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**RETHINKING TEMPORARY PROTECTION IN TURKEY: LEGALITY,
UNCERTAINTY AND HOMEMAKING IN THE CITY OF GAZIANTEP**

by

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degree of Doctor of Philosophy in Law

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DECLARATION

I declare that this thesis is my original work and that it has never been submitted for publication or for examination in any institution of higher learning.

ABSTRACT

The pervasiveness of prolonged displacement in the contemporary era reveals that the international refugee regime and its durable solutions do not provide meaningful opportunities for addressing displacement, while the temporality of refugee protection is increasingly the norm. In the global shift towards re-temporalisation, ‘temporary protection’ has been developed as one possible contemporary ‘solution’ for handling large-scale displacements. This thesis engages critically with the category of temporary protection under the Turkish model, by combining different levels of analysis: (i) the exploration of the development of temporary protection in the international refugee regime; (ii) its (re)construction in the Turkish national context for Syrian refugees since 2011; and, (iii) its dynamics in practice in the city of Gaziantep—which has become one of the important sites of refuge for Syrian refugees, and a hub for humanitarian interventions. The thesis also explores the roles of different actors (state, humanitarian sector, refugees) in shaping the practice of temporary protection in Turkey. The research utilises documentary and archival material (soft-law instruments on temporary protection and Turkish domestic laws), legal analysis, and qualitative empirical data, conducted with semi-structured interviews and participant observations among international organisations, international, national and Syrian NGOs, and Syrian refugees. The conceptual framework is shaped by adopting a bottom-up approach, and considers the interplay between legality, uncertainty, and homemaking as central in unpacking the temporary protection category. The thesis argues that the temporary protection category functions as a refugee-management tool, speaking to state interests in deterring refugees’ attempts to remake their lives in the place of refuge, through the insecurities of legality and tempo-spatial uncertainties. Focusing on refugee agency provides us with a new and important dimension for considering the temporary protection conundrum, by paying attention to refugees’ aspirations and strategies of homemaking. It is concluded that only through a holistic understanding of the many dimensions of temporary protection, and its impacts on the refugee, that a truly workable framework will emerge, that focuses on *protection* rather than *temporality*.

LIST OF ABBREVIATIONS

3RP	Regional Refugee and Response Plan
AFAD	Disaster and Emergency Management Authority
AKP	Justice and Development Party
CHP	Republican People's Party
CRRF	Comprehensive Refugee Response Framework
DGMM	Directorate General of Migration Management
ECHO	European Civil Protection and Humanitarian Aid Operations
ESSN	Emergency and Safety Social Net
GCR	Global Compact on Refugees
IDP	Internally displaced people
LFIP	Law on Foreigners and International Protection
LNHCR	League of Nations High Commissioner for Refugees
MONE	Ministry of National Education
NGO/INGO	Non-Governmental Organisation/International Non-Governmental Organisation
NPAA	National Programme for the Adoption of the Acquis
OAU	Organisation of the African Union
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OECD	Organisation for Economic Cooperation and Development
RRP	Regional Response Plan
RSD	Refugee status determination
TEC	Temporary Education Centre
TPID	Temporary protection identification document
TPR	Temporary Protection Regulation
TPSAs	Temporary Protection or Stay Arrangements
TRC	Turkish Red Crescent
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Programme

INTRODUCTION

The Syrian displacement started in Spring 2011, following the uprising and unrest in the country.¹ The worsening situation turned into an (un)civil war among different groups in Syria, including the Syrian army, various armed groups, and foreign military actors.² The war has so far resulted in hundreds of thousands of civilian deaths, and the forced displacement of more than half of the Syrian population.³ By 2019, over six and half million people had left the country, and over six million people had been displaced within Syria⁴—this conflict has occupied the international agenda as the ‘largest humanitarian emergency crisis in the world’.⁵ The forced displacement of Syrians caused an ‘alarm’ in high politics.⁶ Despite the reiterated calls for the safety and security of refugees in the host communities of Turkey, Jordan, Lebanon, Iraq and Egypt,⁷ where the overwhelming majority of refugees are living, Syrian displacement has already entered into its eight year; conditions of Syrian refugees remain extremely challenging.⁸ While it can sometimes appear otherwise, Hyndman and Giles rightly remind us that the Syrian refugee crisis ‘is not a new crisis’; displaced Syrians join the majority of forced migrants in the contemporary world, who are living in ‘extended exile’.⁹

Large-scale movement of refugees is not a new phenomenon that only became ‘alarming’ with the Syrian displacement. Rather, ‘large-scale influxes have been

¹ UNHCR, ‘Syria Regional Response Plan (RRP1)’ (March 2012) 7

² For a detailed analysis of the outbreak of Syrian conflict see: Gilbert Achcar, *The People Want: A Radical Exploration of the Arab Uprisings* (Saqi Books 2013)

³ In 2016 the then UN Special Envoy for Syria Staffan de Mistura stated that total number of people died in Syrian war was around 400,000. However, since the UN no longer keeps statistics due to conflicting statistics provided by different institutions, and the inaccessibility of many areas, this reflects UN Special Envoy for Syria Staffan de Mistura’s own estimates: ‘Syria Death Toll: UN Envoy Estimates 400,000 Killed’ (23.04.2016) *Al Jazeera* <https://www.aljazeera.com/news/2016/04/staffan-de-mistura-400000-killed-syria-civil-war-160423055735629.html> accessed (06.06.2019)

⁴ UNHCR ‘Global Trends: Forced Displacement in 2018’ (2019) <https://www.unhcr.org/uk/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html> accessed (06.07.2019) 6

⁵ UNSC ‘Statement by the President of the Security Council’ (24.04.2015) S/PRST/2015/10

⁶ *ibid*

⁷ *ibid*

⁸ ‘Regional Refugee and Resilience Plan: Regional Strategic Overview 2019/2020’, 6

⁹ J Hyndman and W Giles, *Refugees in Extended Exile: Living on the Edge* (Routledge 2017) xiii

the rule rather than the exception’ in the history of refugee movements.¹⁰ Nevertheless, we continue to label each mass displacement as a ‘crisis’—an exceptional situation that calls for an exceptional response.¹¹ This thesis explores one such response, which developed or ‘hovered at the edges of refugee law’¹²—namely, temporary protection—in the context of its latest and most comprehensive application, in Turkey since 2011 for more than 3.5 million Syrian refugees.¹³

In the international refugee regime, temporary protection has been formulated as a ‘useful mechanism’¹⁴ and ‘pragmatic tool’¹⁵ to address gaps in the protection of refugees in situations of large-scale movements. On the one hand, large-scale displacements arguably challenge the international legal regime of refugee protection in a number of ways. The international legal regime—which is mainly shaped by key international instruments of the Convention Relating to the Status of Refugees of 1951 (Refugee Convention) and the Protocol Relating to the Status of Refugees of 1967 (Refugee Protocol)—works on providing protection to refugees on an individual basis. In the Refugee Convention/Protocol, the term ‘refugee’ is defined as a person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹⁶

¹⁰ JF Durieux and A Hurwitz, ‘How Many Is Too Many: African and European Legal Responses to Mass Influxes of Refugees’, (2004) 47 *German Year Book of International Law* 105, 105

¹¹ C Dauvergne, ‘Refugee Law as Perpetual Crisis’ in Satvinder Singh Juss and Colin Harvey (eds), *Contemporary Issues in Refugee Law* (Edward Elgar Publishing 2013) 19

¹² J Fitzpatrick, ‘Temporary Protection of Refugees: Elements of a Formalized Regime’ (2000) 94 *American Journal of International Law* 279, 305

¹³ ‘Regional Refugee and Resilience Plan: Turkey 2019/2020’, 5

¹⁴ N Yakoob, ‘Report on the Workshop on Temporary Protection: Comparative Policies and Practices’ (1999) 13 *Georgetown Immigration Law Journal* 617, 632

¹⁵ UNHCR, *Guidelines on Temporary Protection and Stay Arrangements*, (2014), para 3

¹⁶ Convention Relating to the Status of Refugees (adopted 28.07.1951, entered into force 22.04.1954) 189 UNTS 137 (Refugee Convention), Article 1 (A) (2)

Fitzpatrick underlines that when refugees are displaced in small numbers or as individuals, then, to an extent, the ‘individuated system of protection may be robust and effective’.¹⁷ The Refugee Convention/Protocol provides important safeguards for refugees, such as protection against being sent back to a place where they would face threats to life or freedom—known as the norm of *non-refoulement*—¹⁸and outlines the rights and responsibilities of both state parties and refugees. Fitzpatrick argues that the economic and social rights in particular, serve a ‘dual purpose’—that is, providing ‘a life of minimal dignity’ during the exile, and facilitating the ties between refugee and the host country to ease a refugee’s future naturalisation.¹⁹ In this regard, Hathaway goes further, describing the protection of Refugee Convention/Protocol as an ‘assimilative path’ to naturalisation, by an ‘expanding array of rights’ as time passes.²⁰ Similarly, Durieux and Hurwitz interpret the logic of Refugee Convention/Protocol as meant ‘to provide refugees with rights and obligations as close as possible to that available to citizens of the host State, with naturalisation as a recommended outcome’.²¹

The legal basis of the Refugee Convention/Protocol’s applicability during large-scale refugee movements has raised questions: whether the individual basis of the refugee definition can be applied when large-numbers of refugees are displaced?²² Whether derogation would be possible in cases of large-scale refugee movements?²³ Whether the grounds of persecution would cover all potential

¹⁷ Fitzpatrick (n 12) 289

¹⁸ Refugee Convention, Article 33

¹⁹ J Fitzpatrick, ‘Revitalizing the 1951 Refugee Convention’ (1996) 9 *Harvard Human Rights Journal* 229, 250. The Refugee Convention’s Article 34 mentions naturalisation as a pathway for termination of refugee status: ‘The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.’: Refugee Convention, Article 34

²⁰ JC Hathaway, *The Rights of Refugees under International Law* (CUP 2005) 156

²¹ Durieux and Hurwitz (n10) 111

²² A Zimmerman (ed), *The 1951 Convention relating to the Status of Refugees and its 1967 Protocol: A Commentary* (OUP 2011); GS Goodwin-Gill and J McAdam, *The Refugee in International Law* (3rd edn, OUP 2007); Hathaway (n 20), IC Jackson, *The Refugee Concept in Group Situations* (Martinus Nijhoff Publications 1999)

²³ E Lauterpacht and D Bethlehem, ‘The Scope and Content of the Principle of non-refoulement: Opinion’, in Erika Feller, Volker Türk and Frances Nicholson, *Refugee Protection in International Law - UNHCR’s Global Consultations on International Protection* (CUP 2003); JF Durieux, ‘Temporary Protection: Hovering at the Edges of Refugee Law in M Ambrus and RA Wessel (eds) *Netherlands Yearbook of International Law 2014: Between Pragmatism and Predictability: Temporariness in International Law* (Asser Press 2015); Ulrike Davy, ‘Article 9 (Provisional Measures/Mesures Provisoire)’ in A Zimmerman (ed), *The 1951 Convention relating to the Status of Refugees and its 1967 Protocol: A Commentary* (OUP 2011); A Edwards, ‘Temporary Protection,

sources of displacement (as in the case of war refugees who are facing indiscriminate violence rather than being target of individual persecution),²⁴ and whether the Refugee Convention/Protocol's standards of treatment can be applicable for large numbers of refugees?²⁵ Moreover, despite the fairly wide ratification of the Refugee Convention/Protocol by 148 states, the legal principles and standards of response to large-scale refugee movements have been a concern in some regions—such as Southeast Asia and the Middle East—where the majority of states are not party to the Refugee Convention/Protocol, or are party to the Refugee Convention/Protocol but have weak implementation.²⁶

More importantly though, the international response to large-scale displacements are shaped within the geopolitics of refugee protection. Durieux underscores the importance of the complex interplay between the 'two sides' of the international refugee regime—namely, the international protection of refugees and durable solutions.²⁷ In this sense, the protection of refugees is inherently a temporary process. As refugees are considered an anomaly or abnormality to the citizen-nation-state relationship, their situation needs to be 'normalised' through their reincorporation into the state system.²⁸ The UN High Commissioner for Refugees (UNHCR) has undertaken the task of finding 'permanent solutions for the problem of refugees'.²⁹ The traditional model of durable solutions aims at the 'reattachment [of refugees] to a state' through repatriation to the country of origin, resettlement in a third country or, local integration/naturalisation in the host country.³⁰

Derogation and the 1951 Refugee Convention' (2012) 13 Melbourne Journal of International Law 595

²⁴ Yakoob (n 14); GS Goodwin-Gill, 'Non-Refoulement, Temporary Refuge, and the 'New' Asylum Seekers' in DJ Cantor and JF Durieux (eds), *Refuge from Inhumanity?: War Refugees and International Humanitarian Law* (Brill Nijhoff 2014)

²⁵ The Preamble of Refugee Convention mentions that 'the grant of asylum may place unduly heavy burdens on certain countries' and it underlines that 'the United Nations has recognised the international scope and nature cannot therefore be achieved without international co-operation': Refugee Convention, Preamble

²⁶ Durieux (n 23) 225; For discussion of applicability of customary law for admission of refugees protection against *refoulement* see: JF Hartman and D Perluss, 'Temporary Refuge: Emergence of a Customary Law' (1986) 26 Virginia Journal of International Law 551

²⁷ Durieux and Hurwitz (n10) 132

²⁸ E Haddad, *The Refugee in International Society: Between Sovereigns* (CUP 2008) 60

²⁹ Statute of the Office of the United Nations High Commissioner for Refugees (adopted 14.12.1950) UNGA Res 428 (V), para 1

³⁰ Edwards (n 23) 612

The failure of the durable solutions framework manifests itself whenever refugees are displaced in large numbers. A protracted refugee situation, defined by the UNHCR, is ‘one in which 25,000 or more refugees from the same nationality have been in exile for five years or more in a given asylum country’³¹, and has become prevalent in the contemporary international system. While traditional asylum countries of the Global North attempt to keep refugees away from their borders, the majority of world refugees in the Global South are unlikely to benefit from durable solutions.³² The last decade witnessed the lowest rates of repatriation, amounting to less than five per cent of refugees worldwide.³³ While the UNHCR continues to increase the appeals to states for resettlement quotas, resettlement is only realised for a very few refugees.³⁴ Local integration can be regarded as ‘hardly ever a political possibility’³⁵, as most of the states in the Global South are uninterested in offering permanent protection or settlement for refugees and, increasingly the Global North is less willing too.³⁶

With the failure of durable solutions, the temporality of refugee protection has been re-invigorated in the international refugee regime.³⁷ Stevens, Kneebone and Baldassar underscore the importance of the ‘shifting attitudes’ towards the preference for temporary protection in leading to ‘new identity constructions’ for displaced people.³⁸ Voutira and Doná call this global shift a ‘re-temporalisation’, and trace it in various contexts: proposed models of safe havens, the prevalence of camp-based settings, increased refugee detention as part of migration management technologies, and the introduction of temporary protection in various domestic legislations.³⁹ In the global shift towards re-temporalisation, ‘temporary protection’

³¹ UNHCR, ‘Global Trends’ (2014) <http://unhcr.org/556725e69.html>, accessed (02.04.2016), 11

³² Hyndman and Giles (n 9) xiii-xiv

³³ UNHCR, ‘Global Trends: Forced Displacement in 2018’ (2019) <https://www.unhcr.org/uk/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html> accessed (06.07.2019), 29

³⁴ *ibid* 30

³⁵ C Brun and AH Fábos, ‘Mobilizing Home for Long-Term Displacement: A Critical Reflection on the Durable Solutions’ (2017) *Journal of Human Rights Practice* 177, 178

³⁶ Hyndman and Giles (n 9)

³⁷ Durieux (n 23) 225-226

³⁸ D Stevens, S Kneebone and L Baldassar, *Refugee Protection and the Role of Law Conflicting Identities* (Routledge 2014) 282

³⁹ E Voutira and G Doná, ‘Refugee Research Methodologies: Consolidation and Transformation of a Field’ (2007) *Journal of Refugee Studies* 20 (2) 163

has been developed as one possible contemporary ‘solution’ for handling large-scale displacements.

The conceptualisation of temporary protection dates back to the end of the 1970s, when the first mention of the terms ‘temporary asylum’⁴⁰ and ‘temporary refuge’⁴¹ appeared in official documents. Since then, the international community has discussed the concept on several occasions, while the UNHCR played a significant role in its promotion. It was promoted and implemented in various refugee situations and different regions—for example, the Indo-Chinese displacement in the 1970s/1980s in Southeast Asia, the Yugoslavian refugee displacement in Europe the 1990s, and Iraqi,⁴² Lebanese,⁴³ Libyan,⁴⁴ and Syrian⁴⁵ displacements in the 21st century in the Middle East. Although there is no agreed definition of temporary protection at the international level,⁴⁶ the framework is formulated as a practical response, providing lesser standards of protection than the Refugee Convention/Protocol to large numbers of refugees, without recourse to individual refugee status determination (RSD) awaiting repatriation.⁴⁷

At a time when the Syrian displacement revived discussions on the effectiveness of international responses to refugee situations,⁴⁸ the Turkish model of temporary protection is significant in its reconceptualisation. Since the beginning of the Syrian displacement, Turkey became the leading refugee hosting country, and a major site for crisis response.⁴⁹ Turkey is party to both the Refugee Convention and Refugee

⁴⁰ UNHCR EXCOM Conclusion No 5 ‘Asylum’ (1977)

⁴¹ UNHCR EXCOM Conclusion No 15 ‘Refugees Without an Asylum Country’ (1979)

⁴² UNHCR ‘Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers (3.10.2005), para 22

⁴³ UNHCR ‘Considerations on the Protection Needs of Persons Displaced Due to the Conflict in Lebanon and on Potential Responses’ (03.08.2006), para 5

⁴⁴ UNHCR ‘Protection Considerations with Regard to People Fleeing from Libya’ (25.02.2011), para 2

⁴⁵ UNHCR ‘Note on International Protection’ (2012) EC/63/SC/CRP.11, para 4

⁴⁶ UNHCR ‘Roundtable on Temporary Protection: Summary Conclusions on Temporary Protection’ (2012), para 1

⁴⁷ UNHCR ‘Note on International Protection’ (1994) UN Doc A/AC.96/830, para 45

⁴⁸ The most important outcome of the UN-led reforms was the New York Declaration in 2016: ‘The New York Declaration for Refugees and Migrants’ UNGA Resolution No 71 (1) (2016) For some crucial scholarly opinions see: <https://www.opendemocracy.net/en/tagged/the-future-of-refugee-protection/>

⁴⁹ UNHCR, ‘Global Trends: Forced Displacement in 2018’ (2019) <https://www.unhcr.org/uk/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html> accessed (06.07.2019), 18

Protocol, yet it maintains the geographical limitation in their application⁵⁰—that is, Turkey’s obligations in regard to the Convention are only confined to refugees who are fleeing European states. From the beginning of the Syrian displacement, Turkey implemented temporary protection for Syrian refugees, which the UNHCR has ascertained to be in line with international guidelines on temporary protection.⁵¹

This thesis examines the construction and practice of temporary protection in Turkey, examining the following main research questions: what is the significance of the category of temporary protection for refugee protection? How is this category conceived, interpreted, and shaped in Turkey in practice by different actors (state, humanitarian organisations, and refugees)? And, with what consequences? A broader aim of the thesis is to introduce a holistic understanding of temporary protection. Most of the literature on temporary protection can be categorised as advancing top-down approaches in formulating, testing, or criticising the approach of temporary protection as a response to large-scale refugee situations. The top-down approach can be understood as a ‘state-centered perspective’,⁵² focusing ‘primarily on structural and organisational aspects’,⁵³ and largely excluding the agency of individuals.⁵⁴ In this regard, the possible legal basis of temporary protection in international refugee law, its relationship with the Refugee Convention/Protocol, its standards of protection, and the standards for its termination have been debated within academic and policy circles.⁵⁵ Importantly,

⁵⁰ UNTC, Status of Treaties https://treaties.un.org/Pages/ViewDetailsII.aspx?src=INDandmtdsg_no=V-2andchapter=5andTemp=mtdsg2andclang=en#EndDec accessed (20.11.2016)

⁵¹ UNHCR ‘Syria Regional Response Plan (RRP2)’ (June 2012), 70; UNHCR ‘Syria Regional Response Plan: Turkey’ (RRP6) (December 2013) 10 ‘Regional Refugee and Resilience Plan 2017-2018: Turkey’, 4

⁵² Voutira and Doná (n 39) 166

⁵³ M Korac, ‘The Lack of Integration Policy and Experiences of Settlement: A Case Study of Refugees in Rome’ (2003) 16 (4) *Journal of Refugee Studies* 398, 398

⁵⁴ D Stevens and A Dimitriadi, ‘Crossing the Eastern Mediterranean Sea in Search of “Protection”’ (2019) 17 (3) *Journal of Immigrant and Refugee Studies* 261, 274

⁵⁵ For some prominent examples: GJL Coles, ‘Temporary Refuge and the Large Scale Influx of Refugees’ (1978-1980) 8 *Australian Year Book of International Law* 189; Hartman and Perluss, (n 26) M Kjaerum, ‘Opinion: Temporary Protection in Europe in the 1990s’ (1994) 6 (3) *International Journal of Refugee Law* 444; MJ Gibney, ‘Between Control and Humanitarianism: Temporary Protection in Contemporary Europe’ (2000) 14 *Georgetown Immigration Law Journal* 689; F Crépeau and L Holland, ‘Temporary Protection, Continuing Insecurity: A Regime Replacing Convention Protection of Refugees in Violations of International Law’ (1997) 12 *Canadian Journal of Law and Society* 239; D Joly, ‘Temporary Protection within the framework of a new European asylum regime’, (1998) 2 (3) *The International Journal of Human Rights* 49; Fitzpatrick (n 12); *American Journal of International Law* 279; Edwards (n 23); Durieux (n 23).

they have not, until recently, considered the agency of displaced people who live under temporary protection frameworks—their perspectives, struggles, strategies, hopes, and interests. Moreover, various top-down theoretical models of temporary protection have been proposed to provide a solution to the apparent crisis of the international refugee regime.⁵⁶

The empirical works which adopted a bottom-up approach—one that takes refugees as social actors and focuses on their agency with a refugee-centric perspectives⁵⁷—have provided valuable insights on refugee agency under temporality in Turkey's temporary protection model.⁵⁸ Yet, they have not adequately focused on the formulation and conceptualisation of the temporary protection status in the international refugee regime. The aim here is to address this research gap by focusing on the links between different levels of analysis—development of temporary protection in the international refugee regime, its (re)construction in the Turkish context for Syrian refugees, and its local dynamics in practice.

