difficulties, the refugees seem decisively in favor of freedom of movement, for some neighboring cities present better opportunities to find employment. This fact bothers the governorships because the real number of refugees under their responsibility constantly changes thus placing a burden on those cities where more employment opportunities exist. Indeed some satellite cities reduce their aid assistance services to the refugees in order to make them move to other cities. Most of the governorships reduced financial supports on the ground that the UNHCR provides refugees with regular financial aid.<sup>18</sup> This approach is supported among the functionaries of the *hayır*-associations and clearly reflects their approach towards refugees. Moreover, the refugees easily become the subject of anti-western judgments: “(...) The western states select and take the healthy, educated and skilled ones, and leave the others here; are we the backyard of the West, that is a shame for the West, why we and those wronged people should pay for the faults and caprices of the westerners, is it just (...)”. Thus, instead of combating intolerance, promoting respect for refugees, and fostering understanding among the locals, some *hayır*-associations tend to politicize the refugee problematic, which increases frustration among the refugees.

According to the surveys, the refugees – with only two exceptions – see no future for themselves in Konya and shoulder all daily difficulties as temporary problems to be solved on the road to the desired West. At first glance this resolute stance seems to contradict the image of the refugee as passive victim and even to render the local discourse of indolent and clumsy refugees irrelevant. However, the refugees’ perception of Konya as a temporary place and transition point on the way to Europe fits the prevailing perception of the refugee as temporary.

This element of temporality plays a defining role in the mutual abandonment of the rights-based approach. The refugees find it meaningless to question the conditions, rights, quality and quantity of aid they receive. They do not protest their living conditions, take initiative or attempt to participate in the improvement of their livelihood. Indeed, most of the refugees, especially the ones who live in common buildings and fully depend on the aid of the *hayır*-associations, seemed

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<sup>18</sup> According to the UNHCR data, the refugees under the UNHCR’s extended mandate and the asylum seekers are not granted regular financial support.

rather reluctant to voice their problems or inconveniences. They rather preferred to express gratitude and full satisfaction with the aid and the approach of the *hayır*-associations and local people. The refugees went further and demonstrated full accommodation of the need-based and subjectifying approach towards them. Their definition of rights and responsibilities did not differ significantly from that of the *hayır*-associations. Moreover, a tendency toward self-criticism and guilt became apparent during some interviews with refugee women living in the common asylum buildings. None of the refugees expressed a desire to settle in Turkey. Especially those living in the neighborhood show more emancipation and the tendency toward a critical stance. Except one case, all interviewed refugees planned their future in the West (Canada, Europe, U.S.A., Australia, etc.).

Without going into further detail, it would be enough to translate the young refugees' conception of Konya as "a place to break free from", "a prison", "non-European", "conservative, restrictive, insecure place where the hierarchical structure is nurtured through traditional values such as loyalty, goodness, discipline, a place where no space for social justice exists". Especially the women appeared rather critical of the discriminative approach of the *hayır*-associations in regard to their way of dressing and veiling. Indeed a woman from Ivory Coast yelled that the man distributing the monthly aid packages pulled her wig and sent her away after shouting "What is this? Where is your veil?" Beside some authentic cultural differences among the African refugees, there is a close resemblance in the way the women refugees from different corners of Africa wore long skirts and local veils. Another point in need of further investigation is whether the way of settlement has any impact on the adoption of the local type of clothing or whether it is related to the individuals' level of education. The refugee women living in the refugee building seem to preserve their authentic way of dressing, while the ones settled among the local people wear clothes resembling the local style. This issue is important from the aspect of the right to the expression of culture and identity as a condition for preserving self-esteem and a stable sense of belonging. The disciplining and normalizing practices of the *hayır*-associations suppress the basic right to be different, and set up a mechanism of self-correction. For example, during my first visit to their homes some female refugees went and put on their headscarf. The role of the mentioned subjectification practices at the local level become clearer from the refugees' expectations of the "so much desired West". The words of an 18-year-old girl from Ethiopia summarize the preceding explications, as she also brings the refugees' desire for an inclusive, self-reliant, and dignifying approach to the surface:

"Nobody on the street in Canada will try to wipe the color off my arm; I will not walk around under odd gazes, like a spectacle in front of people's eyes. I will never be dependent on such dirty places with leaking roofs just because I am seen as a dirty refugee. I will receive much better education. I will make my money and spend it as I want. I will just disappear within the diversity there, and I will be able to become myself again".