In doing so, it considers the roles and perspectives of international and state actors, Syrian refugees themselves, and humanitarian actors. In other words, this study not only presents a multi-level analysis of the development and practice of temporary protection (international, national, and local) but also brings together the perspectives of different actors. It provides an in-depth analysis of (i) state perspective; (ii) refugee perspectives; and (iii) perspectives of humanitarian organisations as main actors of the (re)construction of temporary protection and its practice in Turkey.

⁵⁶ JC Hathaway and RA Neve, 'Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection' (1997) 10 *Harvard Human Rights Journal* 115; SM Akram and T Rempel, 'Temporary Protection as an Instrument for Implementing the Right of Return for Palestinian Refugees' (2004) 22 (1) *Boston University International Law Journal* 1; JF Durieux and J McAdam, 'Non-Refoulement through Time: The Case for a Derogation Clause to the Refugee Convention in Mass Influx Emergencies' (2004) 16 *International Journal of Refugee Law* 4; Meltem Ineli-Ciger, *Temporary Protection in Law and Practice* (Brill Nijhoff 2018)

⁵⁷ Voutira and Doná (n 39) 166

⁵⁸ For some prominent works dealing with temporality: F Baban, S Ilcan and K Rygiel, 'Syrian refugees in Turkey: Pathways to Precarity, Differential Inclusion, and Negotiated Citizenship Rights' (2017) 43(1) *Journal of Ethnic and Migration Studies* 41; Ö Biner and C Soykan, 'Suriyeli Mültecilerin Perspektifinden Türkiye'de Yaşam', (2016) *Mülteci-Der* 2016; AÇ Deniz, Y Ekinci and A Banu Hülür, '*Bizim Müstakbel Hep Harap Oldu*': *Suriyeli Mültecilerin Gündelik Hayatı Antep-Kilis Çevresi* (İstanbul Bilgi Üniversitesi Yayınları 2016)

Secondly, through the case study of Turkey, this study aims to reconsider the close link between the emergency/short-term/temporary responses to refugee ‘crises’ during large-scale displacements and protracted refugee situations—a subject that gains increasing attention in forced migration literature.⁵⁹ In this regard, it seeks to contribute to existing literature through the examination of the complex relationship between the temporality of protection, standards of protection, and access to durable solutions—or lack thereof—to reveal the significance of *time* aspect in the context of refugee protection.

Thirdly, in examining the dynamics of temporary protection in practice, this thesis adopts a bottom-up approach for understanding how Syrian refugees and humanitarian workers on the ground interpret and shape temporary protection, how they conceive protracted temporality, and what are their solutions for displacement. In this regard, we aim to rethink the traditional top-down durable solutions frameworks, through considerations of (i) how Syrian refugees as social actors consider their own solutions, struggle to rebuild their lives under temporary protection, and invest in their own future (ii) how humanitarian actors shape the practice of temporary protection through their humanitarian interventions on the ground.

The temporary protection category in Turkey is explored in practice in the province of Gaziantep. Gaziantep represents an explorative case study in many respects. The city is located at the Turkish-Syrian border, and hence, due to its proximity to Syria, it became a major place of refuge for displaced Syrians since the beginning of the Syrian conflict. The number of Syrian refugees residing in Gaziantep is around half a million as of 2019.⁶⁰ As a result of the rising numbers of Syrian refugees in the city and its strategic position at the border, it also became a major hub for many international, national, and Syrian humanitarian organisations. The protection activities in the city include both reception of arrivals—commonly referred to as ‘emergency response’—and relatively long-term protection policies. At the

⁵⁹ K Long, ‘Permanent Crisis? Unlocking the Protracted Displacement of Refugees and Internally Displaced People’ (2011) Refugee Studies Centre <https://www.rsc.ox.ac.uk/files/files-1/pb-unlocking-protracted-displacement-2011.pdf> accessed (07.07.2019); R Zetter ‘Unlocking the Protracted Displacement of Refugees and Internally Displaced Persons: An Overview’ (2011) 30 (4) Refugee Survey Quarterly 1; Hyndman and Giles (n 9).

⁶⁰ Republic of Turkey Directorate of General Migration Management (DGMM), ‘Statistics’ <https://en.goc.gov.tr/temporary-protection27>, (accessed 02.09.2019)

beginning of the conflict, state actors, refugees, and humanitarian actors all regarded the city as a place of truly temporary refuge. Yet, as the Syrian displacement became protracted, the interpretation and construction of ‘temporary protection’ by different actors has changed vastly, thus providing us with a significant opportunity to question ‘temporality’ and the aspect of time in refugee protection. Although the discussions of this thesis cannot be generalised to the whole of Turkey (considering the context-related differences in each locality), the analytical framework employed allows a wider understanding of international and local dynamics in other regions of Turkey and beyond.

(i) Analytical Approach

In exploring the dynamics of temporary protection in the Turkish case, I started by problematising temporary protection as a policy category. First, since the conceptualisation of temporary protection in international refugee regime has acquired ‘multiple identities’ and ‘several various functions’, it becomes problematic to take it as a coherent policy category.⁶¹ In this sense, Fitzpatrick describes temporary protection as a ‘magic gift’ and a ‘magic mirror’—reflecting its proponents’ desires and opponents’ fears.⁶² This is particularly related to the wide-scope of debates on temporary protection ranging from its possible advantages in providing a tool to address massive displacements in expanding the international legal regime’s protection, to its foreseen dangers of de-legalisation of refugee protection as a result of the inclination of temporary protection frameworks to provide lesser standards of protection on a discretionary basis. Likewise, the implementation of temporary protection has been quite diverse in different contexts, including displacements in Southeast Asia, Europe and Middle East. In other words, it is a ‘far-too amorphous concept’.⁶³

Second, policy categories are formulated by prior assumptions, and determine how agencies—whether state agencies or non-state agencies—would enter into a relationship with people in a particular category.⁶⁴ Hence, if one were to commence

⁶¹ Fitzpatrick (n 12) 305

⁶² *ibid* 280

⁶³ Durieux (n 23) 249

⁶⁴ O Bakewell, ‘Research Beyond the Categories: The Importance of Policy Irrelevant Research Into Forced Migration’ (2008) 21 (4) *Journal of Refugee Studies* 432, 436

the research by accepting ‘temporary protection’ as a policy category, this would arguably take for granted the temporality of Syrian refugees, and the applicability of traditional durable solutions. In this sense, it would restrict the understanding of the dynamics of temporary protection, especially in examining the agency of Syrian refugees.

This thesis explores temporary protection as an analytical category. Since the law on temporary protection does not address the lived experiences of its Syrian beneficiaries, the conceptual framework for examining temporary protection as an analytical category is derived from the empirical study conducted for the research. The aim of adopting a bottom-up approach in defining the study’s analytical approach is to reflect critically upon assumptions, priorities and categorisations of policymakers, and to question what has been taken for granted in the formulation of temporary protection in policy circles.⁶⁵ It is argued that three interrelated concepts are central to unpacking the construction and dynamics of temporary protection in practice in Turkey: *legality*, *uncertainty*, and *homemaking in exile*. This section discusses the significance of each in turn.

The legal status of a person in any given country defines her rights, obligations, freedoms, and also restrictions. The international legal refugee regime defines one particular legal identity for refugees. Yet, it is the domestic legal recognition of displaced people in various states that determines their categorisation, the type of protection with which they would be provided, and inclusion or exclusion in that state.⁶⁶ As Griffith argues, who is inside and who is outside of the law is crucial to perceiving the frontiers of legality.⁶⁷ Dauvergne neatly explains how labelling people as ‘illegal’ serves for their exclusion: ‘when the nation is unable to assert its traditional sovereignty by closing its borders, it retains its power to separate “us” from “them” through this labelling [of illegality]... those excluded are outside the

⁶⁵ D Turton, ‘The Meaning of Place in a World of Movement: Lessons from Long-Term Field Research in Southern Ethiopia’ (2005) 18(3) *Journal of Refugee Studies* 258, 277

⁶⁶ M O’Sullivan, ‘Identifying asylum seekers as potential refugees: transfers and ‘acquired rights’ under the Refugee Convention’ in Susan Kneebone, Dallal Stevens, Loretta Baldassar (eds) *Refugee Protection and the Role of Law: Conflicting Identities* (Routledge 2014) 122

⁶⁷ A Griffiths, ‘Using Ethnography as a Tool in Legal Research: An Anthropological Perspective’ in Reza Banakar and Max Travers (eds), *Theory and Method in Socio-Legal Research* (Hart Publishing 2005) 114

law.⁶⁸ At the same time, how people are included in law is of equal significance. Zetter refers to labelling as a process of identity formation within regulatory practices.⁶⁹ In this process, how one is labelled legally defines her subjectivity.

This thesis conceptualises the Syrians' *legality* in Turkey in that grey zone between legality and illegality, reflecting the fluidity of 'frontiers of legality'⁷⁰ under temporary protection status. The precarious and insecure legal status of Syrian refugees is regarded as a governance strategy. The insecurity of legality is not only significant in determining various restrictions on Syrians' rights and freedoms, but it also plays a key role in shaping Syrian identities, their relationships with the host country, and their strategies and struggles to overcome such restrictions. Hence, the construction of the legal status of Syrians in Turkey, its insecurities, and the struggles of Syrians in negotiating temporary protection status constitute an important conceptual framework of analysis throughout this thesis.

Similar to legality, 'uncertainty' is a broad term that can be used to describe the human condition in various contexts. It is generally characterised with negative connotations, such as 'insecurity, indeterminacy, risk, ambiguity, ambivalence, obscurity, opaqueness, invisibility, mystery, confusion, doubtfulness, and scepticism'.⁷¹ However, it is also possible to attribute positive meanings to uncertainty, such as 'chance, possibility, subjunctivity, hope'.⁷² In this regard, the various meanings and connotations adhered to the analytical concept of 'uncertainty' might put some limitations on its use, since the breadth of its interpretation might lead to complexity in defining what 'uncertainty' actually refers to.

Here, this thesis does not intend to reach an essentialist theorisation of uncertainty as a human condition. Rather, it takes the condition of uncertainty first, as an inherent notion that people experience during displacement, and second, as a central

⁶⁸ C Dauvergne, *Making People Illegal: What Globalization Means for Migration and Law* (CUP 2012) 17-18

⁶⁹ R Zetter, 'Labelling Refugees: Forming and Transforming a Bureaucratic Identity' (1991) 4 (1) *Journal of Refugee Studies* 39

⁷⁰ Griffiths (n 67) 114

⁷¹ S Reynolds Whyte and G Etyang Siu, 'Contingency: Interpersonal and Historical Dependencies in HIV Care' in Elizabeth Cooper and David Pratten (eds), *Ethnographies of Uncertainty in Africa* (Palgrave MacMillan 2015) 19

⁷² *Ibid* 19

condition for Syrian refugees that is heightened by the governance strategy under a temporary protection framework. In other words, the focus of this thesis is to conceptualise ‘uncertainty’ in the context of temporary protection and its practice in Turkey for Syrian refugees. The conceptualization of ‘uncertainty’, in this research, is built upon Horst and Grabska’s understanding of radical and protracted uncertainty that is particularly helpful to examine the complex relationship between temporality, legality and uncertainty.⁷³

In Horst and Grabska’s framework, ‘radical uncertainty’ is inherent to people’s experiences during the initial stages of conflict-induced displacement. The sources of radical uncertainty are the imperfect knowledge about one’s environment, and the unpredictability of the future.⁷⁴ An extreme sense of unpredictability is also related to the speed at which dramatic life-threatening events happen, and a person’s lack of control over their life choices.⁷⁵ However, temporary protection leads to ‘protracted uncertainty’, as a result of a combination of insecure legal statuses, imperfect knowledge about one’s conditions within the country of refuge, and uncertainties about the future, under the never-ending temporality of their stay in the country of refuge.⁷⁶ Hence, the focus on uncertainty in this thesis is twofold: first, it addresses how/why/with what consequences is uncertainty constructed and maintained in the Turkish context of temporary protection; and second, it enables reflection on how Syrians experience and interpret uncertainty, and how they counter it through their strategies.

Focusing on the time aspect of displacement, this thesis unpacks the changing strategies of Syrians in dealing with displacement as time passes. An aspect that becomes prominent during protracted temporality is the desire of refugees to rebuild their lives through remaking homes in exile.⁷⁷ Similar to the wide-range of connotations of ‘uncertainty’ in the literature, the concept of ‘home’ can have different meanings—such as house, dwelling, family, nation, homeland, settlement

⁷³ C Horst and K Grabska, ‘Introduction: Flight and Exile—Uncertainty in the Context of Conflict-Induced Displacement’ (2015) 59(1) *Social Analysis* 1

⁷⁴ *ibid* 4-5

⁷⁵ *ibid* 5

⁷⁶ *ibid* 6

⁷⁷ M Korac, *Remaking Home: Reconstructing Life, Place and Identity in Rome and Amsterdam* (Berghan Books 2009)

and so forth—which requires clarification of what ‘(re)making homes’ in exile relates to in this research.

Following Brun and Fábos, homemaking practices are understood in this thesis to be dynamic and complex processes, including daily strategies of building places of living, nurturing networks and belonging in the immediate environment, and the continuous search to establish a place where meaningful lives can be lived.⁷⁸ Homemaking becomes a significant concept in unpacking the dynamics of temporary protection in practice, since it leads to a contradiction with regard to the top-down formulation of ‘temporality’ that restricts the Syrian refugees’ choices to rebuild their lives in the place of exile. In other words, despite the impediments of insecure legal status and uncertainty regarding the Syrians’ abilities to rebuild their homes under temporary protection, focusing on homemaking practices provides us a framework to reconsider not only temporary protection, but also the rigid understanding of durable solutions.

To conclude, the analytical approach of this thesis is situated within the interdisciplinary work which cuts across the legal, political, and social dynamics of construction and the practice of temporary protection and its consequences for refugees and refugee protection. The conceptual framework is shaped by adopting a bottom-up approach, and considers the interplay between legality, uncertainty, and homemaking as central in unpacking the temporary protection category in practice in Turkey. The framework for analysis that is mainly derived from the empirical work is conceptualised by incorporating the developing literature, focusing on the critical reconsideration of the nexus between temporality and protractedness, especially during large-scale refugee movements; in particular it emphasises the roles of main actors with due regard to official policies, agency and strategies of refugees, and the role of humanitarian actors in the practice of temporary protection in reconsidering top-down formulations of policy categories, refugee responses, and durable solutions.

⁷⁸ C Brun and A Fábos, ‘Making Homes in Limbo? A Conceptual Framework’ (2015) 31(1) *Refuge* 5; Brun and Fábos (n35)

(ii) Methodology

Before going into a discussion of methodology and the methods used in this research, a note on terminology is necessary for conceptual clarification. The term ‘refugee’ is used in this research in a broader sense than its conceptualisation in the Refugee Convention/Protocol, and in Turkish law. Considering the complexity of defining the term ‘refugee’, and the irreducibility of definitions in top-down administrative and legal labels, in this thesis, the term ‘refugee’ will be used to denote people who are forcefully displaced and seek protection and refuge.⁷⁹ Particular legal terms, such as ‘beneficiaries of temporary protection’ or ‘conditional refugees’, are used in sections that highlight how refugees are categorised in certain legal and administrative contexts.

Methods of research refer to ‘appropriate use of techniques of data collection and analysis’.⁸⁰ In the next section, I will outline which techniques I used for data collection and analysis. However, questions on method are inherently related to epistemological and methodological stances in crafting research approaches. Hence, in this section, I will focus on the process of deciding why a combination of (i) documentary, (ii) qualitative and (iii) non-policy relevant research was the appropriate research methodology for this study.

Documentary and archival research, and legal analysis are vital for analysis on the significance of the temporary protection category in the international refugee regime. The research on historical and contemporary documents, policy papers, reports and written sources of temporary protection in international, regional, and national contexts provides tools for revealing the normative, political, and legal contexts crucial for analysing temporary protection’s complicated relationship with the international legal regime addressing refugee protection. Since the UNHCR has played an important role in the development and promotion of temporary protection, the research on UNHCR documents becomes crucially important. Moreover, we will examine how and why the temporary protection have been incorporated in Turkey that requires analysis of historical and current laws,

⁷⁹ Voutira and Doná (n 39) 163, 163

⁸⁰ P Prasad, *Crafting Qualitative Research: Beyond Positivist Traditions* (2nd edn, Routledge 2018) 6

parliamentary documents, government statements, and reports of several institutions (including state institutions, international and national non-governmental organisations, human rights organisations, and policy circles).

However, archival research or analysis of ‘black letter law’—which focuses on the law itself as a ‘set of principles’ accessed through legal materials without ‘reference to the world outside of the law’⁸¹—is not sufficient for understanding the socio-political processes of the dynamics of temporary protection in practice. In this regard, the tradition of ‘law in context’ acknowledges that the role of the law itself can be problematic in contributing to, insufficiently addressing, or totally disregarding social problems.⁸² Adopting a non-doctrinal and socio-legal approach, this thesis examines the temporary protection of Syrians in Turkey in its social and political context,⁸³ through a qualitative research methodology.

In qualitative research, researchers agree that any phenomena ‘can only be understood when seen in context’.⁸⁴ A qualitative approach provides a means to move beyond top-down approaches, by providing channels to engage with actors’ experiences and positionality. It opens up channels to construct critical knowledge about temporary protection which goes beyond reporting on refugees.⁸⁵ The method of inquiry for qualitative research in this study involves semi-structured interviews with international and national actors, refugees, and participant observations in the province of Gaziantep, which is discussed in the next sub-section.

Through qualitative analysis of the lived experiences of refugees, the multiplicity and diversity behind generalised notions of displacement can be attained.⁸⁶ Hence, it is important to question the taken-for-granted policy categories, and related assumptions about such categories. Crucially, the link between the struggles of everyday life and wider relationships and processes in the management of

⁸¹ M McConville and WH Chui, ‘Introduction and Overview’ in Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (Edinburgh University Press 2007) 1

⁸² *ibid*

⁸³ J Baldwin and G Davis, ‘Empirical Research in Law’ in Mark Tushnet and Peter Care (eds) *The Oxford Handbook of Legal Studies* (OUP 2005), 881

⁸⁴ S Brinkmann and S Kvale, *Interviews: Learning the Craft of Qualitative Research Interviewing* (3rd edn, SAGE Publications 2015) 103

⁸⁵ B Harell-Bond and E Voutira, ‘In Search of Invisible Actors’: Barriers to Access in Refugee Research (2007) 20 (2) *Journal of Refugee Studies* 281, 291

⁸⁶ M Eastmond, ‘Stories as Lived Experiences: Narratives in Forced Migration Research’ (2007) 20(2) 248, 249

displacement can be better grasped.⁸⁷ Research subjects in qualitative methodology are not seen as sources from which data can be obtained, but as subjects who are constructing the analytical framework and knowledge of the research. Thus, Rodgers argues that small-scale qualitative approaches are quite relevant for forced migration studies.⁸⁸

However, our aim in understanding the multiplicity of lived experiences of Syrians is not to contribute to policymaking on temporary protection. In this regard, it is important to note that the field of forced-migration studies is heavily embedded in advocacy as a result of the researchers' desire to make refugees' lives better.⁸⁹ Jacobsen and Landau characterise it with the 'dual imperative' of researchers in the field of forced-migration studies.⁹⁰ On the one hand, researchers 'seek to explain the behavior, impact and problems of the displaced'.⁹¹ On the other hand, they have an intention of 'influencing agencies and governments to develop more effective responses'⁹²—i.e. producing policy-relevant research. Such tension creates a 'dual imperative' of satisfying academic standards of research, and generating knowledge that would be relevant for producing better policies for displaced people.⁹³

This research challenges the meta-purpose of policy-relevant research on two grounds: first, by problematising the positivist paradigm of knowledge, and second, by questioning the impact and value of policy-relevant research. Policy-relevant research is based on a positivist assumption that there is an objective and credible knowledge out there waiting to be discovered by researchers, and assumes that if researchers generate 'credible knowledge', policies would change for the better.⁹⁴ In contrast to positivist epistemological insistence on the search for objective and universal knowledge, the qualitative methodology adopted here emphasises the

⁸⁷ G Rodgers, "'Hanging Out" with Forced Migrants: Methodological and Ethical Challenges' (2004) 21 *Forced Migration Review* 48, 48

⁸⁸ *ibid*

⁸⁹ K Jacobson and LB Landau, 'The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration' (2003) 27 (3) *Disasters* 185, 186

⁹⁰ *ibid*

⁹¹ *ibid*

⁹² *ibid*

⁹³ *ibid*

⁹⁴ A Schmidt, "'I Know What You're Doing", Reflexivity and Methods in Refugee Studies' (2007) 26(3) *Refugee Survey Quarterly* 82, 88

constructed nature of complex social reality embedded in power relations, and the value of research as critique.⁹⁵

In regard to the impact and value of policy-relevant research, the first question is about its practical outcomes: does policy-relevant research have any real impact on policy?⁹⁶ In answering this question, Black underlines that on some occasions, such as the increasing attention paid to internally displaced people (IDP), empirical evidence was helpful.⁹⁷ However, if we ask a second question on whether policy-relevant research has a meaningful impact beyond problem-solving approaches, the dangers of overtly policy-relevant research becomes visible. As Cox famously argues, the main purpose of problem-solving approaches is sustaining the smooth working of institutions and policies within the given framework in dealing with a particular problem.⁹⁸ In the case of temporary protection, the particular problem of large-scale refugee movements in the international refugee regime is responded to by a problem-solving approach of providing temporary protection.

Bakewell underlines the dangers of policy-relevant research in forced-migration studies, since it restricts analysis to providing particular solutions, rather than questioning what is taken for granted.⁹⁹ As a result, it inclines to ‘essentialise’ the broader assumption about displacement and traditional responses to displacement—which can be the part of the problem itself.¹⁰⁰ In contrast to problem-solving approaches, therefore this thesis adopts a critical approach that questions the very institutions, assumptions and power in the development and implementation of temporary protection in international, national, and local contexts.¹⁰¹ In this sense, it does not aim to provide policy prescriptions to improve temporary protection frameworks or remedy the problems of their implementation. Bakewell’s comments highlight the potential of non-policy-relevant, or critical approaches in bringing a more profound change: ‘research which is designed

⁹⁵ Prasad (n 80) 7

⁹⁶ R Black, ‘Fifty Years of Refugee Studies: From Theory to Policy’ (2001) (35(1) *The International Migration Review* 57, 68

⁹⁷ *ibid* 67

⁹⁸ RW Cox, ‘Social Forces, States and World Orders: Beyond International Relations Theory’ (1981) 10(2) *Journal of International Studies* 126, 129

⁹⁹ Bakewell (n 64) 437

¹⁰⁰ Turton (n 65) 277

¹⁰¹ Cox (n 98)

without regard to policy-relevance may offer a more powerful critique and ironically help to bring about profound changes than many studies that focus on policy issues from the outset.’¹⁰²

However, it is also important to recognise a frequently disregarded aspect of qualitative research also becomes prominent: the role of the reader in the construction of knowledge. As van Luyn and Gair put it, ‘while researchers may discuss the ways in which the text itself is constructed to affect readers, little is known about how actual readers interpret and experience texts’.¹⁰³ This study does not aim to provide policy recommendations on the formulation of temporary protection or its practice; it only attempts to conceptualise its (re)construction in the Turkish context. Nevertheless, how it is actually interpreted or used is also related to the reader.

(iii) Data Collection and Analysis: ‘Inter-Views’ on Temporary Protection Status in Gaziantep

The main data collection method for this research is the use of semi-structured qualitative interviews conducted with (i) Syrian refugees, (ii) humanitarian workers from international organisations including UN organisations, and international, national and Syrian non-governmental organisations. This study engages with an understanding of qualitative interviews as ‘inter-views’, through which ‘knowledge is constructed in the inter-action between the interviewer and the interviewee’.¹⁰⁴ The intention in ‘inter-views’ is not to reach objective or representative knowledge. Rather, the process of knowing is itself considered as intersubjective, including both researcher and the research subject.¹⁰⁵ As it is framed in the forced migration literature, it is ‘research *with* refugees, instead of *about* them’.¹⁰⁶ In semi-structured interviews, although the questions on central themes is defined by the researcher,

¹⁰² Bakewell (n 64) 433

¹⁰³ Avan Luyn and S Gair, ‘Showing Inspiring Qualitative Research? Over to Readers’ in Suan Gair and Ariella van Luyn (eds), *Sharing Qualitative Research: Showing Lived Experience and Community Narratives* (Routledge 2017) 272

¹⁰⁴ Brinkmann and Kvale (n 84) 4

¹⁰⁵ *ibid* 22

¹⁰⁶ U Klause, ‘Researching Forced Migration: Critical Reflections on Research Ethics During Fieldwork’ (2017) Refugee Studies Centre Working Paper Series No 123, 8

the open-ended questions and follow-up questions create space for parties to lead the conversation and bring in new aspects to the discussion.

In engaging with the construction and practice of temporary protection status in the international refugee protection regime and in the Turkish context, I began the empirical research by conducting semi-structured interviews with humanitarian workers in international, Turkish and Syrian organisations from December 2016 to January 2017. In total, 20 interviews were completed with 21 humanitarian workers from 16 different organisations. Most of the interviews were conducted in Gaziantep, although some were conducted in Ankara, where the head offices of organisations are located, and some on Skype.¹⁰⁷ I made a preliminary list of organisations that are engaging in protection activities in Gaziantep through a review of academic sources, NGO reports, internet sources. However, the list changed considerably throughout the data collection process.

Arranging interviews with organisations was almost impossible without having contacts, particularly in the case of international organisations. In obtaining access to humanitarian workers, I was helped by my social network in Gaziantep, former colleagues and friends who are working in humanitarian organisations. Once I had my initial contacts and initial interviews, referrals from people with whom I conducted interviews helped me to contact other organisations. As I became increasingly engaged with the humanitarian system, I added new organisations to the list, ones which are well established in Gaziantep. Some of the organisations declined to have conversations, and this consequently affected my list.

During the interviews, I asked open-ended questions on topics covering the international protection of refugees, the category of temporary protection, the humanitarian system, the role of different actors in the refugee protection and temporary protection, the relationship of organisations with each other, the Turkish asylum system, and the practice of temporary protection regime of Syrians.¹⁰⁸ The interviews aimed to understand the perspective and role of humanitarian workers as important actors in the reconstruction of temporary protection in its practice. Interviews provided the means of engaging with the bureaucratic and technical

¹⁰⁷ See Appendix I

¹⁰⁸ See Appendix II

processes in the working of the humanitarian system and the content of humanitarian interventions. Conversations with people ranged from international or local ‘experts’, who were in positions of policymaking and legal advocacy, to those who were only engaging in service or aid-delivery procedures. This range was crucial to acknowledge the complex web of relations and multiplicity of perspectives in the humanitarian system. The power relations and negotiations between donors, international organisations, government, humanitarian actors, and refugees in the construction of the temporary protection category was an important theme of the study, that was developed throughout the interviews.

Most of the interviews were conducted in the organisations’ offices, providing me with an opportunity to make observations on their working environments. In addition to interviews, informal dialogues with other employees was also helpful in understanding their experiences, struggles and points of views on the humanitarian system. Even before starting conversations with humanitarian workers in different organisations, the spatial aspects of their working environment was informative on the power negotiations among different actors. The big concrete walls, security checks and impossibility of entering the UN buildings without internal references were in profound contrast to small NGO’s makeshift offices.

At the outset, I was eager to engage with different types of organisations’ points of view on the category of temporary protection, but in time I started to develop an interest in how humanitarian workers also struggle within the temporality of the humanitarian system. To this end, participating in the UNHCR Inter-Agency Coordination Meeting of ten different organisations was very instructive, allowing me to compare the language of discussions in official meetings and the perceptions of same humanitarian workers in informal interviews following the meeting. Throughout the interviews, hearing about the lived experiences of humanitarian workers, the constraints that trapped them within policy categories, the temporality of protection, and the protracted uncertainty heavily impacted the analytical framework of the research.

During my first visit to Gaziantep, I did not conduct any interviews with Syrian refugees, apart from those who were working as humanitarian workers in international or Syrian NGOs. However, I had informal conversations with many

refugees, which helped me in making choices about my second visit. In July 2017, I conducted 27 semi-structured face-to-face interviews with 30 Syrian refugees in Gaziantep. Most of the interviews were in Arabic and some were in Kurdish. I used the services of a translator, who is a refugee herself. Four interviews were in Turkish and one was in English, for which there was no translation. The participants included 18 men and 12 women, and their ages were between 20 and 80.¹⁰⁹ Although it was not deliberately designed into the research, the social, cultural, political and economic backgrounds of refugees and their current conditions in Turkey were quite diverse, reflecting the impossibility of generalising refugee identity. Although most of them had temporary protection status in Turkey, some did not have any registration, or had different forms of permission to stay in Turkey, i.e. student residency. The duration of their stay in Turkey ranged from one month to over five years.

Contacting refugees to interview was less troublesome than accessing humanitarian workers. In contrast to the weariness of the humanitarian workers in participating in interviews with researchers or reflecting upon the humanitarian system, interviews with refugees were more engaging and constructive conversations. Nearly half of the interviews were conducted in refugees' houses, in two different neighbourhoods. Visiting refugees' houses and neighbourhoods was quite influential in engaging with everyday life practices. My initial contact in the first neighbourhood was at a hairdresser's salon. A Syrian refugee that I met in December 2016 invited me to her hairdresser's salon for an interview. Quite quickly we started to drink coffee and chat with a group of women there. The salon was a social space for Syrian women to come together to spend their free time and socialise. When I spoke about my research, they not only consented to have interviews but took me to the houses of other Syrians in the neighbourhood. Spending days in the neighbourhood also opened up channels for informal chats with Turkish local citizens living there, developing my engagement with the daily topics commonly discussed among neighbourhood dwellers. As MacKenzie,

¹⁰⁹ See Appendix III

McDowell and Pittaway indicate, such informal dialogues are quite crucial in contributing to the analysis, leading to new questions and aspects of research.¹¹⁰

The second neighbourhood for my interviews was located at the outskirts of the city, which gave me an opportunity to compare its spatial differences with those of the city centre. The contrast was stark from the moment the taxi driver cautioned us—the translator and myself—on our way to the second neighbourhood not to go ‘there’. This neighbourhood—‘there’—was famous among humanitarian circles, since more than 170 families were living in an abandoned building, previously used as an industrial site. The building was not registered in the municipality as a legal residence, hence many refugees living there could not make a registration for temporary protection status officially. Since crowded families were living in a closed, designated area, humanitarian organisations were distributing aid easily. I considered engaging in conversations with refugees living there, described as ‘aid recipients’ living at the edges of legality and illegality.

At the huge building, a shopkeeper who was acting as a *de facto* community leader met us. The interview with him led to discussing the conditions of life at the frontiers of legality. Yet, limiting research to community leaders has its dangers. On the one hand, conversations with community leaders can provide a good overview of issues in communities. On the other hand, the power relations of the community mean that community members might think differently from community leaders, and might be silenced by their leaders.¹¹¹ Considering the sensitivity of processes of inclusion and exclusion,¹¹² I also held interviews with refugees living there.

The third site for interviews was an NGO multi-purpose community centre in Gaziantep. The NGO accepted my request to participate in the social consultancy interviews, during which refugees are entered on the NGO beneficiary list, provided with key information about temporary protection, and can consult the NGO worker with their particular questions or problems. Following the refugees’ meeting with

¹¹⁰ C MacKenzie, C McDowell and E Pittaway, ‘Beyond ‘Do No Harm’: The Challenge of Constructing Ethical Relationship in Refugee Research (2007) 20 (2) Journal of Refugee Studies 299, 308

¹¹¹ Klause (n 106) 9

¹¹² *ibid*

the NGO worker, I conducted interviews with refugees who gave their consent. This provided me an opportunity to have conversations with people from different parts of city. Crucially, participation in the social consultancy interviews as an observer shed new light on my research about the construction of categories, knowledge, identities, and relations between humanitarian workers and refugees.

During the interviews, I asked open-ended questions on the refugees' journeys to Turkey, their experiences under temporary protection, their struggles and strategies to navigate within the system, and expectations about the future. Moreover, I asked for their perspectives on who is a refugee, what is expected from refugee protection, temporary protection, host-country authorities and humanitarian organisations.¹¹³ It led to quite fruitful discussions on the gap between assumed categories and lived experiences. Crucially, the conversations were not limited to lived experiences, but also focused on how refugees interpret such experiences and make sense of them. In the confusing and cumbersome proliferation of protection discourse around rights-based protection, needs-based protection, legal protection, protection of the most vulnerable, resilience, self-sufficiency, and so forth, conversations with refugees opened up new ways of constructing understanding 'homemaking' in exile, as an under-researched but meaningful way of framing an analytical approach in exploring the temporary protection category.

In analysing the main set of data obtained from interviews, I transcribed all recorded interviews and my personal notes. I started to analyse and reflect upon the data immediately after each interview. After the completion of the interviews, I went over all the notes to construct an analytical and conceptual framework. I consolidated the data on major themes, and engaged with these themes in relation to each other. It was a reiterative process, and I re-examined it constantly to consolidate and classify the data in line with the analytical and theoretical framework.

As with any method employed, the method used in this research has some weaknesses and limitations. Interviews with humanitarian workers and refugees were conducted in a limited time period, in part because of the nature of PhD work,

¹¹³ See Appendix IV

which is time-restricted. The qualitative interview method differs in this sense from ethnographic and longitudinal research methods, which give more in-depth understanding and engagement with the everyday life changes over a long period of time. Interviews, in some respects, provide a snapshot of a particular point of time. For instance, some refugees were raising particular concerns and challenges they were facing in that particular time around the interview. Follow-up informal communications were maintained with those with whom I had contact, but a longitudinal study would give a chance to follow up the changes in struggles, strategies and interpretations of agents—especially in a context which is undergoing changes at international, national and local levels.

In time-restricted research, researchers need to make many instant choices throughout the data collection process. Although the preparation gives opportunities to design the research methods, data collection and analysis is a reiterative process, and one in which the researcher must engage. Exploration, understanding, and constructing knowledge and making choices go hand in hand. I made some choices deliberately. After each interview, I was taking my time to go over the interviews, take notes about observations and reflect upon them. For instance, when major themes around ‘legality’ and the ‘politics of humanitarian aid’ emerged from my initial engagement with the data, I decided to have interviews in the second neighbourhood, where refugees’ struggles were mostly defined around such themes. However, there are many more choices that I did not make. In some cases, this was simply because I was not aware of them. Platt’s comments on making choices during her research is useful at this point:

it is clear that although my choices had reasons, conceptually better choices might have been made. However, these better choices could have been made only retrospectively, since they would have represented the variables I found analytically useful in examining the cases which I started.¹¹⁴

Some choices reflect the focus of the study and the restrictions of access. I did not have interviews with state officials in Turkey. I analysed the (re)construction of temporary protection category through public statements, parliamentary

¹¹⁴ J Platt, ‘Cases of cases...of cases’ in Charles C. Ragin and Howard S. Becker (eds), *What is a Case?: Exploring the Foundations of Social Inquiry* (CUP 1992) 50

discussions, reports published by government institutions, and scholarly work. My concern was to focus on the agency of refugees, and the less-researched aspects of agency of humanitarian workers. However, the choice was also related to the political context and restrictions in Turkey during my fieldwork, as a result of the attempted *coup d'état* in the country in the summer of 2016. I also did not conduct any interviews with refugees living in camps. Although using refugee camps as a refugee-management technique is included in the analysis, I focused on the analysis of the existence of camps from the perspective of humanitarian workers and refugees living in urban centres. I made this choice also out of the legal and practical restrictions of conducting research with camp residents in Turkey.

Ethics and Power Relations in Research

Any qualitative interview study requires consideration of ethics and power relations in research. This research is conducted according to the Research Code of Practice, which is laid down by the University of Warwick's Research Ethics Committee. However, beyond merely upholding the codes, ethics and power relations need to be reflexively and reiteratively considered throughout the process. In this section, I will discuss consent, confidentiality, security, and power-relations in interviews to reflect upon the ethical considerations.

The voluntary consent of participants to have interviews is an essential part of ethical considerations. There are two crucial aspects of consent in qualitative interviews: making it clear to what people are giving consent, and how this consent is obtained. In regard to the first, I informed all participants about my affiliation, research topic and research question. I summarised the themes of questions that I would be asking, and made sure that at any point if they wanted to terminate the conversation, I would respect their decision and would not try to convince them to continue. The consent obtained from participants also included questions on recording the interview. Although most humanitarian workers and refugees agreed to recording the conversations, I only took notes in some interviews, according to participants' preference. Both humanitarian workers and refugees sometimes asked to keep a part of our conversation off-the record; I did not use these conversations in any part of the dissertation. However, they were valuable for me to deepen my understanding and expand my research.

In obtaining consent, written consent forms are accepted as a standard tool.¹¹⁵ However, considering ethical and security concerns, the written consent may not be appropriate in many contexts, including this research.¹¹⁶ In the case of interviews with humanitarian workers, they made it clear that they preferred not to sign any written documents to give their consent. Despite the anonymised consent forms, they raised their concerns about potential insecurities of signing forms in the sensitive political context of their relationship with state officials. Following my experiences in asking for written consent forms from humanitarian workers, during my second fieldwork I considered additional aspects for obtaining consent from refugees.

In politically sensitive contexts, asking for a signature might raise suspicion among participants that the researcher might be an official, intelligence or security service worker, or even an informer.¹¹⁷ This might limit people's desire to talk about politically sensitive issues, which could have been the case with Syrian refugees. Also, consent forms can be confused with government institutions' or NGOs' forms that refugees constantly fill in, in order to access various kinds of aid. Although I was overtly concerned with explaining my affiliation as a PhD student, and clarifying that I have no link with either official institutions or humanitarian organisations, the confusion among refugees about my role was apparent in some instances, which I will discuss below. Hence, I considered consent forms might create unrealistic expectations regarding the benefits of participating in interviews.¹¹⁸ Out of these concerns, oral consent was obtained for all interviews with humanitarian workers and refugees.

In regard to confidentiality, before the interviews with humanitarian workers, I asked each participant if I could refer to their names, names of organisations for which they are working, the type of the organisation (whether it is an international organisation, national or Syrian NGO), or their affiliation to that organisation. Considering the preferences of the majority of humanitarian workers and any

¹¹⁵ Klause (n 106) 10

¹¹⁶ For a discussion on various context where getting consent forms signed is not appropriate see J Shefer and Z McKenney, 'Confronting Political Dilemmas in Ethnographic Fieldwork: Consent, Personal Safety and Triangulation' in Ron Iphofen and Martin Tolich (eds), *The SAGE Handbook of Qualitative Research Ethics* (SAGE Publications 2018)

¹¹⁷ Shefer and McKenney (n 116) 222

¹¹⁸ MacKenzie, McDowell and Pittaway (n 110) 303

political insecurity that might raise, I anonymised names of all participants. Any information mentioned in the thesis related to the type of organisation or the name of organisation is in line with the consent of participants. For instance, if they agreed that I might mention that they are working for an international NGO, I refer to them as ‘a humanitarian worker from an international NGO’. If they did not give consent for mentioning the type of their organisation, I refer to them as ‘a humanitarian worker’. In interviews with refugees, I made sure from the beginning that their identity would be fully anonymised. After I turned on my recorder, I never mentioned their names. I asked them not to mention their own names or names of family members during the recording, and in cases where they mentioned names, I omitted them from the transcriptions. Also, I did not mention the names of neighbourhoods in which I conducted interviews, since this might create alarm about ‘illegal’ strategies that refugees are undertaking in these neighbourhoods.

Another important aspect of ethics in interviews is the consideration of power relations constructed between researcher and precarious subjects. In the construction of knowledge through conversations, the powerful role of researcher vis-a-vis the precarity of refugees is frequently cited in the literature: the power of researchers in designing the interview questions according to researchers’ interests, restricting the space of refugees’ to reflect upon other aspects that are of major importance to them; the power of the researcher in giving voice to refugees rather than considering refugees as social actors; the power of the researcher in giving material or non-material benefits to refugees during their interaction; and the social power of researchers vis-a-vis refugees who are already facing precarity in regard to their social, legal, political, and economic subjectivities.¹¹⁹

As discussed above, the semi-structured interviews included open-ended questions on themes that I brought into the conversation with refugees. However, conversations also opened up spaces for refugees to bring in any new aspects of discussion that they deemed crucial. I gave attention to formulating questions in a neutral way, in order not to direct refugees’ answers. At the end of each interview, I asked both humanitarian workers and refugees if they wanted to raise any other

¹¹⁹ For a general discussion see: G Doná, ‘The Microphysics of Participation in Refugee Research’ (2007) 20(2) *Journal of Refugee Studies* 210

issue about the temporary protection category that I had failed to ask. Most refugees addressed questions to me or to the translator, signalling a natural conversation developing between us, rather than a top-down questioning.

Giving aid to precarious research participants is traditionally considered taboo, since it might hamper the authenticity of conversations and dignity of research participants.¹²⁰ I considered any disadvantage or manipulation that giving aid might lead during the interviews. However, in a developing social relationship, power needs to be considered as more diffused and complex, rather than as a static understanding of the powerful researcher and powerless refugees. As Doná puts it, ‘researchers, interpreters, collaborators, interviewees, advisors, and gatekeepers are not more or less powerful but are vehicles of power in a net-like organisation.’¹²¹

The location of interviews, people present during the interviews, and the multiple construction of identities throughout the shared conversation all played a role in power relations during the interviews. For instance, on some occasions, the relationship was constructed through guest-host relationship when we—the translator and myself—visited refugees’ houses as their guests. One particular instance was when we were having an interview with a young refugee man in his neighbour’s house, who was herself a refugee. The houseowner neighbour brought in a sheet to cover our bodies since it was an accepted norm in their house that in front of men, women need to cover themselves. The young man and we were all happy with talking to each other without being covered by a sheet, but we just obeyed the rules of the host. In another instance, the community leader refugee that met us was directing us to talk to people with whom he considered ‘we need to talk’. But we struggled to meet people who were not on his list, in order to resist the bias of his choices. Nevertheless, in a contrasting way, as a researcher coming from the UK, I was sometimes considered to be quite powerful, and able somehow to help refugees in migrating to Germany. When we conducted interviews in the NGO office in particular, there was confusion about our positions as researchers or

¹²⁰ E Lammers, ‘Researching Refugees: Preoccupations with Power and Questions on Giving (2007) 26(3) Refugee Survey Quarterly 72, 73

¹²¹ Doná, (n119) 224

NGO workers, despite our constant clarification that we had no affiliation with the NGO, or any other institution.

Most of the time, the constructed identities were fluid rather than a binary understanding of powerful versus powerless. I was the host country citizen, guest, researcher from abroad, migrant, woman, student, learner, information provider, expert, young, old and so forth, all at the same time. Likewise, the translator was herself a refugee, woman, translator, learner, information provider, student, guest, sister. Participants, likewise, were refugees, guests, hosts, information providers, learners, and experts. Considering that most refugees were ‘giving benefits’ to us as hosts in their houses when we ate and drink together, I began to question the taboo of ‘giving’ and ‘receiving’ benefits. As MacKenzie, McDowell and Pittaway underline, while acknowledging the limitations of the researchers’ role in having an impact, I found it unethical not to offer reciprocal ‘benefit’ where possible.¹²² What I was concerned with most was when we were asked for information that would remedy refugees’ particular hardship. Since information itself is hard to access in Turkish context, not uniform in every context, and impossible to verify in particular contexts, I was cautious not to create further confusion. Instead, I provided the contact details of NGOs that were best able to deal with their questions or issues.

(iv) Outline of Chapters

Chapter 1 engages with the historical and contemporary conceptualisations of temporary protection at the international level. It discusses the development of temporary protection within the broader context of the international refugee regime and the challenges posed by large-scale refugee movements. The conceptualisation of temporary protection is contextualised by examining the geopolitics of refugee protection and the transformation of preferred durable solutions from resettlement to repatriation. It is established that temporary protection’s top-down development is closely related to the failure of a rigid understanding of the traditional model of durable solutions. The chapter concludes by outlining the analytical approach of

¹²² MacKenzie, McDowell and Pittaway (n 110) 310

this thesis, and introduces the significance of three interrelated notions of legality, uncertainty and homemaking, in unpacking its dynamics in practice.