None of the interviewed humanitarian activists or local administrative functionaries were able to address this very basic and very human expectation of the refugees. In spite of their institutional and material capacities, the *hayır*-associations show a relative reluctance for deeper communication with the refugees. For some basic practical reasons, such as time shortage and absence of relevant foreign language skills, the representatives of the *hayır*-associations and the inspectors of the local administrations seem satisfied with the information provided by a few amenable refugees who know English or Turkish. As a result, no real dialogue with the refugees seems to have been established so far. In practice this discriminative approach leads to the inadequate provision of basic needs, a waste of human potential, conflict and division within the refugee community, and it opens the way for corruption, abuse and violence among the refugees. In short, the main problems that promote the durability of the needs-based perspective are related to the absence of a desire to hear the refugees, insufficient information, awkward professionalism, and the absence of a rights-based understanding of the refugee problematic.

Indeed, the *hayır*-associations do not seem interested in refugee rights. Only four high-ranking representatives of *hayır*-associations were present during a refugee rights meeting organized by Amnesty International. Most of the functionaries rarely enter the surroundings or the buildings of the refugees, instead preferring to send the aid via middlemen. On the other hand, neither the UNHCR nor the rights-based NGOs seem to provide sufficient rights-based orientation and education to the *hayır*-associations.

To summarize, while it was expected to bring a more refugee-centered and integration-driven framework, this NGO-based framework instead provided channels for the marginalization and otherization of the refugee within the poverty and morality discourse of some local charity associations. This handicap could be avoided by activating the rights-based NGOs as civil actors who not only monitor administrative policies but also serve as agents for refugee rights. One of the positive results of the Europeanization in the sphere of asylum in Turkey is unquestionably related to EU-initiated “NGO innovation” foreseen in the 2006 Directive. Doubtlessly this provision opens channels for the NGOs’ activities and participation in asylum policies. However, in the case of Turkey, the EU conditionality tends to find conflicting interpretations.

### *Conclusion: Constructing the Refugee at the Borders of the EU*

As exposed so far, the asylum system in Turkey not only prevents refugees from accessing their cultural and social rights, but in the long run obstructs the establishment of a rights-based perspective among the humanitarian agents. It shows a tendency toward an exclusionary mechanism that forces refugees to choose between constant degradation and an indefinite future on the one hand and salvation via the dangerous services of human smugglers, on the other.



Indeed, the most concrete result of these restrictive and punitive practices of the administrative body and the marginalizing approach of the *hayır*-associations is to send a clear signal to potential asylum seekers abroad that Turkey is not the right place to flee or settle in.

To summarize, the current system of securitization and marginalization of refugees not only aggregates an additional social burden and tension among the refugees, but indirectly creates the clients for human trafficking and smuggling in the country. Moreover, this state-aggregated tension among the refugees tends to lead to a situation of societal insecurity in the country. Indeed, similar to Greece (N.N. 2008c), and Italy, Turkey has faced rebellions among the refugees and migrants detained in the guesthouses in Kumkapi (Davenport 2009) and Kırklareli (Mazlum-Der 2008). The only way to end this process of criminalization and deportation of refugees is to open their access to rights for personal autonomy and self-reliance. Providing channels for self-reliance and personal autonomy, supported by a rights-based approach at the local level, could successfully address the rising indirect security problem in the country, and also provide a safe environment for the refugees and the host society. A more dignifying framework based on self-reliance is possible through pressure exerted on the political powers to extend the scope of refugee rights, lift the residence fee, introduce a socially sensitive and legally protected right to work, and set a refugee-empowering program for participatory and accountable humanitarian services. This system should empower the educational and auditing function of the rights-based NGOs, as well as appropriate a more informative approach in transforming refugees into active agents of the refugee rights perspective. Beside refugee-centered NGOs, labor unions and business councils should support such a system as well (Jubani-Baucells 2002).