Chapter 2 turns to the discussion of the legal-political construction of refugee protection in Turkey, in order to provide the context for which the temporary protection regime for Syrians has been established. The analysis points out the centrality of a binary construction of permanency and temporality for different groups of refugees. It connects the discussion of permanency and temporality to Turkish politics of inclusion and exclusion of different groups of refugees, in line with the historical formation of the Turkish nation-state. In the light of these discussions, it focuses on the identification of refugees within foreign and domestic politics as the main determinant for the legal status and form of protection refugees would have in Turkey.

Following the examination of the development of temporary protection at the international level and the context of refugee protection in Turkey, Chapter 3 explores the appropriation of temporary protection status for Syrian refugees in Turkish domestic law by focusing on the state policies. It relates the Turkish response to Syrian displacement—based on the temporality and eventual return as the durable solution—to state interests in the broader framework of Turkish foreign policy concerns. It examines the relevant national legal frameworks on temporary protection. The construction and continuous reconstruction of the temporary protection regime is presented in the light of the acute and structural uncertainties with regard to legal status, rights, freedoms, and futures of Syrian refugees.

Having established the top-down formulation of temporary protection in Turkey, Chapter 4 analyses the interplay between Syrian refugees' agency and the structural barriers of temporary protection in the city of Gaziantep. The impediments of temporary protection status that restrict the Syrian refugees' ability to control their own lives are depicted; Syrian refugees' strategies to rebuild their lives in exile despite the restriction are scrutinised. Insecure legal status and uncertainty are identified as the main obstacles created by temporary protection. Hence, the chapter discusses how legality and uncertainty is perceived and experienced by Syrian refugees. Homemaking emerges as a main way of enabling agency for Syrian refugees, hence the chapter questions the meaning of homes for Syrian refugees,

and unpacks the relationship between temporality, homemaking, and traditional model of durable solutions.

Chapter 5 turns to the discussion of the role of the humanitarian sector in the construction and practice of temporary protection in Gaziantep. Following the analysis of the perspectives of state actors and refugees in Chapter 3 and Chapter 4; Chapter 5 scrutinizes the role of humanitarian workers as important actors in reconstruction of temporary protection. It particularly focuses on the discussion of ‘resilience’ as an emerging concept in the international humanitarian responses to displacement. Since the Syrian displacement led to debates at the international level on the responses to large-scale refugee movements, this chapter opens up with mapping the debates on the transformation of the response framework by introducing ‘resilience’ as a main component of humanitarian interventions. It connects the discussions at international level to the working of the humanitarian sector in the Turkish context. It highlights the parallels between the short-term humanitarian interventions and the temporary protection that reinforces the protracted temporality and uncertainty.

The concluding chapter brings together different levels of analysis and perspectives of different actors provided in each of the preceding chapters, to present a coherent answer to the research question on rethinking the temporary protection of Syrian refugees in Turkey. It outlines main research contributions, wider applicability of the research and makes suggestions for further research.

CHAPTER 1: CONCEPTUALISING TEMPORARY PROTECTION

1.1 Introduction

Protection is arguably the main objective of international refugee policies. Although ‘everyone’s talking about it, everyone is “doing” it’,¹²³ what is meant by protection varies among different contexts and different actors. In international refugee law, the main source of protection is the Refugee Convention/Protocol. However, the Convention does not provide a definition of protection in its text. We also refer to international human rights law, humanitarian law and other sources of international refugee law in tackling this question, yet none precisely clarify the meaning of the term. The proliferation of protection discourses in the forms of ‘temporary protection’, ‘subsidiary protection’, ‘complementary protection’, ‘humanitarian protection’ and so forth further complicates the task of defining protection.¹²⁴

This research questions how the temporary protection of Syrian refugees is interpreted, shaped and advanced in the Turkish context, and with what consequences. In order to do so, it is first necessary to conceptualise temporary protection within the broader context of international refugee protection. The first two sections of this thesis will trace the development, content, and discourse on temporary protection in international refugee regime and refugee studies literature respectively. The first section focuses on the earlier development of the concept in the broader context of the international refugee law and policies, while section two discusses its reconsideration within policy and academic circles.

The third section turns to the proposed analytical framework, which aims to unpack the concept of temporary protection. In contrast to the top-down approaches in advancing temporary protection, the analytical approach of this thesis adopts a bottom-up approach, focusing on three key notions of ‘legality’, ‘uncertainty’, and ‘homemaking’. Initially this is to make sense of the link between development of temporary protection and its effects on refugee lives, and then to depict how refugee

¹²³ E G Ferris, *The Politics of Protection: The Limits of Humanitarian Action* (Brookings Institution Press 2011) xii

¹²⁴ D Stevens, ‘What Do We Mean by Protection?’ (2013) 20 *International Journal of Minority and Group Rights* 233, 234

agency plays a crucial role in shaping temporary protection in its practice. Although the discussions in this chapter focus on temporary protection *per se*, they are also relevant for the increasing number of displaced people experiencing protracted temporality under different legal or *de facto* regimes of protection.

1.2 Development of Temporary Protection in Global Refugee Management

The development of the concept of temporary protection in different forms dates back to 1953, when the then High Commissioner for Refugees referred to Chinese refugees as ‘temporarily admitted’ to Hong Kong during his Annual Report to the UNGA.¹²⁵ However, the first mention of the terms ‘temporary asylum’ and ‘temporary refuge’ appeared in the UNHCR Executive Committee (Ex Com) Conclusions of 1977 and 1979 in the context of Indo-Chinese refugee displacement.¹²⁶ In the 1990s, various European countries implemented ‘temporary protection’ regimes for ex-Yugoslavian refugees—their practice of temporary protection established the basis for the contemporary international law understanding of temporary protection.¹²⁷ In the 21st century, the framework was heavily promoted by the UNHCR for responding to displacements in the Middle East region.¹²⁸

Despite its wide usage and implementation, what is meant by temporary protection is not clear, and frequently debated in policy and academic circles. Most recently, the UNHCR started a process in 2011 to reconsider its relevance, by exploring temporary protection’s history, content, and implementation.¹²⁹ The Expert Roundtable on Temporary Protection of 2012 failed to reach an accepted meaning for the concept. They concluded that ‘the concept of temporary protection is widely used at international and national levels, yet there is no internationally accepted

¹²⁵ UNHCR ‘Report of the United Nations High Commissioner for Refugees’ (01.01.1954) UN Doc A/2394, para 51 and para 8; Also see: UNHCR ‘Roundtable on Temporary Protection: Summary Conclusions on Temporary Protection’ (2012) para 5

¹²⁶ UNHCR EXCOM Conclusion No 5 ‘Asylum’ (1977)

¹²⁷ Goodwin-Gill and McAdam (n 22) 340

¹²⁸ UNHCR ‘Roundtable on Temporary Protection: Summary Conclusions on Temporary Protection’ (2012), para 6

¹²⁹ UNHCR ‘Global Roundtable on Temporary Protection: Concept Note’ (15 – 16.07.2013), 1

definition of the same, agreement on its minimum content, or on the situations or persons to which it could apply'.¹³⁰

Rather than solely focusing on what is temporary protection, this section explores a more fruitful question: how and why has the category of temporary protection been developed in the contemporary international refugee regime? In order to address this question appropriately, we need to contextualise temporary protection within a broader context of contemporary refugee regime and its failures.

1.2.1 Contextualising Temporary Protection: Refugee Law, Durable Solutions, and Large-Scale Refugee Movements

Although the term 'refugee' in daily parlance refers to any person seeking refuge or safety, refugee as a legal subject of contemporary international law is essentially a 'Western European legal construction'.¹³¹ The earlier international legal arrangements date back to the interwar years, when large numbers of people were displaced as a result of wars, dissolution of Empires, revolutions, and expulsions.¹³² The first institution dealing specifically with refugees, namely the League of Nations High Commissioner for Refugees (LNHCR), was established in 1921. Under the LNHCR, a number of binding and non-binding international instruments focused on the legal and diplomatic protection of refugees.¹³³ Refugees were provided with substitute passports—known as Nansen passports—following High Commissioner Fridtjof Nansen's initiative, as well as identity and civil status documents, and certifications for educational or professional qualifications.¹³⁴ At the time, the LNHCR dealt with refugees on a group basis—that is, as Russian refugees, Armenian refugees, and refugees coming from Germany.¹³⁵ The

¹³⁰ UNHCR 'Roundtable on Temporary Protection: Summary Conclusions on Temporary Protection' (2012) para 1

¹³¹ P Tuitt, 'Racist Authorization, Interpretive Law and the Changing Character of the Refugee' in Peter Fitzpatrick (ed) *Nationalism, Racism and the Rule of Law*, (Darmouth 1995), 56

¹³² T Einarsen, 'Drafting History of the 1951 Convention and the 1967 Protocol, in Andreas Zimmerman (ed), *The 1951 Convention relating to the Status of Refugees and its 1967 Protocol: A Commentary* (OUP 2011) 43

¹³³ Convention Relating to the International Status of Refugees (28.10.1933) LNTS Vol. CLIX No 3663; Convention Concerning the Status of Refugees coming from Germany (10.02.1938) LNTS Vol. CXCII, No 4461

¹³⁴ Hathaway (n 20) 19

¹³⁵ Convention Relating to the International Status of Refugees (28.10.1933) LNTS Vol. CLIX No 3663; Convention Concerning the Status of Refugees coming from Germany (10.02.1938) LNTS Vol. CXCII, No 4461

determination of which groups would fall under the mandate of the LNHCR was decided by considering the circumstances in refugees' countries of origin.¹³⁶

The era of the League of Nations came to an end with the Second World War, during which over 30 million people were displaced, and one third of them were forced to leave their countries.¹³⁷ Refugees included Jewish people surviving the Holocaust, former Soviet Union citizens who were displaced during the war, and people from East European countries who were escaping the Communist regimes of the Soviet Union.¹³⁸ In 1946, the International Refugee Organisation (IRO) assumed the responsibility of the protection of refugees. The IRO was founded with the insistence and funding of the USA, whose political interests were engaged in supporting refugees escaping the Soviet Union in the Cold War context.¹³⁹ The Constitution of the IRO continued to define refugees on a group basis, such as victims of the Nazi regime, and Spanish Republicans, but, significantly, expanded the definition of earlier arrangements by including individual refugees on the merits of their individual cases.¹⁴⁰ Hathaway characterises the development of international refugee law during and after the Second World War as a 'tremendous individualisation of refugee law'.¹⁴¹

At the same time as the IRO's establishment, the UN started a drafting process for a new convention for refugees in 1946.¹⁴² The Refugee Convention, which was adopted in 1951, was initially drafted as a response to the 'residual caseload' of European refugees who had not yet been resettled or repatriated by the LNHCR or IRO.¹⁴³ The definition of the term 'refugee' included any person who was

¹³⁶ Jackson (n 22) 22

¹³⁷ Einarsen (n 132) 45

¹³⁸ *ibid* 45; for a detailed analysis of displacements see: P Gatrell, *The Making of Modern Refugee* (OUP 2013) 91-97

¹³⁹ Ferris (n 123) 21

¹⁴⁰ Constitution of the International Refugee Organization' (adopted 15.12.1946 UNGA Res (62(I), terminated 31.12.1951) UNTS Vol.18 Annex I Section (I) Part (A)

¹⁴¹ JC Hathaway, 'The Evolution of Refugee Status in International Law: 1920-1950 (1984) 33(2) International and Comparative Law Quarterly 348, 377

¹⁴² The drafting process of the Refugee Convention has started on 12 February 1946 when the UNGA passed Resolution 8 (I) and concluded on 28 July 1951 with the adoption of the Convention at the UN Conference of Plenipotentiaries. The stages of drafting includes: participation from the Secretary-General; an *Ad Hoc* (Expert) Committee; ECOSOC's Social Committee, the Third Committee of the UNGA; negotiations at the Conference of Plenipotentiaries; Einarsen, (n 132) 49-61

¹⁴³ TA Aleinikoff and L Zamore, *The Arc of Protection: Toward a New International Refugee Regime* (Public Seminar Books 2018), <http://www.publicseminar.org/wp->

considered as a refugee under earlier arrangements of the inter-war years and the IRO Constitution,¹⁴⁴ and who:

As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹⁴⁵

While the Refugee Convention provided protection for remaining refugees, the UNHCR replaced the IRO, with the tasks of ‘providing international protection’ and ‘seeking permanent solutions for the problem of refugees’.¹⁴⁶ At the time, the Office was expected to function on temporary basis, its existence to be reviewed after three years.¹⁴⁷ What emerged as a temporary response, limited in scope to European refugees, in fact established the basis of current international refugee law. In order to address the post-1951 displacement, the Refugee Protocol lifted the geographical and time limitations of the Refugee Convention in 1967,¹⁴⁸ giving it a global scope. The UNHCR turned out to be a permanent and key global institution for dealing with refugees. Its mandate has been extended periodically, and in 2004 the UNGA decided to ‘continue the Office until the refugee problem is solved’.¹⁴⁹ The UNHCR extended its activities across the world; it expanded its authority to engage in care and assistance programmes for refugees, people in refugee-like

<content/uploads/2018/06/Click-here-to-download-the-Arc-of-Protection.pdf>,
(06.06.2019), 5

accessed

¹⁴⁴ A person who ‘has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization’: Refugee Convention, Article 1 A (1)

¹⁴⁵ Refugee Convention, Article 1 A (2); Also the Refugee Convention gave choice to states choose geographical limitation for the application of the Convention: ‘(a) “events occurring in Europe before 1 January 1951”; or (b) “events occurring in Europe or elsewhere before 1 January 1951”’: Article 1 B (1)

¹⁴⁶ Statute of the Office of the United Nations High Commissioner for Refugees, (adopted 14.12.1950) UNGA Res 428 (V) Article 1

¹⁴⁷ *ibid* Article 5

¹⁴⁸ Refugee Protocol, Article I (2)

¹⁴⁹ UNGA Resolution No 58/153 (24.02.2004)

situations, and internally displaced people,¹⁵⁰ and the Refugee Convention/Protocol's key position within international refugee protection was reaffirmed by the international community.¹⁵¹

Since its initial development in the interwar years, international refugee law has had an inextricable relationship with the modern territorial nation-state system. Despite the characterisation of the nature of the refugee problem as 'social and humanitarian',¹⁵² and responses to the refugee problem as 'non-political' and humanitarian enterprises¹⁵³, both the existence of refugees and responses to displacement are inherently political. Refugees are the inevitable consequences of the territorial establishment of modern nation-states. They are problematised as being outside of their country of nationality, which disturbs the very foundations of the current international state system. When a refugee is 'no longer territorially based, as the state system dictates she should be', she is constructed as an irregularity.¹⁵⁴ Hence, Soğuk argues, the 'problematisation of refugee serves to reproduce the need to stick to a statist image of the world, if we aspire to live in peace, welfare, security and democracy.'¹⁵⁵ Hence, refugee crises are political crises as much as they are humanitarian crises.

The responses to the problem of refugees are themselves political. Refugee law—with the Refugee Convention/Protocol at its core—deals with the problem of refugees within the political paradigm of territoriality. At the end of the Second World War, the triumph of the universal human rights discourse, the 1948 Universal Declaration of Human Rights (UDHR), referred to the 'right to seek asylum' in Article 14.¹⁵⁶ Yet, with the territorial sovereign powers of states, there is no correspondent obligation for states to admit or provide a right to remain for

¹⁵⁰ For a history of the UNHCR's role and transformation of refugee protection policies see: G Loescher, A Betts and J Milner, *The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection into the Twenty-First Century* (Routledge 2008)

¹⁵¹ UNHCR 'Declaration of States Parties to the 1951 Convention and or Its 1967 Protocol Relating to the Status of Refugees' (16.01.2002) HCR/MMSP/2001/09, para 2; The New York Declaration for Refugees and Migrants' (adopted 03.10.2016) UNGA Res 71 (1), para 65

¹⁵² Refugee Convention, Preamble

¹⁵³ Statute of the Office of the United Nations High Commissioner for Refugees, (adopted 14.12.1950) UNGA Res 428 (V) Article 2

¹⁵⁴ E Haddad, *The Refugee in International Society: Between Sovereigns* (CUP 2005) 60

¹⁵⁵ N Soğuk, *States and Strangers: Refugees and Displacement of Statecraft* (University Minnesota Press 1999) 50

¹⁵⁶ Universal Declaration of Human Rights (10.12.1948) UNGA Res 217 A(III), Article 14

refugees. A refugee is legally constructed as a temporary identity, one who needs to be re-territorialised and re-placed into the territorial nation-state system through durable solutions of repatriation to the country of origin, resettlement in third countries, or integration in the host country framework.¹⁵⁷ In the meantime, the Refugee Convention/Protocol provides very crucial safeguards for refugees, that they should not be returned to places where they face the risk of persecution—known as the norm of *non-refoulement*,¹⁵⁸ and they should not to be penalised for seeking protection.¹⁵⁹

In this regard, Dauvergne’s emphasis on the role of refugee law as an exception to state sovereignty is crucial. As she puts it, refugee law creates an exception to state sovereignty, which implies an ‘awkwardly formulated and inversely constructed right to remain’.¹⁶⁰ On the one hand, there is the norm of *non-refoulement*—that refugees cannot be sent back to their countries of origin as long as they face a risk of persecution. On the other hand, the sovereign powers of states dictate that no other state has an obligation to admit refugees. As a result, in practice, the Refugee Convention/Protocol favours the provision of permanent stay for refugees, and the inevitable integration into host countries.¹⁶¹ However limited is this exception to territorial sovereignty, it is still crucial to understand various developments in the international refugee protection framework.

Such an exception particularly affects the working of the international refugee regime whenever refugees are displaced as part of large-scale movements. At the outset, it is important to note that although ‘mass influx’ or large-scale movements are frequently referred to in the discourse of international refugee regime, they are not terms of art. In its general meaning, a ‘mass influx’ characterises the ‘sudden and rapid crossing of international borders by large numbers of uninvited foreigners who are seeking safety from acute danger or other threats to their life and liberty.’¹⁶² Yet, it is not defined in the Refugee Convention/Protocol, or in any other

¹⁵⁷ Edwards (n 23) 612

¹⁵⁸ Refugee Convention, Article 33

¹⁵⁹ Refugee Convention, Article 33 and Article 31 (1)

¹⁶⁰ C Dauvergne (n 68) 56

¹⁶¹ *ibid* 56-57

¹⁶² A Vibeke Eggli, *Mass Refugee Influx and the Limits of Public International Law* (Martinus Nijhoff Publishers 2002) 23

universally binding human rights instrument.¹⁶³ The UNHCR provides its meaning as:

some or all the following characteristics: ‘(i) considerable numbers of people arriving over an international border; (ii) a rapid rate of arrival; (iii) inadequate absorption or response capacity in host States, particularly during the emergency; (iv) individual asylum procedures, where they exist, which are unable to deal with the assessment of such large numbers.’¹⁶⁴

As reflected in the UNHCR’s definition, what constitutes ‘mass influx’ might change according to the context and capacity of the host countries. In any case, these occurrences are often represented as crisis situations in the discourse of refugee protection, that require special forms of response.¹⁶⁵

One of the most important aspects that the Refugee Convention/Protocol introduced to international refugee law is the definition of the refugee on an individual basis. Hence, since the drafting process of the Convention, whether or not the Refugee Convention applies to large-scale refugee movements has been fiercely debated. Since mass movement is not mentioned within the Convention, debates on the place of mass movement by legal scholars consider the interpretation of the Convention provisions and their drafting history. Some scholars, such as Goodwin-Gill and McAdam, in their co-authored book, argue that the refugee definition of Article 1A(2) of the Refugee Convention is ‘essentially individualistic’, and at odds with the cases of mass movements.¹⁶⁶ McAdam and Durieux, this time in their co-authored article, underscore that ‘to assert that the Convention does not apply in cases of mass influx is tantamount to saying that the individual does not exist in a group’.¹⁶⁷ They refer to the discussions during the drafting process which were centred on ‘categories of refugees’, implying that refugeehood is not accepted as an

¹⁶³ There is a reference to ‘mass influx’ in the Declaration of Territorial Asylum but its definition is lacking: UN General Assembly, Declaration on Territorial Asylum, (1967), A/RES/2312(XXII), Article 3 (2)

¹⁶⁴ UNHCR EXCOM Conclusion No 100, ‘International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations’ (2004), para (a)

¹⁶⁵ C Dauvergne, ‘Refugee Law as Perpetual Crisis’ in Satvinder Singh Juss and Colin Harvey (eds), *Contemporary Issues in Refugee Law* (Edward Elgar Publishing 2013) 18

¹⁶⁶ Goodwin-Gill and McAdam (n 22) 22

¹⁶⁷ Durieux and McAdam, (n 56) 9

inherently individualised concept.¹⁶⁸ Einersen, in his commentary on the drafting history, puts forward that there was no intention to keep mass movements outside the scope of the Convention.¹⁶⁹ As an important reminder, the UNHCR Statute, which was adopted in 1950 during the drafting of the Refugee Convention, expressly states that its work ‘shall relate, as a rule, to groups and categories of refugees.’¹⁷⁰ According to the UNHCR’s interpretation, ‘any inadequacies of the 1951 Convention regime in such situations stem more from the way in which the Convention has been applied than from its actual provisions.’¹⁷¹

In addition to debates on the individualistic approach to refugee definition and the application of the Refugee Convention to groups of refugees, the practice of individual RSDs becomes problematic during large-scale movements. The difficulty of investigating each asylum claim on its own merits is reflected in the UNHCR’s above-mentioned definition of ‘mass influx’, noting that individual asylum procedures become ‘unable to deal with the assessment of such large numbers’.¹⁷² Furthermore, reasons for persecution can be more complex than the restricted understanding of persecution given in the Refugee Convention. The scope of the definition of refugee privileges certain grounds of persecution—race, religion, nationality, membership of a particular social group or political opinion—over any other potential reasons for forced displacement, such as socio-economic violence, wars or indiscriminate violence. In part, this reflects a Eurocentric approach to human rights that focuses on civil and political rights.¹⁷³

There are alternatives to the Refugee Convention’s limited definition of refugees, proposed in different regional settings dealing with large-scale displacement. A more inclusive definition of refugee, adopted by the Organisation of the African Union (OAU) in 1969, takes into account the conditions on that continent during

¹⁶⁸ *ibid* 10

¹⁶⁹ Einersen (n 132) 37, 67

¹⁷⁰ Statute of the Office of the United Nations High Commissioner for Refugees, (adopted 14.12.1950) UNGA Res 428 (V), para 2

¹⁷¹ UNHCR ‘Note on International Protection’ (1994) UN Doc A/AC.96/830, para 26-27. The same position reiterated in 2001: UNHCR ‘Protection of Refugees in Mass Influx Situations: Overall Protection Framework’ (19.12.2001) EC/GC/01/4, para 17

¹⁷² UNHCR EXCOM Conclusion No 100, ‘International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations’ (2004), para (a)

¹⁷³ P Tuitt, *False Images: The Law’s Construction of the Refugee* (Pluto Press 1996) 16

the decolonisation period. In addition to Refugee Convention's definition, the OAU Convention states:

the term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.¹⁷⁴

Similarly, the Cartagena Declaration in Latin America, 'in view of the experience gained from the massive flows of refugees in the Central American area', included 'persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.'¹⁷⁵ Yet, as Tuitt underlines, the Refugee Convention's definition has 'resisted many of the more specific claims to refugee recognition.'¹⁷⁶ As we will discuss below, the challenge of an alternative construction of refugees has been handled by international refugee law through the introduction of 'quasi-legal statuses'¹⁷⁷ and different forms of protection frameworks.

Crucially, during large-scale movements, the temporality of refugee identity is rediscovered. The legal status of refugees, their protection, and the content and quality of that protection is tied to and shaped by the temporality of protection awaiting potential durable solutions. Hence, the development of temporary protection needs to be understood within the broader discussion of the durable solutions discourse, which is explored in the next section.

1.2.2 From Resettlement to Repatriation: From Temporary Refuge to Temporary Protection

In the aftermath of the Second World War, the context of Cold War politics was crucial in the international politics of refugee movements and durable solutions.

¹⁷⁴ Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention) (10.09.1969) 1001 UNTS 45, Article 1(2)

¹⁷⁵ Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama (22 November 1984), III (3)

¹⁷⁶ Tuitt (n 131) 51

¹⁷⁷ *ibid* 54

The IRO's Constitution defined its functions as the facilitation of the repatriation of refugees, their re-establishment in countries of temporary residence, and resettlement in third countries.¹⁷⁸ Yet, from 1947 to 1951, the main efforts of the IRO were in relocating more than one million European refugees to the Americas, Israel, Southern Africa and Oceania.¹⁷⁹ Only five per cent of refugees were repatriated.¹⁸⁰ After the establishment of the UNHCR, refugee relief during the Cold War years can be described as 'part of an overall strategy to defeat or contain Communism'.¹⁸¹ Tuitt argues that the 'international refugee identity' was used as a 'weapon' to 'condemn the policies of opposition states, particularly states within Soviet bloc'.¹⁸² To this end, European states and the USA used the grant of asylum to those who were persecuted by the Soviet regime to 'reaffirm the failures of Communism'.¹⁸³ In Loescher's words, 'Escapees' who crossed over to the West 'voted with their feet' and represented a significant political and ideological asset for the West.¹⁸⁴ The expansion of economies in the Western states were also instrumental, since refugees 'offset the loss of labour force' in the Second World War'.¹⁸⁵

Although large-scale refugee movements put the refugee-protection regime to the test during the Cold War years, the prioritisation of resettlement as the preferred solution had a profound impact on the global management of large-scale refugee movements and the introduction of the concept of 'temporary refuge'. The codification of temporary refuge in international documents was first realised in the context of the Indo-Chinese refugee movement during the late 1970s.

¹⁷⁸ Constitution of the International Refugee Organization (15.12.1946, terminated 31.12.1951) UNTS Vol.18, Article 2(1)

¹⁷⁹ Hathaway (n 20) 85; Ferris (n 123)91

¹⁸⁰ BS Chimni, 'From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems' (2004) 23 (3) *Refugee Studies Quarterly* 55, 57 cited from George Stoessinger, *The Refugee and World Community* (The University of Minnesota Press 1963) 111

¹⁸¹ GS Goodwin-Gill, 'The Refugee Identity and Protection's Fading Prospect' in Frances Nicholson and Patrick Twomey (eds) *Refugee Rights and Realities: Evolving International Concepts and Regimes* (CUP 1999) 223

¹⁸² Tuitt (n 173) 7

¹⁸³ G Loescher, *The UNHCR and World Politics: A Perilous Path* (OUP 2001) 7

¹⁸⁴ *ibid* 7

¹⁸⁵ Chimni (n 180) 57

Between 1975 and 1979, over one million refugees from Cambodia, Laos and Vietnam sought asylum in Southeast Asia.¹⁸⁶ None of the countries in this region were party to the Refugee Convention/Protocol, and they were reluctant to admit high numbers of asylum-seekers who were arriving on their shores in boats. They agreed to provide temporary asylum for Indo-Chinese refugees only if other countries would agree to provide places for the permanent resettlement.¹⁸⁷ In 1979, the industrialised states of the North agreed to conduct a large-scale and rapid resettlement in order to reduce the backlog.¹⁸⁸ The subsequent resettlement programme of the Indo-Chinese refugees lasted for a decade, and almost 700,000 people were resettled throughout the 1980s and early 1990s.¹⁸⁹ Thanks to the Cold War politics of the Western states in pursuing liberal admission policies towards refugees fleeing Communist regimes, the resettlement programme became important for convincing regional countries to admit refugees on a temporary basis. Yet, from a bottom-up approach, the success of the resettlement programme is in doubt. Refugees who were awaiting resettlement were kept in camps in inadequate reception standards, and suffered until their resettlement was realised.¹⁹⁰ Moreover, the ongoing displacement of refugees in late 1980s made resettlement quotas insufficient, and regional countries such as Thailand, Indonesia and Hong Kong implemented push-backs and detention policies.¹⁹¹ In 1989, the UNHCR-led Comprehensive Plan for Action was adopted among refugees' country of origin, first asylum countries in the region, and third countries of resettlement.¹⁹² The resettlement programme was praised as a unique success through which refugees were systematically resettled to industrialised countries.¹⁹³ However, considering the standards of asylum in regional countries for refugees awaiting resettlement, forced return in some instances, the use of push-backs and detention, and

¹⁸⁶ UNGA 'Meeting on Refugees and Displaced Persons in South-East Asia' (07.11.1979) UN Doc A/34/627, para 1

¹⁸⁷ For detailed analysis of the Indo-Chinese refugees: SE Davies, 'Saving Refugees or Saving Borders? Southeast Asian States and the Indo-Chinese Refugee Crisis' (2006) 18 (1) *Global Change, Peace and Security* 3

¹⁸⁸ UNGA 'Meeting on Refugees and Displaced Persons in South-East Asia' (07.11.1979) UN Doc A/34/627, para 15

¹⁸⁹ UNHCR *The State of World Refugees* (1993), 23

¹⁹⁰ Meltem Ineli-Ciger, *Temporary Protection in Law and Practice* (Brill Nijhoff 2018) 121

¹⁹¹ *ibid* 119

¹⁹² For a detailed discussion see: A Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Cornell University Press 2009) 112-142

¹⁹³ A Suhrke, 'Burden-Sharing During Refugee Emergencies: The Logic of Collective versus National Action', (1998) 11 (4) *Journal of Refugee Studies* 396, 405

controversies on the screening of refugees for resettlement, the success of the response to Indo-Chinese refugee movement has been questioned.¹⁹⁴

Nevertheless, the context in which there was a consensus to resettle refugees outside of first asylum countries is important in understanding the initial conceptualisation of ‘temporary refuge’. Temporary refuge was framed as an ‘interim solution’¹⁹⁵ or ‘intermediate step’¹⁹⁶ linked to the durable solution of resettlement during the Indo-Chinese refugee movement. In this regard, the notion of temporary refuge was aligned to securing admission and *non-refoulement* during large-scale movements. In 1977, the UNHCR ExCom Conclusion No 5 appealed to first countries of asylum to grant ‘at least temporary asylum to refugees who have come directly to their territory’.¹⁹⁷ In 1979, the Executive Committee reiterated its call, and urged that ‘in cases of large-scale influx, persons seeking asylum should always receive at least temporary refuge’.¹⁹⁸

The Group of Experts on Temporary Refuge met in April 1981 and the ExCom Conclusion on ‘Protection of Asylum in Situations of Large-Scale Influx (No 22)’ was adopted in 1981. This constituted the key document in the development of temporary refuge, and later on temporary protection.¹⁹⁹ The ExCom Conclusion No 22 is a primary soft-law instrument, which outlines the beneficiaries and measures of protection under temporary refuge. Recalling the restricted definition of the term ‘refugee’ in the Refugee Convention, both the Southeast Asian states and the UNHCR categorised Indo-Chinese refugees as ‘displaced persons’, since they were ‘displaced due to a change of regime and a general fear of the new regime, and none of them could claim membership of a particular group that was being persecuted.’²⁰⁰

¹⁹⁴ A Helton, ‘Determinations under the Comprehensive Plan of Action: Overview and Assessment’ (1993) 5(4) *International Journal of Refugee Law* 544; W Courtland Robinson, ‘The Comprehensive Plan of Action for Indochinese Refugees, 1989–1997: Sharing the Burden and Passing the Buck’ (2004) 17 (3) *Journal of Refugee Studies* 319

¹⁹⁵ Crépeau and Holland (n 55) 242

¹⁹⁶ M Kjaerum, ‘Opinion: Temporary Protection in Europe in the 1990s’ (1994) 6 (3) *International Journal of Refugee Law* 444, 445

¹⁹⁷ UNHCR EXCOM Conclusion No 5 ‘Asylum’ (1977)

¹⁹⁸ UNHCR EXCOM Conclusion No 15 ‘Refugees Without an Asylum Country’ (1979), para (f)

¹⁹⁹ UNHCR EXCOM Conclusion No 22 ‘Protection of Asylum-Seekers in Situations of Large-Scale Influx’ (1981)

²⁰⁰ ‘From 1977 onwards, the UNHCR, contrary to the views of Southeast Asian states, argued that Indochinese people are at least *prima facie* refugees deserving the protection of the Refugee Convention unless proved otherwise’: Davies, (n 187) 14

In that regard, Conclusion No 22 defined a broader category of people as potential beneficiaries of temporary refuge.

The first section of Conclusion No 22 clearly expresses that,

the asylum-seekers forming part of the large-scale influxes' include both 'persons who are refugees' in the meaning of the Refugee Convention and persons 'who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of, or the whole of their country of origin or nationality are compelled to seek refuge outside that country'.²⁰¹

The definition adopted the exact wording of the OAU's definition of refugees. Crucially though, in the concept of temporary refuge, Conclusion No 22 differentiated beneficiaries of temporary refuge from the refugees of the Refugee Convention.²⁰² As for the measures of protection, Conclusion No 22 states 'in situations of large-scale influx, asylum seekers *should be* admitted to the state in which they first seek refuge...at least on a temporary basis';²⁰³ 'in all cases the fundamental principle of *non-refoulement* including non-rejection at the frontier *must be* scrupulously observed';²⁰⁴ and asylum seekers '*should be* treated in accordance with the... minimum basic human standards [emphasis added]'.²⁰⁵

Beyond admission and *non-refoulement*, the standards of protection are ambiguous. Conclusion No 22 refrains from explicit references to the rights of the temporarily admitted, and instead refers to the 'minimum basic human standards' that should be observed in their treatment. The minimum standards include exemption from penalty for unlawful presence in the country, fundamental civil rights, basic necessities of life—including food, shelter, basic sanitary and health facilities, not being subject to cruel, inhuman or degrading treatment, not being discriminated against, free access to courts, and respect for the family unit.²⁰⁶ Significantly, they

²⁰¹ UNHCR EXCOM Conclusion No 22 'Protection of Asylum-Seekers in Situations of Large-Scale Influx' (1981), Section I para (1)

²⁰² Fitzpatrick (n 12) 293

²⁰³ UNHCR EXCOM Conclusion No 22 'Protection of Asylum-Seekers in Situations of Large-Scale Influx' (1981), Section II (A) para (1)

²⁰⁴ *ibid* para 2

²⁰⁵ *ibid* Section II (B) para 2

²⁰⁶ *ibid* Section II (B) para 2

do not refer to some fundamental rights such as the right to identity documents, the right to education or the right to work.

Although the concept of temporary refuge has been developed in a particular historical context, during a time when Cold War politics and the preference for resettlement played a key role, it constitutes the basis of the development of temporary protection in the 1990s, albeit in a ‘new and distinct phase’.²⁰⁷ The 1990s witnessed a shift in durable solutions from resettlement to repatriation. Beginning in the 1980s, resettlement as a response to refugee movements had already been questioned by the Global North in situations other than the Cold War context.²⁰⁸ More and more refugees from the South were making their way into the global North, and there was no more shortage of labour to provide an incentive for Northern states to accept refugees.²⁰⁹ The speech of the then High Commissioner for Refugees Sadako Ogata, in 1992, is telling:

It was international support for victims of Communist persecution and repression, which led to the creation of UNHCR in 1951 to protect and assist individuals who sought refuge in the free and democratic countries of the west. Even in the 1960s and 1970s, when struggles for national liberation and decolonisation produced massive population displacement in Africa and Asia, the Superpower rivalry was a decisive variable in shaping international refugee policies. In short, during the last forty years it was the coincidence of political interest and humanitarian concern that helped some 28 million refugees to become integrated in their countries of asylum, repatriate to newly independent countries or find resettlement in a third country.²¹⁰

²⁰⁷ Gibney, (n 55) 693

²⁰⁸ Chimni (n 180) 58

²⁰⁹ *ibid* 58

²¹⁰ UNHCR ‘Statement by Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, at the International Management Symposium, St. Gallen, Switzerland’ (25.05.1992), <https://www.unhcr.org/uk/admin/hcspeeches/3ae68faec/statement-mrs-sadako-ogata-united-nations-high-commissioner-refugees-international.html> accessed (09.09.2018)

She also underlined the problem of increasing numbers of refugees, from 8 million to 17 million from at the end of 1970s to 1991. In the context of the end of Cold War, she famously declared the 1990s as ‘a decade of repatriation for refugees’.²¹¹

As Chimni argues, the preference for repatriation was formulated in a top-down manner: it was not taken as a ‘hypothesis to be tested’, but ‘as a statement of the fact which presumed knowledge of refugees’.²¹² Al-Rasheed, in his article published in 1994, explained the dominant discourse of the time on repatriation as ‘the myth of return’.²¹³ The politics of repatriation takes for granted that ‘refugees endorse the ‘myth of return’ to a specific “homeland” as long as they remain in exile’.²¹⁴ Returning to the homeland then, is established as the ‘natural’ and ‘desired’ solution, ignoring questions of ‘natural for whom?’ and ‘desired by whom?’²¹⁵ Here, the attempt is not to articulate an essentialist view of refugees about repatriation or return. Rather, in the construction of repatriation as the preferred durable solution, the answer to these questions are obvious: returning is desired by states, and natural within the paradigm of modern territorial nation-state system. Two major trends in the work of the UNHCR followed the declaration of repatriation as the preferred solution—namely, the establishment of safe havens in the state of origin to which refugees can be returned, and the implementation of temporary protection.²¹⁶

The concept of temporary refuge has been transformed into temporary protection within the context of the 1990s as the ‘decade of repatriation’. It was heavily discussed with regard to the displacement of Bosnian refugees from ex-Yugoslavia to European states in the early 1990s. According to many experts, including the UNHCR, the majority of Bosnians were believed to qualify for refugee status, since there was convincing evidence of ethnically or religiously-based persecution.²¹⁷

²¹¹ *ibid*

²¹² Chimni (n 180) 59

²¹³ M Al-Rasheed, ‘The Myth of Return: Iraqi Arab and Assyrian Refugees in London’ (1994) 7 *Journal of Refugee Studies* 199, 202

²¹⁴ *ibid* 202

²¹⁵ *ibid* 202

²¹⁶ Loescher, Betts and Milner (n 150) 54

²¹⁷ UNHCR, ‘Report of the International Meeting on Humanitarian Aid to Victims of the Conflict in the Former Yugoslavia’, HCR/IMFY/1992/4 (10.08.1992), para 2 (v); K Koser and R Black, ‘Limits to Harmonization: The ‘Temporary Protection’ Refugees in the European Union’ (1999) 37 (3) *International Migration* 521, 526; Kjaerum (n 196) 450

However, European states adopted a highly restrictive interpretation of the refugee definition requiring individuals to have been singled out for political persecution. They maintained that the reasons for the flight of Bosnians might not necessarily satisfy the individual threat of persecution.²¹⁸ In addition, many European states argued that the individual RSD process would be impractical, since high numbers of Bosnian asylum-seekers would place a burden on the national asylum systems.²¹⁹

As a political compromise, in 1992, the then High Commissioner Sadako Ogata ‘urged all States within or outside the region to express solidarity by providing temporary protection to persons fleeing former Yugoslavia’, and underlined that temporary protection would ‘encourage eventual *return as the most desirable and feasible solution* [emphasis added].’²²⁰ The UNHCR’s proposal for temporary protection included four elements: ‘admission to the country... respect for the principle of *non-refoulement* and basic human rights (outlined in the Conclusion No 22), and repatriation when conditions so allow in the country of origin.’²²¹

In response, several European states provided temporary protection for over 500,000 Bosnians in total.²²² The practice of temporary protection in Europe differed from one state to another, yet the standards were in line with the UNHCR proposal. The protection was granted, with the expectation of repatriation of its beneficiaries to their countries of origin in a short period of time. In this respect, unlike the Indo-Chinese refugee case, temporary protection in Europe is not an intermediate step pending resettlement as a durable solution, but absolutely contingent upon the possibility of their eventual return.²²³

The normal asylum procedures were suspended, and temporary protection was accorded under a variety of *ad hoc* schemes without recourse to individual RSDs in most of the European countries.²²⁴ Austria, Belgium, Denmark and Greece designated a special status of temporary protection while UK, Finland and France

²¹⁸ D Sopf, ‘Temporary Protection in Europe After 1990: The Right to Remain’ of Genuine Refugees’ (2001) 6 Washington University Journal of Law and Policy 109, 123

²¹⁹ *ibid* 124

²²⁰ UNHCR ‘Report of the International Meeting on Humanitarian Aid to Victims of the Conflict in the Former Yugoslavia’ (10.08.1992) HCR/IMFY/1992/4, para 13

²²¹ *ibid* para 13

²²² UNHCR, ‘The State of World Refugees’ (1997), figure 5.6

²²³ Kjaerum (n 196) 449

²²⁴ Koser and Black (n 217) 527

adapted already existing frameworks. In Germany, a discretionary form of temporary protection provided.²²⁵ The standards of treatment were dependent on the discretion of the receiving states, and the most common restrictions were on rights related to social and economic rights, such as the right to education, the right to work and family unification.²²⁶ Goodwin-Gill and McAdam describe European temporary protection in practice as a ‘trade-off: on accepting the obligation to admit large numbers of refugees, states *de facto* suspend most immediate and compelling protections provided by the Refugee Convention’.²²⁷

The expectation of the repatriation of Bosnians in the short-term proved to be mistaken. European states followed two trends in cessation of temporary protection: most European states transferred Bosnians to some form of permanent status.²²⁸ However, Germany represented a significant exception worth considering, since 60 per cent of Bosnians in Europe were in Germany.²²⁹ Germany decided to return Bosnians in 1996 despite the concerns of UNHCR.²³⁰ The majority of Bosnians left Germany by 1998, revealing temporary protection’s potential for ‘premature and unsafe repatriation’.²³¹

In 1999, temporary protection was once more implemented in Europe for Kosovar refugees escaping the NATO bombing of Kosovo. In contrast to Albania, the Former Yugoslav Republic of Macedonia initially closed its borders to thousands of refugees escaping Kosovo.²³² Once more, temporary protection was negotiated in Macedonia and other European states alongside the adoption of Humanitarian

²²⁵ *ibid*

²²⁶ [Danish Refugee Council, ‘Legal and Social Conditions for Asylum-Seekers and Refugees in Western European Countries’ \(2000\);](#) European Council on Refugees and Exiles (ECRE), ‘Complementary/Subsidiary Forms of Protection in the European Union States: An Overview’ (1999); Humanitarian Issues Working Group, ‘Survey on the Implementation of Temporary Protection’ (18.03.1994)

²²⁷ Goodwin-Gill and McAdam (n 22) 336

²²⁸ K Koser, M Walsh and R Black, ‘Temporary Protection and the Assisted Return of Refugees from the European Union’, (1998) 10 (3) *International Journal of Refugee Law* 444, 449

²²⁹ Approximately 345,000 Bosnians were admitted to Germany, constituting the sixty per cent of all Bosnians who were under temporary protection in various European countries: UNHCR, ‘The State of World Refugees’ (1997), figure 5.6

²³⁰ E Meyers, *International Immigration Policy: A Theoretical and Comparative Analysis* (Palgrave McMillan 2004) 136; Amnesty International, “‘Who’s Living in My House?’ Obstacles to the Safe Return of Refugees and Internally Displaced People (1997) EUR 63/01/97

²³¹ Fitzpatrick (n 12) 288

²³² For a detailed discussion of Kosovar displacement and responses of European countries see MBarutciski and A Suhrke, ‘Lessons From Kosovo Refugee Crisis: Innovations in Protection and Burden-Sharing’ (2001) 14(2) *Journal of Refugee Studies* 95

Evacuation Programme and the Humanitarian Transfer Programme for Kosovan refugees—which foresaw the transfer of refugees to third states including the USA, Sweden, Norway, Austria and Turkey.²³³ Temporary protection was implemented for refugees who arrived in host countries by their own means and for those who were transferred under evacuation programmes.²³⁴ As in the case of Bosnian displacement, standards of treatment for Kosovan refugees under temporary protection differed among states.²³⁵ Following NATO’s military intervention in Kosovo, the overwhelming majority of refugees returned their countries in 1999.²³⁶ Duriéux underscores the willingness and ability of refugees to return to the UN-administered Kosovo as the basis on which the ‘temporary character of temporary protection has been vindicated.’²³⁷

The truly temporary nature of the implementation of temporary protection in the case of Kosovan refugees led to increasing support for the framework in European states²³⁸ and temporary protection was for the first time formalised at a regional level in the EU in 2001.²³⁹ Building upon European practice, temporary protection has been further advanced and promoted by the UNHCR at a doctrinal level. Moreover, scholarly efforts attempted to theorise ideal types of temporary protection. The next section turns to reconsideration of temporary protection in policy and academic circles, as a contemporary solution to the crisis of international refugee law in dealing with large-scale refugee movements.