As implemented so far, the EU *acquis* does not suggest a more rights-based perspective. Since 2003, the Europeanization process has undertaken intensive work on securing the borders and migration-asylum axis through projects and action plans that target illegal migration, terrorism and organized crime, trafficking and smuggling, Europol data security, and the education and training of asylum specialists in various MOI branches. In this way, the Europeanization has institutionalized and legalized the securitization of the migration-asylum nexus in Turkey by building a kind of “Fortress Turkey”: Firstly, by way of strengthening the external borders under pre-entry measures that fight irregular migration, strengthen border security and deterrence policies, and secondly by building internal borders through post-entry measures such as detention, accelerated procedures, repatriation, deportation, and restrictions on mobility, employment, accommodation and social services.

According to the 2008 National Harmonization Program (*İltica ve Göç Alanındaki Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı*), the most important result of asylum harmonization in Turkey is going to be the establishment of expensive high-tech comprehensive border control and migration-

asylum management systems under EU funding. Within the forthcoming 2009–2011 National Harmonization Program, asylum appears under two headings related to the management of asylum through the establishment of a country of origin and asylum data system and the creation of reception, detention and repatriation centers. The EU provisions and directives on minimum standards, repatriation, safe third country, ill-grounded asylum, etc. and the implementation of the first Turkish Asylum Law are postponed until 2011. The foremost provisions related to the EU alignment process are foreseen under the common project of building a country of origin and asylum information system, including reception centers set up in seven regional centers for processing asylum information in Turkey. This system aims to securitize asylum by ensuring close observation and prosecution of refugees who leave or intend to leave the legal space. Without improvements in the social rights of refugees, this system may turn into an obstacle against further attempts for local integration of refugees. Unfortunately, the EU directives on reception, long-term residents and refugee status do not seem to hold in store improved social rights for the refugees. Instead, these directives allow states to restrict the rights of freedom of movement, self-settlement, employment, and equitable public assistance, which in practice are limited to core benefits both in the EU and in Turkey (Özgür-Baklacioğlu 2009).

Similarly, the detention, deportation and settlement conditions in Turkey correspond to the deplorable “warehouses” and deportation centers in Mauritania (Spain), Samos (Greece), Sandholm (Denmark) and Lampedusa (Italy). Deportation still takes place in an accelerated manner and out of sight, based on readmission agreements concluded with neighbouring countries such as Greece, Syria, Bulgaria, Uzbekistan, Lebanon, etc. This process corresponds closely to the way the old and new EU member states use readmission agreements in performing accelerated deportations. The EU-designed strict immigration measures increase the risks of refoulement and obstruct the potential for self-reliance and local integration of the refugees in the new member states, and thus also in Turkey. For example, until recently refugees and asylum seekers had access to out-of-camp or self-settlement in some of the satellite cities in Turkey; in the near future this right will be restricted by the implementation of the EU provisions on “on campus” settlement.

Thus far performed, the EU alignment process has fallen short of bringing a comprehensive rights-based approach to the official asylum policies in Turkey. EU asylum legislation does not promote further access to protection, but leads to the strengthening of the migration-asylum nexus, demonstrates inconsistency in its commitment to international asylum law, and tends to aggregate insecurity and implications in the field of refugee protection in the Aegean and in Turkey as the future southeastern border of the EU (Özgür-Baklacioğlu 2009).

Moreover, based on tight border security and prevention measures, the “Fortress Turkey” project does not seem to prevent people from trespassing the na-

tional borders. In spite of the harsh deterrence policies, the number of irregular migrants and refugees across the Aegean is growing. 60,000 irregular migrants were apprehended in 2005, and the Turkish Armed Forces General Staff (*Genelkurmay Başkanlığı*) statistics show that by the end of 2007 that number had reached 104,574 people (Özgür-Baklacioğlu 2009). So far the implemented security-based detention and deportation policies do not seem to be providing a durable solution to the boat people problem in the Aegean. The restrictions on access to local integration continue to produce “boat people”, who on the other hand continue to defy the modern high-tech border security equipment of “Fortress Europe”.

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