1.3 Temporary Protection Reconsidered: Top-Down Approaches in Reframing Temporary Protection

Earlier efforts at theorising temporary refuge date back to the 1980s. The concept of temporary refuge was heavily discussed in relation to the norm of *non-refoulement* and admission of refugees to state territories. Coles argued that temporary refuge should be understood as a ‘protection characterised by the

²³³ *ibid* 96-97

²³⁴ Ineli-Ciger *Temporary Protection in Law and Practice* (Brill 2017) 144

²³⁵ *ibid* 144

²³⁶ *ibid* 145

²³⁷ Duriéux (n 23) 241

²³⁸ Fitzpatrick (n 12) 279

²³⁹ Council of the European Union, Council Directive on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof, (7.08.2001) OJL.212/12-212/23, 2001/55/EC

principle of *non-refoulement*... which is temporary pending the obtaining of a durable solution'.²⁴⁰ Hence, its proper function is 'to facilitate admission'.²⁴¹ Similarly, Hartman and Perluss, in their seminal essay, equated temporary refuge with the obligation of *non-refoulement*. According to them, temporary refuge 'prohibits a state forcibly repatriating foreign nationals who find themselves in its territory after having fled generalised violence and other threats to their lives and security caused by internal armed conflict within their own state'.²⁴² While Coles argued that the rights accorded to those temporarily admitted might not be the same as the rights accorded by the Refugee Convention,²⁴³ Hartman and Perluss pointed out in 1986 that temporary refuge acquires a customary law status; according to them its content beyond the ban on forcible return has 'yet to be critically examined'.²⁴⁴ Goodwin-Gill, who was involved in the development of temporary refuge as a staff member of the UNHCR, argues that temporary refuge aimed to 'forge an institutional link between admission and burden-sharing'²⁴⁵ in the form of resettlement.

The scholarly interest in temporary protection increased in the 1990s, following its implementation in Europe. The literature focused on the question of the effectiveness of existing temporary protection frameworks, and suggested reforms for those aspects deemed problematic. Most common reforms suggested were the adoption of a rights-based approach to standards of treatment, setting limits for the duration of temporary protection, and establishing/strengthening the link to international responsibility-sharing and durable solutions.²⁴⁶

²⁴⁰ Coles (n 55) 199

²⁴¹ *ibid* 191

²⁴² Hartman and Perluss (n 26) 554

²⁴³ Coles (n 55) 201

²⁴⁴ Hartman and Perluss (n 26) 555

²⁴⁵ Goodwin-Gill (n 24) 433

²⁴⁶ Crépeau and Holland suggested expanding the standards of treatment defined in the Conclusion No 22; setting time limits; and establishing compulsory international burden-share mechanisms: Crépeau and Holland (n 55) 260; Kjaerum called for providing human rights to beneficiaries of temporary protection, including right to family unification and right to work and called for comprehensive international cooperation in burden-sharing: Kjaerum (n 196) 452-455; Gibney defined 'humane form of temporary protection' under which 'refugees would have access to economic and social rights...be able to change their status within a few years if repatriation is impossible, possess a right to family unification, be involved in decisions on return, and be provided with assistance in returning': Gibney (n 55) 689, 704; Koser and Black proposed temporary protection status should 'enshrine a standard set of legal rights'; Koser and Black (n 217) 535; Fitzpatrick warned against dangers of de-legalizing protection through temporary protection

The discussions in policy circles followed a similar path in the attempt to standardise/improve the conceptualisation of temporary protection. Temporary protection was debated in the international community on numerous occasions under the auspices of the UNHCR, in an attempt to explore its content, meaning, and relevance. The UNHCR's 1994 Note on International Protection is of significance, in conceptualising temporary protection within the broader framework of international refugee protection. In the Note, temporary protection is conceived as an 'emergency protection of hopefully short duration'²⁴⁷ and a 'pragmatic tool'²⁴⁸ of international protection in situations of 'mass outflows'.²⁴⁹ The Office boldly stated that 'the concept of temporary protection should be a feature of whatever approach is taken' in bridging the gaps in international protection.²⁵⁰

In bridging the gaps, it is suggested by the Note that temporary protection beneficiaries include a broader category of persons defined in the OAU Convention and Cartagena Declaration.²⁵¹ Similar to the arrangements of UNHCR and IRO, beneficiaries are defined on a group basis 'without recourse, at least initially, to individual refugee status determination'.²⁵² However, this only provides a quasi-legal status to its beneficiaries as temporarily protected. In this sense, the Note differs from the OAU Convention and Cartagena Declaration, which define refugee status more broadly. It also differs from *prima facie* recognition of refugees on a group basis. *Prima facie* refugee status or refugee status determination is not a term of art. But in practice, many refugee-hosting states and the UNHCR apply *prima facie* refugee status by considering the objective circumstances in the country of origin.²⁵³ Although it not necessarily a procedure applied solely on a group-basis, it is frequently used in group situations that make individual RSDs impractical.²⁵⁴

frameworks: Fitzpatrick (n 12); Thorburn underlined the importance of developing comprehensive approach for burden-sharing in which temporary protection can be a basis: Joanne Thorburn 'Transcending Boundaries: Temporary Protection and Burden-sharing in Europe' (1995) 7(3) International Journal of Refugee Law 459, 473

²⁴⁷ UNHCR 'Note on International Protection' (1994) UN Doc A/AC.96/830, para 46

²⁴⁸ *ibid* Section IV (B)

²⁴⁹ *ibid* para 46

²⁵⁰ *ibid* para 44

²⁵¹ *ibid* para 47

²⁵² UNHCR 'Note on International Protection' (1994), para 46

²⁵³ UNHCR 'Guidelines on International Protection No11: Prima Facie Recognition of Refugees' (2015), para1

²⁵⁴ UNHCR 'Guidelines on International Protection No11: Prima Facie Recognition of Refugees' (2015) para2

In theory, those who have *prima facie* RSD then obtain refugee status according to the conventions or treaties that the host country adopts.²⁵⁵ However, in practice, those who are under *prima facie* refugee status face different treatment by states, justified by the stretching of resources due to high number of refugees.²⁵⁶ Temporary protection status, in this sense, is different from *prima facie* refugee status, since it makes it clear that it is a time-limited protection, with a lesser package of rights, rejecting local integration as a durable solution.

According to the 1994 International Note on Protection, the focus on return provides the rationale for efforts to minimise integration.²⁵⁷ Durieux submits that the quality and duration of protection are related to one another. In its repatriation-oriented framework, temporary protection involves ‘putting brakes on the ‘integration machine’’.²⁵⁸ However, since there is no time limitation for the duration of temporary protection,²⁵⁹ both Convention refugees and others in need of protection might remain under temporary protection for a prolonged or indefinite period of time. The need for a progressive improvement of standards in the case of a prolonged stay is suggested; yet the actual levels of treatment are agreed to be in line with the reception capacity of the receiving state.²⁶⁰ In 2001, when protection of refugees in ‘mass influx situations’ was discussed as part of the Global Consultations on International Protection, temporary protection is reconsidered as ‘a practical device’.²⁶¹ Once more, the need for the improvement of standards in the case of prolonged stay and the potential value of harmonised approach to standards of treatment are highlighted, without providing parameters.²⁶²

During the period of harmonisation of the asylum system in the EU, temporary protection was formalised on a regional level with the adoption of the EU Council

²⁵⁵ *ibid* para 7

²⁵⁶ M Albert, ‘Governance and *Prima Facie* Refugee Status Determination: Clarifying the Boundaries of Temporary Protection, Group Determination and Mass Influx’ (2010) 29 (1) *Refugee Survey Quarterly* 61, 71

²⁵⁷ UNHCR ‘Note on International Protection’ (1994) UN Doc A/AC.96/830, para 50

²⁵⁸ Durieux (n 23) 236

²⁵⁹ UNHCR ‘Note on International Protection’ (1994), para 50

²⁶⁰ *ibid* para 49

²⁶¹ UNHCR ‘Protection of Refugees in Mass Influx Situations: Overall Protection Framework’ (19.12.2001) EC/GC/01/4, para 13

²⁶² *ibid* 15

Directive on Temporary Protection in 2001.²⁶³ The concept is adopted as a ‘procedure of exceptional character’ in the events of a ‘mass influx’²⁶⁴, and owes its origins to events dealing with the former Yugoslavian displacement. In the Council Directive, the standards of treatment include the right to education, the right to work²⁶⁵, the right to housing, the right to social welfare, and family reunification.²⁶⁶ Furthermore, the Directive standardised the duration of ‘temporary’ as one year, which can be prolonged to up to three years.²⁶⁷ Access to an asylum procedure was secured with the requirement that the processing of asylum applications shall be completed after the end of the temporary protection period.²⁶⁸

However, the Council Directive introduced a complicated procedure for the activation of temporary protection, which requires a decision adopted by a qualified majority.²⁶⁹ Since its entry into force, the activation of the Directive was a concern during Afghani and Iraqi refugee movements, following their displacement in 2001 and 2003. Refugee movements from North African countries subsequent to Arab uprisings led to another debate²⁷⁰, while the most contemporary large-scale movement of Syrian refugees resulted in calls for the activation of the Council Directive.²⁷¹ But, under the Directive, European states have yet to reach a consensus on implementing temporary protection.

²⁶³ Council of the European Union, Council Directive on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof, (7.08.2001) OJL.212/12-212/23, 2001/55/EC

²⁶⁴ *ibid* Article 2 (a)

²⁶⁵ A limitation on right to work is put as: ‘For reasons of labour market policies, Member States may give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third- country nationals who receive unemployment benefit’: *ibid* Article 12

²⁶⁶ *ibid* Chapter III

²⁶⁷ *ibid* Article 4

²⁶⁸ *ibid* Article 17

²⁶⁹ *ibid* Article 5

²⁷⁰ B Nascimbene and A Di Pascale, ‘The ‘Arab Spring’ and the Extraordinary Influx of People who Arrived in North Italy from North Africa’ (2011) 13 *European Journal of Migration and Law* 346

²⁷¹ SM Akram (et.al) ‘Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing’ (2014) Boston University School of Law International Human Rights Clinic <http://www.bu.edu/law/files/2015/07/FINALFullReport.pdf> accessed (04.03.2016); Cynthia Orchard and Andrew Miller, ‘Protection in Europe for Refugees from Syria’ (2014) Oxford Refugee Studies Centre

The report published by Migration and Home Affairs of the European Commission summarises the results of quantitative and qualitative study—including surveys and interviews with representatives of EU Member States, the European Commission, and the European Parliament—on the non-activation of the Council Directive.²⁷² On the one hand, it refers to the technical and bureaucratic hardships of its activation.²⁷³ However, importantly, the report also underlines Member States' concerns on the 'pull factor' that the implementation of temporary protection might cause, the impact of providing group-based protection on undermining the sovereignty of Member States, and 'generous levels of rights'.²⁷⁴ Hence, the formalisation of temporary protection with a set of rights and a clear time-limit, in contrast to its implementation on an *ad hoc* and flexible manner, impeded its implementation by states.

In the scholarly debate on temporary protection, the dominant discourse on repatriation and the restrictive asylum policies in Northern countries, in place since 1980s²⁷⁵, led to major discussions on the failure of international refugee law. In their oft-cited article, Hathaway and Neve declared that the 'international refugee law is in crisis'.²⁷⁶ According to them, two aspects of the system—namely the absence of burden-sharing among international community and the *de facto* permanency of refugees—were the main reasons for its failure.²⁷⁷ They theorised a 'solution-oriented temporary protection' as 'a system of rights-regarding temporary protection that is dedicated to preparing refugees adequately for the eventuality of return'.²⁷⁸ It is a rights-regarding protection framework, since it entails a baseline of rights for refugees in relation to *non-refoulement*, security, basic dignity and self-sufficiency.²⁷⁹ At the same time, it is a form of temporary protection that is designed

²⁷² H Beirens and others, 'Study on the Temporary Protection Directive: Final Report' (2016) *European Commission, Directorate-General for Migration and Home Affairs*

²⁷³ *ibid* 34-36

²⁷⁴ *ibid* 34-36

²⁷⁵ These included measures designed to prevent arrival of refugees such as 'extended visa requirements, carrier sanctions, pre-boarding documentation checks at airports, readmission agreements with transit countries, the interdiction and mandatory detention of asylum seekers, restrictive interpretations of the refugee definition': J Crisp, 'A New Asylum Paradigm? Globalisation, Migration and the Uncertain Future of the International Refugee Regime' (2003) *New Issues in Refugee Research, Working Paper No 100*, 8; Koser and Black (n 217) 521, 525

²⁷⁶ Hathaway and Neve (n 56) 115, 115

²⁷⁷ *ibid* 117

²⁷⁸ *ibid* 156

²⁷⁹ *ibid* 157

to prepare refugees for repatriation through respecting the social structures of refugee groups, developing their skills and resources, promoting linkages between refugees and stayee communities, and building confidence.²⁸⁰

The eventual return of refugees, Hathaway and Neve argue, necessitates the protection of refugees within their own regions to facilitate their repatriation. In their words, ‘the geographical proximity between the state of asylum and the country of origin is desirable to allow for ongoing contact between refugee and stayee communities, and ultimately to facilitate repatriation.’²⁸¹ A similar argument was forwarded during the Workshop on Temporary Protection conducted by the Institute for the Study of International Migration in 1999. Participants referred to third-country resettlement as the least preferable solution, since it removes refugees so far from their region of origin.²⁸²

In order to alleviate the high burden of regional states in hosting the refugees, Hathaway and Neve propose a ‘theory of common but differentiated responsibility’ among states towards refugees.²⁸³ According to their proposed model, states would contribute to responsibility-sharing in accordance with their relative abilities and circumstances. They might provide temporary protection, receive vulnerable refugees, resettle refugees who cannot return at the end of the conflict in their home countries, and provide financial contribution for protection systems in host countries.²⁸⁴

Taking into account the reluctance of Northern states to admit refugees, the logical consequence of the theory of differentiated responsibility would be thus: regional states would provide temporary protection in their countries, while Northern states would take responsibility for financing refugee protection in regional countries. Hathaway and Neve do not deny the consequences of such a trade-off, explaining that:

²⁸⁰ *ibid* 173

²⁸¹ *ibid* 204

²⁸² Nadia Yakoob, ‘Report on the Workshop on Temporary Protection: Comparative Policies and Practices’ (1999) 13 *Georgetown Immigration Law Journal* 617, 630

²⁸³ Hathaway and Neve (n 56) 145

²⁸⁴ *ibid* 145

The result of this trade-off would clearly be an increase in the number of refugees protected in the South. But, because eighty percent of the world's refugee population is already protected in the less developed world, even an agreement to assign the *entire* refugee population of the North to protection in the South... would increase the refugee population in the less developed world only marginally. The resulting system, however, could address the growing concerns of Southern governments regarding fairness and sustainability in meeting the needs of the bulk of the refugee population.²⁸⁵

Hathaway and Neve's framework is rightly criticised for its tendency to contain refugees in the South, legitimising Northern states' concerns for restrictions on arrivals, and the hierarchical relationship that would follow the politics of financial aid—leading to the commodification of refugees.²⁸⁶

The discourse of temporary protection has a disturbing relationship with the broader restrictive policies of refugee protection. While restrictive asylum policies and measures of control already create 'engineered regionalism', and contain refugees within their own countries or regions,²⁸⁷ regional temporary protection frameworks obviously run the risk of being another measure of control for Northern states. As a panacea to the failure of the durable solutions framework, the UNHCR continued to call for the implementation of temporary protection in the 21st century. The Office advised temporary protection for people escaping from Iraq in the aftermath of the 2003 exodus of refugees;²⁸⁸ from Lebanon in 2006;²⁸⁹ from Libya in 2011;²⁹⁰ and from Syria since 2011.²⁹¹

²⁸⁵ Hathaway and Neve (n 56) 146

²⁸⁶ D Anker, J Fitzpatrick and A Shacknove, 'Crisis and Cure: A Reply to Hathaway/Neve and Schuck' (1998) 11 *Harvard Human Rights Journal* 295; Chimni (n 180) 55; Gregor Noll, 'Why Refugees Still Matter: A Response to James Hathaway' (2007) 8 *Melbourne Journal of International Law* 536

²⁸⁷ M Gibney, 'Forced Migration, Engineered Regionalism, and Justice Between States' in Susan Kneebone and Felicity Rawlings-Sanaei (eds) *New Regionalism and Asylum Seekers* (Berghahn Books 2007) 62-63

²⁸⁸ UNHCR 'Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers' (03.10.2005), para 22

²⁸⁹ UNHCR Considerations on the Protection Needs of Persons Displaced Due to the Conflict in Lebanon and on Potential Responses (03.08.2006), para 5

²⁹⁰ UNHCR Protection Considerations with Regard to People Fleeing from Libya (25.02.2011), para 2

²⁹¹ UNHCR 'Note on International Protection' (2012) EC/63/SC/CRP.11, para 4

The large-scale Syrian displacement, beginning in 2011, triggered the latest discussions on the effectiveness of the international refugee regime.²⁹² The discussions on the concept of temporary protection have been revitalised as the neighbouring countries of Jordan, Lebanon, and Turkey host the overwhelming majority of Syrians on a temporary basis.²⁹³ Although Jordan and Lebanon implemented rudimentary temporary protection regimes for Syrian refugees, Turkey constructed its own model of a ‘temporary protection legal regime’, based on the European practice.²⁹⁴ Lambert interpreted the admission of Syrian refugees into neighbouring states as an indicator of acceptance of the customary law on ‘temporary refuge’ in the region.²⁹⁵

Once more, with an attempt to identify the scope and minimum standards of temporary protection following its implementation in the context of the Syrian displacement, the UNHCR held two roundtables in 2012/2013.²⁹⁶ As a result of the global process, the UNHCR published Guidelines on Temporary Protection or Stay Arrangements (TPSAs) to assist governments in the development of temporary protection²⁹⁷ as a means to fill the gaps in the international refugee protection regime²⁹⁸ in addressing large-scale refugee movements and humanitarian crises.²⁹⁹ In addition to the standards of the Ex Com Conclusion No 22, the minimum standards in the 2014 Guidelines include ‘recognised and documented permission to stay’, ‘protection against sexual and gender-based violence and exploitation’, ‘protection against arbitrary or prolonged detention’, and ‘special arrangements for persons with special needs, including persons with disabilities’. Crucially, the Office included ‘access to health and other basic services and education’ and ‘self-sufficiency or work opportunities’ within the minimum standards of treatment.³⁰⁰ However, the Guidelines do not determine the duration of temporary protection, and advised it to be extended as conditions persist.³⁰¹ Hence, it is derived from the

²⁹² For a detailed analysis, see Chapter 5

²⁹³ ‘Regional Refugee and Resilience Plan: Regional Strategic Overview 2019-2020’ (2019)

²⁹⁴ H Lambert, ‘Temporary Refuge from War: Customary International Law and the Syrian Conflict’ (2017) 66(3) *International and Comparative Law Quarterly* 723, 740

²⁹⁵ *ibid* 723

²⁹⁶ UNHCR ‘Guidelines on Temporary Protection and Stay Arrangements’ (2014), para 2

²⁹⁷ *ibid* para 1

²⁹⁸ *ibid* para 3

²⁹⁹ *ibid* para 4

³⁰⁰ *ibid* para 16

³⁰¹ *ibid* para 20

Guidelines that temporary protection might continue indefinitely, depending on the root causes of the displacement.³⁰²

In 2016, the New York Declaration was adopted by the UN General Assembly to deal with large movements of refugees and migrants.³⁰³ Although the New York Declaration did not refer to the concept of temporary protection in its text, the 2018 Global Compact on Refugees, or GCR (which was adopted by the UNHCR in response to the call made in the New York Declaration³⁰⁴) identified ‘local solutions’ among suggested solutions to large-scale refugee movements.³⁰⁵ The local solutions imply temporary protection, as the GCR states: ‘[s]uch solutions entail interim legal stay, including to facilitate the appropriate economic, social and cultural inclusion of refugees, and are provided without prejudice to eventual durable solutions that may become available.’³⁰⁶

The pragmatic and theoretical frameworks of temporary protection discussed above establish a top-down approach to refugee protection that focuses on state interests. They all have a fundamental aim: negotiating with states in order to convince them to implement temporary protection, since durable solutions are in crisis. The top-down frameworks of temporary protection are constructed as problem-solving approaches, working within the paradigm of durable solutions. Where and when the traditional durable solutions to place large numbers of displaced people into the nation-state system fails, temporary protection is considered a ‘practical’ response to fill the gaps—that is, practical for the states.

As such, top-down frameworks of temporary protection speak to states, and do not open up a space for refugee perspectives/agency during protection. In order to explore temporary protection fully, first we need to comprehend ‘the interests and hopes that the displaced themselves invest in the idea of ‘solutions’’.³⁰⁷ Such analysis requires a shift from top-down frameworks to bottom-up approaches—

³⁰² M Kagan, ‘UNHCR Issues New Guidelines on Temporary Protection’ (20.03.2014), <https://rsdwatch.com/2014/03/20/unhcr-issues-new-guidelines-on-temporary-protection-they-need-a-rewrite/>, accessed (01.03.2016)

³⁰³ The New York Declaration for Refugees and Migrants’ (adopted 03.10.2016) UNGA Res 71 (1)

³⁰⁴ *ibid* para19

³⁰⁵ Global Compact on Refugees, UNGA A/73/12 (Part II), para85

³⁰⁶ *ibid* para100

³⁰⁷ Long (n 59) 3

which challenge the former's representation of refugees as passive objects of protection. Adopting a bottom-up approach, therefore, the next section outlines the analytical framework of this thesis, that seeks to unpack the concept temporary protection.

1.4 Unpacking Temporary Protection: Legality, Uncertainty and Homemaking in Exile

The contemporary situation of refugees reveals the failure of the discourse on traditional durable solutions. The UNHCR Global Trends gives a snapshot of forced migration world-wide on a yearly basis. Although the statistics are not reliable for understanding forced migration qualitatively, and numbers are silent on experiences of forced migrants and their struggles or strategies, they are strong indicators of the failure of the current refugee regime in bringing a 'solution' to displacement. According to the UNHCR Global Trends of 2018, 70.8 million people were forcibly displaced from their homes as a result of persecution, conflict, or generalised violence, including 41.3 million internally displaced people.³⁰⁸ Among refugees, 15.9 million people—which represents 78 per cent of the total number of refugees—are in protracted refugee situations, which according to the UNHCR definition means that they have been displaced for more than five years.³⁰⁹

Long-term displacement is a strong indicator of the failure of the traditional model of the durable solutions of repatriation, resettlement and local integration. Contrary to the discourse of durable solutions, it is a well-established fact that protracted displacement has become the norm in forced migration.³¹⁰ Repatriation is not possible for many refugees, while resettlement is an option for only less than one per cent of the total refugee population.³¹¹ According to the UNHCR statistics, 85 per cent of refugees are living in the global South.³¹² The majority of states in the global South do not have sufficient means to integrate refugees, or are not willing to do so, while the increasingly strict migration control policies of the global North

³⁰⁸ UNHCR Global Trends (2018), 2

³⁰⁹ *ibid* 22

³¹⁰ Zetter (n 59) 1

³¹¹ UNHCR Global Trends (2017), 3

³¹² *ibid* 2

aim to keep refugees where they are, preventing them from reaching the Northern borders except for the limited resettlement quotas.³¹³

As the protracted displacements of refugees under temporary protection frameworks reveal, temporary protection is not a truly ‘temporary’ condition leading to any kind of permanent, secure status. Simply put, those who contravene the migration and refugee law would have an illegal status in a given country.³¹⁴ Illegality is commonly used to refer to those who cross state borders by breaching the law, who overstay their permission to legally stay, those whose asylum application is rejected, and those whom (despite their intention) have not yet applied for asylum.³¹⁵ In this sense, temporary protection status is not seen as an ‘illegal’ status—and yet, it is undoubtedly not a secure status.

The discretionary power of authorities in delimiting the rights and freedoms of those temporarily protected has been discussed in previous sections. It is revealed that during the conceptualisation of temporary protection, several related assumptions are made to justify the restrictions of the rights, freedoms, and security of the temporarily protected: (i) host state capacities are overwhelmed during large-scale movements of refugees; (ii) it is an interim solution and emergency response awaiting durable solutions; (iii) the focus on repatriation leads to efforts of minimising integration. Although the UNHCR calls for improvements on standards of temporary protection with the passage of time,³¹⁶ in practice this leads to a logical fallacy. How, when, or why host states would have capacity or wish to improve standards of protection is not clear. From a refugee perspective, uncertainty about access to certain rights, such as the right to work, or access to livelihoods—if at all—leads to great insecurity and precarity.

Similarly, when and how temporary protection may cease remains ambiguous. Despite the temporality of refugee status, the Refugee Convention, the OAU Convention, and most domestic legal legislations include cessation clauses for the termination of refugee status.³¹⁷ In the case of temporary protection, although the

³¹³ DS FitzGerald, *Refuge Beyond Reach: How Rich Democracies Repel Asylum Seekers* (OUP 2019)

³¹⁴ Dauvergne (n 68)11

³¹⁵ *ibid*

³¹⁶ UNHCR, The Note on International Protection (1994), para 49

³¹⁷ Refugee Convention Article 1 (C); OAU Convention Article I (4)

basis of termination varies among state practice, it is assumed that beneficiaries ‘can be returned as soon as the triggering event has been resolved, regardless of whether more durable and fundamental changes in the country of origin have taken place’.³¹⁸ The 2014 UNHCR Guidelines frame cessation of temporary protection as when ‘it is determined—on the basis of an objective assessment based on clear indications—that the situation causing the displacement has ended, and voluntary return is reasonable and can be carried out in safety and dignity’.³¹⁹ Upon the decision of the host state that voluntary return is reasonable, the beneficiaries of temporary protection can easily slip into illegality, if they overstay their legal permission to remain in the country.

Temporary protection as an ‘emergency/crisis’ response of an exceptional character has been implemented on an *ad hoc* basis—leading to ambiguity over the legal status of its beneficiaries. Former UN High Commissioner for Refugees, Sadako Ogata, proposed the temporary protection in 1992 as ‘a flexible system’ that ‘would respond adequately to the emergency situation and encourage return as the most desirable and feasible solution’.³²⁰ It is now recognised that what she refers to as ‘flexibility’ translates into insecurity and uncertainty with regard to the legality of temporary protection status. The non-activation of the Council Directive on Temporary Protection suggests that whenever temporary protection loses its ‘flexibility’, state actors are disinclined to implement formalised temporary protection frameworks.

Insecurities of temporary protection status, experience of displacement, and living in exile combine to create ‘protracted uncertainty’ as a pertinent condition for beneficiaries of temporary protection.³²¹ In order to grasp the centrality of protracted uncertainty under temporary protection, first we need to discuss it in relation to the failures of the durable solutions framework. As discussed above, the implementation of temporary protection has been conditional upon finding a durable solution to its beneficiaries’ displacement. Where resettlement, repatriation

³¹⁸ Edwards (n 23) 602-603

³¹⁹ UNHCR ‘Guidelines on Temporary Protection and Stay Arrangements’ (2014), para 21(i)

³²⁰ ‘Statement of Mrs Sadako Ogata, United Nations High Commissioner for Refugees, to the International Meeting on Humanitarian Aid for Victims of the Conflict in the former Yugoslavia’ (29.07.1992), <https://www.unhcr.org/admin/hcspeeches/3ae68fac1a/statement-mrs-sadako-ogata-ukited-nations-high-commissioner-refugees-international.html> accessed (02.08.2019)

³²¹ Horst and Grabska (n 73) 3

and local integration fail, temporary protection frameworks become pragmatic tools of state in keeping refugees under ‘permanent temporariness’³²² awaiting return. Hence, protracted uncertainty is inherently related to the failure of the durable solutions framework in bringing an end to the predicament of refugees—yet, it can also be considered as a ‘deliberate governance strategy’ to avoid the settlement of its beneficiaries in places of refuge.³²³

Temporary protection provides two options for its beneficiaries in rebuilding their lives: either returning to their countries of origin or resettling in third countries. In either case, their future lies somewhere else. Within the condition of protracted uncertainty, short-term uncertainty in regard to the insecurities of temporary protection status and long-term uncertainty related to the future of refugees intermingle.³²⁴ Without ‘knowing what comes next’³²⁵, and/or when it will happen, refugees struggle to make life choices, imagine a future, and invest in any future plans. Importantly, the durable solutions themselves might not indicate certainty or stability for refugees. That is, the shift from temporary protection to repatriation, integration, resettlement as forms of ‘permanent solutions’ do not necessarily bring an immediate end to the uncertainty of protracted exile.

Čapo, in her empirical study with former Croatian and Bosnian refugees who were repatriated or locally integrated, reveals that returnees could not simply rebuild their lives, since ‘they came back to what are radically transformed surroundings’, while locally integrated refugees continued to struggle with belonging to a new environment. Both returnees and integrated refugees continued to experience the condition of being ‘immigrants’, rather than a ‘naturalised returnee’ or ‘settler’.³²⁶ Similarly, Hyndman and Giles’ research on resettled refugees in Canada challenges the presumption that resettlement can be an easy solution for protection problems. They carefully underline that, although some refugees make use of resettlement as a strategy to have access to qualified protection, refugees might also face insecurity

³²² Brun and Fábos (n 78) 6

³²³ *ibid* 6; KS Biehl, ‘Governing Through Uncertainty: Experiences of Being a Refugee in Turkey as a Country for Temporary Asylum’ (2015) 59 (1) *Social Analysis* 57

³²⁴ Horst and Grabska (n 73) 8

³²⁵ Hyndman and Giles (n 9) xiv

³²⁶ J Čapo, ‘Durable Solutions’, *Transnationalism, and Homemaking Among Croatian and Bosnian Former Refugees* (2015) 31 (1) *Refuge* 19, 24

and uncertainty in their resettlement places.³²⁷ This is not to say that refugees do not consider repatriation or resettlement as a viable strategy to re-establish their lives. However, what is important from a refugee perspective is the continuity of the potential insecurities and uncertainties in thinking about available durable solutions. In other words, in contrast to the understanding of durable solutions as an immediate end to the problems of protection, refugees engage with potential post-durable solution uncertainties in their attempts to plan a future.

Under temporary protection status, refugees' agency is understood to be a passive one—waiting for return or resettlement.³²⁸ However, Brun asks a crucial question: 'how long people are prepared to wait?'³²⁹ Obviously, the intention here is not to define a time limit for waiting, but to underline that passive waiting for return does not represent refugees' engagement with temporality during displacement. On the contrary, alienation from a homeland for people who face persecution, conflict-induced traumas, or radical changes in surroundings can begin even before the moment of exile.³³⁰ The homeland that they long for during exile can be 'nostalgic and associated with the "good old days"' rather than the homeland that is actually already there'.³³¹ In this regard, people might hope to return to their 'homeland', but the time spent in exile, the changing conditions in the homeland, and new networks, attachments people have built during the exile all lead to multiple and complex understandings of how people deal with the tempo-spatial aspects of displacement. Hence, Brun argues 'agency-in-waiting' is an active and dynamic one.³³²

Contrary to the restricted understanding of refugee agency in top-down formulations of temporary protection, Brun and Fábos underscore that people continue to organise their everyday lives, and think about and plan their futures under 'permanent temporariness'—although their abilities and power to do so are

³²⁷ Hyndman and Giles (n 9) 115

³²⁸ C Brun, 'Active Waiting and Changing Hopes: Toward a Time Perspective on Protracted Exile' (2015) 59 (1) *Social Analysis* 19, 22

³²⁹ *ibid* 32

³³⁰ M Graham and S Khosravi, 'Home is Where You Make It: Repatriation and Diaspora Culture Among Iranians in Sweden' (1997) 10 (2) *Journal of Refugee Studies* 115, 125

³³¹ *ibid* 126

³³² Brun (n 328) 33

hampered by uncertainties and structural restrictions.³³³ In conceptualising ‘what people do in exile to enable agency’ they focus on the urges and attempts of refugees in making homes.³³⁴ Homemaking under temporary protection provides a significant aspect in examining the complex relationship between structure and agency in shaping the dynamics of the temporary protection framework in practice. As Gibney argues, with its focus on return, temporary protection frameworks restrict the social and economic rights of their beneficiaries, since they were seen as mechanisms that ‘assist foreigners in transforming their state of temporary residence into a *home*’.³³⁵ Yet, as Brun and Fábos suggest, despite the insecurities of legal status, limitations on socio-economic rights, and politics of durable solutions, homemaking in exile does not cease.³³⁶

Brun and Fábos introduce the conceptualisation of ‘constellations of home’ for comprehending refugee agency in displacement. Through their triad of ‘*home-Home-HOME*’, they attempt to discuss interrelated and complex dynamics of making homes in exile. The material aspects of homemaking and the everyday practices such as improvements and investments in temporary dwellings is considered as *home* in their triadic constellations.³³⁷ *Home* represents ‘subjective feelings of home’ that people have—affected by people’s values, traditions and memories.³³⁸ Ideas about *Home* are shaped by the dreams of people during exile through their experiences of lost homes and hopes for future homes.³³⁹ *HOME*, on the other hand, is the institutionalised home in the current international order; it refers to a political context that is shaped by the ‘geopolitics of nation and homeland’.³⁴⁰

To an extent, the standards of treatment under temporary protection and humanitarian interventions provide shelter for people in their place of displacement, either in camp-based settings or urban areas. They mainly aim to meet the needs of refugees in finding a temporary dwelling. Durable solutions in refugee protection,

³³³ Brun and Fábos (n 78) 12

³³⁴ Brun and Fábos (n 35) 181

³³⁵ Gibney (n 55) 697

³³⁶ Brun and Fábos (n 78) 11

³³⁷ *ibid* 12

³³⁸ *ibid* 12

³³⁹ *ibid* 13

³⁴⁰ *ibid* 13

on the other hand, focus on *HOME*. For beneficiaries of temporary protection, this means repatriation to their homelands. The never-ending temporality awaits for *HOME* to be re-established in the country of origin. What is missing, and of paramount importance, is the intermediary level of homemaking, as Čapo frames it, between home as a material dwelling and homeland as the nation. As she argues, the intermediary level is the most difficult of levels to achieve, but it is a vital element in the development of feeling *at home*. This is not as static as the understanding of homeland: it includes material aspects and livelihoods, but it is a ‘wider space of settlement containing natural, cultural, social, and economic aspects’.³⁴¹

In conceptualising temporary protection, top-down approaches disregard homemaking practices, which are indeed central to understanding refugee agency. Although he does not directly refer to the term homemaking, Zetter’s discussion of *de facto* integration of refugees during long-term displacement sheds light on the importance of refugee agency in homemaking. He argues that, ‘despite legal constraints, political resistance, other tactics of intimidation’, *de facto* integration occurs as an ‘inevitable consequence of protracted displacement.’³⁴² Zetter interprets refugee strategies of mobility and *de facto* integration as a twin strategy of resistance representing an ‘unwillingness to wait for formal, institutionalised remedies in their situations’.³⁴³ Since integration has long been discussed as part of the durable solutions framework, and the latter has been for a long time associated with fixed understandings of top-down solutions, reframing Zetter’s discussion with the term homemaking opens up new vocabulary, to discuss how refugees experience, conceive and crucially shape temporary protection in its practice.

Nevertheless, reflecting on the limitations of using the analytical concept of homemaking is also necessary. The dynamic and complex understanding of ‘home’ adopted in this thesis does not mean that refugees themselves might occasionally relate the term ‘home’ to the terms of ‘house’ or ‘homeland’. Nevertheless, the analytical conceptualisation of ‘homemaking’ here provides us a comprehensive

³⁴¹ Čapo (n 326) 26

³⁴² Zetter (n 59) 10

³⁴³ *ibid* 11

mean to discuss the time aspect of displacement/protection and how refugee aspirations in exile change over time.

On another account, ‘homeland’ and ‘home’ might be understood as related to western constructs of state and nation formation, hence putting limitations on adopting them in the non-western contexts. In this regard, the term ‘home’ or ‘homeland’, for instance, might not be easily communicated for non-sedentary communities. However still, the conceptualisation of ‘homemaking’ adopted in this thesis has a potential to overcome such limitations since it provides a dynamic understanding of ‘home’ as a mobile, fluid, and inclusive analytical concept.

1.5 Conclusion

This chapter has two main aims: (i) examining the development of temporary protection at the international level; and (ii) introducing the analytical approach of this thesis to unpack the dynamics of temporary protection status, with particular reference to legality, uncertainty and homemaking in exile.

It has become clear that temporary protection has been discussed and reframed in policy and academic circles several times, as a pragmatic tool of addressing large-scale displacements. However, beyond the facilitation of admission of people into state territories and protection against *refoulement*, the meaning or content of temporary protection has not been clarified. In light of discussions on the failure of the international refugee regime during large-scale movements, the failure to define the meaning of temporary protection is not a coincidence. On the contrary, it is the ‘flexible’ and discretionary nature of the temporary protection framework that makes it a ‘pragmatic’ response in convincing states to admit refugees, and in managing the refugee movements through the uncertainties of temporary protection status. In this sense, the calls by scholars or policymaking circles for standardising temporary protection could not have an effect in further reconsiderations of temporary protection at the international level.

The scope of temporary protection’s application has been fairly wide, as it is promoted and implemented for both Convention and non-Convention refugees, by both state parties to the Refugee Convention/Protocol and non-party states. Hence, the revitalisation of the temporariness of refugee character should be taken as an

overarching tendency, rather than a formulation of an interim/complementary/conflictual form of protection vis-à-vis Refugee Convention/Protocol.

The discretionary character of temporary protection necessitates its analysis in practice, which is the main aim of this thesis in the following chapters. However, this chapter proposed an analytical approach for its conceptualisation. The deliberate construction of temporary protection as an ambiguous framework, and the centrality of state discretion results in insecurities of legal statuses for its beneficiaries—which makes the discussion of ‘legality’ a key aspect to unpack temporary protection. Scrutinising the link between ‘temporality’ and protracted refugee situations, uncertainty emerges as another central notion. Uncertainty is taken as an inevitable result of the failure of static understanding of durable solutions; a deliberate governance strategy to deter permanent settlement of refugees; and a central condition for refugee lives under temporary protection. Adopting a bottom-up approach to the conceptualising of temporary protection, refugee agency in making homes despite the insecurities and uncertainties is identified as the third key aspect of analysing temporary protection. Importantly though, as discussed throughout the thesis, these aspects are interrelated, and it is the interplay between them that shapes the practice of temporary protection.

CHAPTER 2: REFUGEE PROTECTION IN TURKEY—HISTORICAL AND CONTEMPORARY CONSTRUCTIONS OF PERMANENCY AND TEMPORALITY

2.1 Introduction

The previous chapter introduced an analytical framework which is built upon the central notions of legality, uncertainty, and homemaking practices, in order to understand the dynamics of the temporary protection status of Syrians in Turkey. However, it should also be acknowledged that neither the temporary protection status, nor its central notions are shaped in a vacuum: they are products of historical constructions. Thus, although Turkish refugee law and policies have gone through substantive changes since the establishment of the Turkish Republic in 1923, the dichotomy of temporality and permanency has always played a key role in categorising refugees from different backgrounds. There have been plethora of legal terms which have been used to refer to displaced people in the Turkish discourse of refugee protection, namely ‘*muhacir*’ (immigrant/refugee), ‘*göçmen*’ (immigrant), ‘*iskanlı göçmen*’ (settled immigrant), ‘*iskansız/serbest göçmen*’ (unsettled immigrant), ‘*sığınmacı*’ (asylum seeker), ‘*mülteci*’ (refugee), ‘*şartlı mülteci*’ (conditional refugee). Syrian refugees joined their historical and contemporary counterparts as ‘beneficiaries of temporary protection’. The differences in categorisation/treatment of refugees from different backgrounds have been shaped by considerations of their potential inclusion (permanency) and exclusion (temporariness) to the Turkish state. Examining how such categories have been formed and transformed is crucial in understanding how and why the temporary protection status was developed in Turkey for Syrian refugees.

This chapter discusses the Turkish history of forced migration, from the late Ottoman Empire until the most recent changes in Turkish law and policies. However, a detailed analysis of the history of refugee protection and migration, considering the long history of the movement of people in the region characterised as a ‘land of diverse migrations’ both in the past and today, is beyond the scope of this study.³⁴⁴ This chapter traces the various legal categorisations of refugees under

³⁴⁴ A İçduygu, and K Kirişçi (eds) *Land of Diverse Migrations: Challenges of Emigration and Immigration in Turkey* (Istanbul Bilgi University Press 2009)

different labels. Crucially, it questions the dynamics of permanency/temporality and the effects of this dichotomy in the treatment of different groups of refugees. The historical account and legacies provide a framework for further discussion of the development of temporary protection status, which is discussed in the next chapter.

Chapter 2 has five sections. The first section focuses on the categorisation of *muhacirs* (immigrants/refugees) in the Ottoman Empire, with a particular focus on the transformation of the identification of *muhacirs* during the dissolution of the Empire in the late 19th and early 20th centuries. This era represents the shift from a multi-religious/cultural/linguistic Empire to the establishment of a nation-state system in the region. This is central to understanding the difference between categorisations of *muhacirs* as constitutive groups in the establishment of the Turkish state, permanent members of Turkish nation, and refugees as temporary beings—which is discussed in the second section.

The third section turns to the discussion of the incorporation of international refugee law in Turkey, through adoption of the Refugee Convention/Protocol. Here, we will scrutinise the establishment of a Turkish asylum system by incorporating a strictly temporary framework, maintaining the geographical limitations to the Refugee Convention/Protocol. The fourth section reveals the uncertainties inherent in the Turkish asylum system, stemming from its construction of the rigid temporariness of refugees. The final section focuses on the latest reforms in Turkish refugee law, and the adoption of the first ever law on refugee protection, the Law on Foreigners and International Protection (LFIP) in 2013. Here, we will consider whether the LFIP has had a transformative impact on the Turkish refugee policies.

2.2 The Legacy of the Ottoman Empire: *Muhacirs* and their Settlement

The Ottoman Empire has a long history of voluntary and forced migration. The Empire itself began and dissolved with migration.³⁴⁵ The movement of people was such a central theme to Ottoman history that Kasaba designates the Ottoman Empire

³⁴⁵ KH Karpaz, 'Önsöz' in Murat Erdoğan and Ayhan Kaya (eds), *Türkiye'nin Göç Tarihi: 14 Yüzyıldan 21 Yüzyıla Türkiye'ye Göçler* (İstanbul Bilgi Üniversitesi Yayınları 2015), xxvi

as ‘a moveable empire’.³⁴⁶ The extent of migration was an inevitable consequence of the vast expansion of Ottoman lands, which cut across the main migration routes of Asia, Africa, and Europe.³⁴⁷ Hence, a significant part of the Ottoman population had always been ‘on the move’.³⁴⁸ Also, throughout the Ottoman history, various displaced people sought refuge in the Ottoman lands. The practice of settling refugees in the Empire dates back to 1492, when hundreds of thousands of Sephardic Jews, escaping religious persecution in Spain, sought refuge in the Empire.³⁴⁹ Kasaba argues that ‘openness to different communities made the Ottoman Empire considerably more diverse, dynamic, and extraverted than its contemporaries.’³⁵⁰

The multi-religious and multi-cultural composition of the Ottoman population had provided a context in which forced migrants from diverse backgrounds could find a permanent place to settle and rebuild their homes in the Ottoman lands. The multi-cultural/religious Empire was preserved by the unique Ottoman system of administration, namely the *millet* system.³⁵¹ In its origins, the *millet* framework was derived from a Muslim concept, according to which non-Muslim monotheist believers were recognised as the ‘People of the Book’, and accorded protection by their Muslim rulers as ‘*dhmmis*’.³⁵² According to the *millet* framework, the population was divided into religious communities such as the Orthodox Christian, Jewish and Armenian Christian *millets*.³⁵³ Each *millet* community was permitted to have religious freedom, its own educational system, welfare institutions, and judicial autonomy regarding family and civil matters.³⁵⁴ The major difference in the treatment of non-Muslim communities was imposition of an additional tax.³⁵⁵

³⁴⁶ R. Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees* (University of Washington Press, 2009)

³⁴⁷ *ibid* 4

³⁴⁸ *ibid* 4

³⁴⁹ K. Kirişçi, ‘Refugee Movements and Turkey’ (1991) 29 (4) *International Migration* 545, 545

³⁵⁰ Kasaba (n 346) 18

³⁵¹ KH Karpas, ‘*Millets* and Nationality: The Roots of the Incongruity of Nation and State in the Post-Ottoman Era’ in KH Karpas (ed) *Studies on Ottoman Social and Political History: Selected Articles and Essays* (Brill 2002) 611-622

³⁵² *ibid* 621

³⁵³ *ibid* 615-616

³⁵⁴ *ibid* 615-616

³⁵⁵ *ibid* 622

The 19th century represents a turning point for the transformation and dissolution of the multi-religious, ethnic and linguistic empires of the Ottoman and Austria-Hungarian Empires, with the establishment of several nation-states in the region. On one hand, the wars, socio-economic and political changes led to forced migration of millions of people. On the other hand, the transformation of empires had an important impact in identifying who could permanently settle in the Ottoman lands. Until the late 19th century, the Ottoman Empire continued to pursue non-discriminatory and liberal immigration policies towards Muslim and non-Muslim immigrants alike. Millions of Muslim people who were forcibly displaced from the Crimea and the Caucasus were settled in the Ottoman lands. The immigration of Muslim Tatars from Crimea began with the Russian annexation of Crimea in 1783, and turned into a mass movement in the aftermath of the 1854-56 Ottoman-Russian wars.³⁵⁶ The mass eviction of Muslims from Caucasia started in the 1850s and continued until 1917.³⁵⁷ Kaya indicates that while the sources that depend on Russian documents state the numbers of people who were forced to migrate to the Ottoman Empire were between 500,000 and one million, Turkish sources give numbers between one million and two million.³⁵⁸

The Empire's first Immigration Code (*Muhacirun Kannunnamesi*) was adopted in 1857 in response to the need to regulate migrations into the Empire, supporting permanent settlement and integration of immigrants/refugees. According to the 1857 Code, immigrants would be given the best arable lands owned by the treasury, and they were exempted from all taxes and military service for six years if they settled in the Balkans; twelve years if they settled in Asian domains.³⁵⁹ Circassian and Caucasian refugees were resettled in uncultivated lands in order to increase

³⁵⁶ Karpas provides the total number of Crimean immigrants as between one and 1,2 million: Karpas (n 345) xxxi. In the aftermath of the 1854-56 Crimean War, nearly 500,000 Muslims came from Crimea *en masse*: KH Karpas, 'The Sultan's Advisers and the Integration of Arabs and Immigrants' in KH Karpas (ed), *The Politicization of Islam: Constructing Identity, State, Faith, and Community in the Late Ottoman State Islamization* (OUP 2001), 184.

³⁵⁷ A Kaya, 'Türkiye'de Çerkesler' in M Erdoğan and A Kaya (eds), *Türkiye'nin Göç Tarihi: 14. Yüzyıldan 21. Yüzyıla Türkiye'ye Göçler* (İstanbul Bilgi Üniversitesi Yayınları 2015)

³⁵⁸ *ibid* 141; Karpas argues the numbers are between 1.5 million and 2 million: Karpas (n 345) xxxi; According to McCarthy, more than 1.2 million Muslim Circassians and Abazas were expelled from the Caucasus during the 1860s but only 800,000 could survive the journey and made their way to the Ottoman territories. Further 900,000 Turks sought refuge in Ottoman Empire: J McCarthy, *The Ottoman Peoples and the End of Empire* (OUP 2001), 68

³⁵⁹ Article 4, 5 and 6 see: KH Karpas 'Ottoman Immigration Policies and Settlement in Palestine' in KH Karpas (ed) *Studies on Ottoman Social and Political History: Selected Articles and Essays* (Brill 2002), 786

agricultural production;³⁶⁰ Muslim groups were settled in Christian-dominated places to balance the composition of the population; particular warrior groups such as Circassians were incorporated into the army.³⁶¹

However, the 1857 Code did not put any restrictions on which immigrants/refugees could be settled in the Ottoman lands. The 1857 Code explicitly stated that anyone ‘who agrees to give his allegiance to the sultan and respect the country’s laws’³⁶² was free to settle in the Empire, and the Code promised to secure their religious freedom.³⁶³ To attract non-Muslim immigrants, the Immigration Code of 1857 was translated and published in European newspapers.³⁶⁴

The 1857 Code referred to anyone who would migrate to the Empire as ‘*muhacir*’, and the decree itself was called the ‘*Muhacirun*³⁶⁵ Code’. Originally, the term ‘*muhacir*’ was adopted into the Ottoman Turkish from the Arabic language. In the leading dictionary of Ottoman Turkish, *Kamus-ı Turki*, the author Sami provides the meaning of *muhacir* as a ‘man who migrates to foreign lands with his family to settle’.³⁶⁶ However, Sami provides a second connotation for the word, which relates it to the forcibly displaced *muhacirs* from Crimea, Balkans or Bosnia.³⁶⁷ In its second meaning, ‘*muhacir*’ can also be translated as a refugee. In the previous chapter, it has already been discussed that the legal construction of the term ‘refugee’ is a product of the 20th century. Hence, the interchangeable use of the term ‘*muhacir*’ for refugees and migrants is not a result of any intentional choice, but reflects the lack of distinction between voluntary and forced migrants in the pre-20th century Empire.³⁶⁸

³⁶⁰ According to Karpat, the agricultural production tripled and the amount of tax collected after 1880 were almost three times higher than 1840s: Karpat (n 356) 185

³⁶¹ Kaya (n 357) 141; Yıldırım Ağanoğlu (n 384) 102; Kemal Yakut, ‘Kırım Tatarları ve Nogayların Osmanlı İmparatorluğu’na Göçleri (1783-1922)’ in M Erdoğan and A Kaya (eds), *Türkiye’nin Göç Tarihi: 14. Yüzyıldan 21. Yüzyıla Türkiye’ye Göçler* (İstanbul Bilgi Üniversitesi Yayınları 2015), 129

³⁶² Article 3: Karpat (n 359) 785

³⁶³ *ibid*

³⁶⁴ For its English version published in the Times see: *The Times*, Issue 22931 (03.03.1858), 9

³⁶⁵ Muhacirun is the plural of muhacir.

³⁶⁶ S Sami, *Kamus-ı Turki*, (İstanbul 2006), 1435

³⁶⁷ *ibid*, 1435

³⁶⁸ B Kale, ‘Transforming an Empire: The Ottoman Empire’s Immigration and Settlement Policies in the Nineteenth and Early Twentieth Centuries’ (2014) 50 (2) Middle Eastern Studies 252, 267

The encouragement of immigration into the Empire can be explained by the socio-economic and political policies of the time. During the 18th and 19th centuries, the Ottoman population, agricultural production, and tax revenues had fallen significantly due to war, uprisings, revolts, diseases and famine.³⁶⁹ On one hand, immigration into the Empire supported its bid to sustain the economic production and revenues for the treasury.³⁷⁰ Importantly though, the immigration of non-Muslims into the Empire was encouraged, to strengthen the multi-religious and ethnic structure of the Empire and prevent the rise of nationalism among non-Muslim communities.³⁷¹

It was upon the failure of securing the multi-religious and ethnic composition of the Empire that the liberal immigration policies were altered during the late 19th/early 20th century. During the broader reform process from 1839 to 1976 (*'Tanzimat'*), the Ottoman Empire attempted to prevent the rise of nationalism among non-Muslim communities by adopting the idea of 'Ottomanism'.³⁷² The equality of Muslim and non-Muslim Ottoman subjects was highlighted by introducing 'Ottoman citizenship' for the first time.³⁷³ Importantly, the Nationality Law of 1869 underscored the fact that anyone living in the Empire was considered an Ottoman subject.³⁷⁴

However, the nation-state formation among communities living in the Ottoman Empire accelerated in the late 19th century. The era was characterised by the wholesale restructuring of populations along national lines, notoriously characterised by Lord Curzon by the term 'un-mixing of populations'.³⁷⁵ Millions of people were forced to abandon their homes.³⁷⁶ While non-Muslim communities established their autonomous or independent states, leading to the dismemberment

³⁶⁹ B Kale, 'Zorunlu Göçün 19. Yüzyılda Osmanlı İmparatorluğun Üzerindeki Etkileri' in M Erdoğan and A Kaya (eds), *Türkiye'nin Göç Tarihi: 14. Yüzyıldan 21. Yüzyıla Türkiye'ye Göçler* (İstanbul Bilgi Üniversitesi Yayınları 2015), 155

³⁷⁰ *ibid*

³⁷¹ Kasaba (n 346) 112

³⁷² *ibid*

³⁷³ *ibid*

³⁷⁴ *ibid*

³⁷⁵ Lord Curzon mentions the term 'un-mixing of populations' in the early 20th to describe forced or voluntary population exchanges in the aftermath of the dissolution of empires: Rogers Brubaker, 'Aftermaths of Empire and the Unmixing of Peoples: Historical and Comparative Perspectives' (1995) 18 (2) *Ethnic and Racial Studies* 189, 192

³⁷⁶ For a detailed analysis of the displacement and dispossession of the era see: Dawn Chatty, *Displacement and Dispossession in the Modern Middle East* (CUP 2010)

of the Ottoman Empire, the ongoing immigration of millions of Muslim *muhacirs* tilted the Ottoman population figures in favour of a Muslim-dominated composition—the numbers of immigrants in 1880s were equal to 30-40 per cent of the population.³⁷⁷ Subsequent to the 1877-78 Ottoman-Russian War, over one million Balkan Muslims migrated to the Ottoman Empire.³⁷⁸

Karpat notes that at the end of the 19th century, the Ottoman Sultan began to prioritise the Muslim identity of the Empire over the goal of sustaining the multi-religious composition.³⁷⁹ In this context, liberal immigration/refugee policies shifted. In 1893, the Ottoman Sultan announced a new immigration policy by stating ‘the time when we embraced intimately those of different religions is long past. We shall accept only immigrants who are our co-nationals [Ottoman Muslims] and those who share the same religious beliefs.’³⁸⁰ The term *muhacir* acquired a narrow meaning in the social discourse: Muslim/Turkish forced migrants fleeing wars and persecution.³⁸¹

At the turn of the 20th century, a group of nationalist elites within the Committee of Union and Progress seized power, and ‘focused their efforts on the demographic restructuring of Anatolia’.³⁸² With the nationalist elite in power, the ‘Turkishness’ of the population assumed prominence, characterised by blending the religious (Muslim) and ethnic (Turkic) identities. The resettlement of Muslim-Turkish *muhacirs* from the Balkans into Anatolia became a significant tool of the broader project of nationalising the Ottoman lands.³⁸³ During the 1912-1914 Balkan Wars, a further 450,000 Balkan Muslims sought refuge in the Empire.³⁸⁴ The nationalisation was not just limited to the resettlement of *muhacirs*, but paralleled the forced emigration of millions of non-Muslim communities from Ottoman Anatolia and Thrace. On the eve of the First World War, 100,000 Orthodox Greeks

³⁷⁷ Karpat (n 356) 184

³⁷⁸ *ibid* 184

³⁷⁹ *ibid* 185

³⁸⁰ *ibid* 185

³⁸¹ N İpek, ‘Kaynakların Dilinde Göç Kavramı’ (2014) 17 *Karadeniz İncelemleri Dergisi* 1, 17

³⁸² N Şeker, ‘Forced Population Movements in the Ottoman Empire and the Early Turkish Republic: An Attempt at Reassessment Through Demographic Engineering’ (2013) 16 *European Journal of Turkish Studies*

1, 6

³⁸³ *ibid* 6

³⁸⁴ H Yıldırım Ağanoğlu, *Osmanlı’dan Cumhuriyete Balkanların Makus Tarihi Göç* (Kum Saati Yayınları 2001) 95

were expelled to Greece.³⁸⁵ The contentious history of Armenian massacres and forced deportations reveals that at least one million Armenians from Anatolia were forced to make a deadly march into the Syrian Desert in 1915.³⁸⁶

The shifting understanding of the category of *muhacirs* is crucial in revealing the historical transformation of the right to permanent settlement in the Ottoman Empire, and informs our understanding of the Turkish approach to temporary protection in the twenty-first century. The late Ottoman understanding of *muhacirs* as being of Muslim/Turkish origin is constitutive for the development of Turkish refugee policies. As the following sections discuss in detail, Turkey's laws and policies continued to encourage inclusion of *muhacirs* into the newly established Turkish state and their permanent settlement. Yet, the restrictive definition of *muhacirs* raises an important question: how have non-Turkish/Muslim origin refugees been categorised? The next section traces the construction of the dichotomy of permanency of *muhacirs* and temporariness of refugees in Turkey, following the establishment of the Turkish Republic.

2.3 The Turkish Republic: *Muhacirs* of 'Turkish descent' and Refugees

The creation of 'homogenous' nation-states could be described as an impossible mission in most of the former Ottoman territories, which were inhabited by people from different backgrounds for centuries, hence, Chatty defines the outcome of the shift from multi-religious and ethnic empires to nation-states in former Ottoman territories as 'notionally national but still multi-ethnic states'.³⁸⁷ The attempts at 'un-mixing of populations' continued well after the dissolution of the Ottoman Empire. The then League of Nations High Commissioner for Refugees of the time, Fridtjof Nansen, reflected the contemporary dominant ideology by stating that the 'unmixing of populations of the Near East will tend to secure the true pacification of the Near East'.³⁸⁸

Nansen himself played an intermediary role between Greek and Turkish authorities for the compulsory exchange of populations between the two countries in the early

³⁸⁵ Kasaba (n 346) 124

³⁸⁶ *ibid* 127

³⁸⁷ Chatty (n 376) 38

³⁸⁸ Nansen's Statement, Territorial and Military Commission, Minutes of Eight Meeting (01.12.1922) 114, para 2

1920s.³⁸⁹ As a result, both governments signed the Greco-Turkish Population Exchange Convention of 1923, which sought ‘a compulsory exchange of Turkish nationals of the Greek Orthodox religion established in Turkish territory, and of Greek nationals of the Moslem religion established in Greek territory’.³⁹⁰ The population transfers³⁹¹ were completed under the auspices of an international commission in a strictly compulsory manner, without any consultation of the exchanged populations.³⁹²

Alongside the Greek-Turkish population exchange scheme, many more Muslim-Turkish populations of the newly established Balkan states were resettled in Turkey. The total number of people who migrated from Balkan countries to Turkey was over 700,000 in 1939.³⁹³ At the same time, non-Muslim/Turkish communities like Orthodox Greeks and Jews were forced to leave Anatolia during the earlier decades of the Turkish Republic. Law No 2007 of 1932, the ‘Citizen, Speak Turkish’ campaign of 1934, and the imposition of a special tax on non-Muslims in the beginning of the 1940s disrupted the economic means of non-Muslim communities. 2000 Greek Orthodox fled to Greece, while thousands of Jews were forced to migrate to Israel.³⁹⁴

Turkey drafted its first Law on Settlement amidst the nation-state formation process and nationalisation of populations in the region. The Law on Settlement, which was

³⁸⁹ *ibid* para 1. For a detailed analysis of the population exchanges: SP Ladas, *The Exchange of Minorities Bulgaria, Greece and Turkey* (The Macmillan Company 1932)

³⁹⁰ Convention Concerning the Exchange of Greek and Turkish Populations, and Protocol Signed at Lausanne (30.01.1923) 32 LNTS 75, Article 1; ‘The Greek inhabitants of Istanbul’ and ‘the Moslem inhabitants of Western Thrace’ were not included into the exchange framework: Convention Concerning the Exchange of Greek and Turkish Populations, and Protocol Signed at Lausanne (30.01.1923) 32 LNTS 75, Article 2

³⁹¹ According to the General Directorate for Village Works of Turkey 384.000 Greek Muslims resettled in Turkey: Elçin Macar, ‘Yunanistan’dan Anadolu’ya Göç: Nüfus Mübadelesi’ in M Erdoğan and A Kaya (eds), *Türkiye’nin Göç Tarihi: 14. Yüzyıldan 21. Yüzyıla Türkiye’ye* (İstanbul Bilgi Üniversitesi Yayınları 2015), 182; Ladas provides the numbers as 388,146: Ladas (n 389) 705

³⁹² The mixed commission was composed of four Turkish, four Greek, and three independent delegates from the countries who did not take part in the First World War. The duties of the commission were ‘to supervise and facilitate the emigration provided in the Convention’: Convention Concerning the Exchange of Greek and Turkish Populations, and Protocol Signed at Lausanne (30.01.1923) 32 LNTS 75, Article 12

³⁹³ The immigrants were coming from Bulgaria (198.688); Greece (384.000); and Yugoslavia (115.210). Kirişçi explains that these numbers are ‘mostly derived from statistics obtained from the General Directorate of Village Works and supplemented by other sources’: K Kirişçi, ‘Disaggregating Turkish Citizenship and Immigration Practices’ (2000) 36 (3) Middle Eastern Studies 1, 8.

³⁹⁴ N Özgür and Y Özer, *Türkiye’de Sığınma Sisteminin Avrupalılaştırılması* (Derin Yayınları 2010) 114-115

adopted in 1934, identified *muhacirs* as the sole group of migrants who had a right to migrate and permanently settle in Turkey.³⁹⁵ The term *muhacir* is defined as those ‘who are of Turkish descent or culture and migrate to Turkey with an intention of permanent settlement’.³⁹⁶ According to the Article 6 (B), ‘those who are admitted as *muhacirs* acquire Turkish citizenship immediately, by the decision of the Council of Ministers’.³⁹⁷

According to Article 3 of the Law on Settlement, the Council of Ministers was responsible for the identification of who could be accepted to have Turkish ethnicity or be part of Turkish culture. Following the late Ottoman understanding of *muhacirs*, the religious identity of *muhacirs* played an important role in their acceptance.³⁹⁸ On the one hand, non-Muslim, or non-Sunni Turkish populations, like Gagauz Turks and Shia Azeris were not considered *muhacirs*, and did not have a right to permanently migrate to Turkey.³⁹⁹ On the other hand, the non-Turkish Muslim populations of the Balkans—such as Albanians, Bosnians, and Pomaks—were registered as *muhacirs* and benefited from the permanent settlement scheme of the Law.⁴⁰⁰

The Ottoman practice of facilitating the integration and permanent settlement of *muhacirs* was incorporated into the Law. *İskanli* (settled) *muhacirs* were sent to designated places by the authorities for resettlement, and were supported with official state aid, such as homes, shops, and arable lands and agricultural means or funds to start a business in order to sustain their lives in Turkey.⁴⁰¹ Those who agreed not to receive any official aid were free to live wherever they wanted in Turkey. They were registered as *iskansız/serbest* (non-settled/free) *muhacirs*.⁴⁰² The distribution of official aid to *iskanli* (settled) *muhacirs* lasted until 1970.⁴⁰³

³⁹⁵ Republic of Turkey İskan Kanunu [The Law on Settlement] Law No 2510 (14.06.1934) Official Gazzete No 2733 (25.06.1934), Article 3

³⁹⁶ *ibid*

³⁹⁷ *ibid* Article 6 (B)

³⁹⁸ Kirişçi (n 393) e18; A İçduygu and K Biehl, ‘Türkiye’ye Yönelik Göçün Değişen Yörüngesi’ in A İçduygu (ed), *Kentler ve Göç: Türkiye, İtalya, İspanya* (İstanbul Bilgi Üniversitesi Yayınları 2012) 11-12

³⁹⁹ Kirişçi (n 393) 6

⁴⁰⁰ İçduygu and Biehl (n 398) 12

⁴⁰¹ Republic of Turkey İskan Kanunu [The Law on Settlement] Law No 2510 (14.06.1934) Official Gazzete No2733 (25.06.1934), Article 17

⁴⁰² *ibid* Article 3

⁴⁰³ Yücel Acer, İbrahim Kaya and Mahir Gümüş, *Küresel ve Bölgesel Perspektiften Türkiye’nin İltica Stratejisi* (USAK Yayınları 2010) 70

However, in the post-1970 era, special groups of *muhacirs* were re-included in the aid scheme on an *ad hoc* basis, by the adoption of specific legislations.⁴⁰⁴ Significant examples are Afghanis of Turkish origin in 1982, Bulgarians in 1989, and Ahiska Turks in 1992.⁴⁰⁵

Importantly, the Law on Settlement defined refugees as a distinct category for the first time. According to the legislation, refugees are those ‘who come to Turkey on a temporary basis as a result of necessity and do not have an intention to permanently settle in the country’.⁴⁰⁶ However, any refugee who was of ‘Turkish descent and culture’ could be registered as a *muhacir*.⁴⁰⁷ The category of refugee was first constructed in domestic law as a binary contrast to the category of *muhacirs*. The category of *muhacir* was incorporated into the Turkish legislation in line with its reformulation as Muslim/Turkish immigrants/refugees during the dissolution of the Ottoman Empire. While *muhacirs* were integrated into Turkey permanently, without recourse to their reasons for flight, refugees were identified by their temporariness and the necessity of their flight.

Until the ratification of the Refugee Convention in 1961,⁴⁰⁸ the 1934 Law on Settlement was the only legal arrangement dealing with refugees in Turkey. There is not much known about the numbers or fate of asylum seekers or refugees in Turkey of the time. The Law on Settlement remained silent on the treatment, rights and freedoms of refugees during their temporary stay in Turkey. Still, a well-known example of refugees coming to Turkey are Jewish refugees escaping from Germany during the Second World War, who mainly left Turkey and resettled in the USA.⁴⁰⁹ The next section considers whether the adoption of the Refugee Convention/Protocol had an impact on the categorisation/treatment of refugees in Turkey.

⁴⁰⁴ *ibid*

⁴⁰⁵ *ibid* 70

⁴⁰⁶ Republic of Turkey İskan Kanunu [The Law on Settlement] Law No 2510 (14.06.1934) Official Gazzete No2733 (25.06.1934), Article 3

⁴⁰⁷ *ibid* Article 3 and Article 4

⁴⁰⁸ Refugee Convention was ratified in 1961: Law No359 (29.08.1961) Official Gazzete No10898 (05.09.1961)

⁴⁰⁹ Kirişçi (n 393) 10

2.4 The Refugee Convention/Protocol and the Geographical Limitation

Turkey ratified the Refugee Convention and Protocol in 1961 and 1968 respectively.⁴¹⁰ One of the most important pillars of Turkish refugee policies is the geographical limitation, adopted *vis-a-vis* the Refugee Convention, and maintained upon the ratification of the Refugee Protocol.⁴¹¹ It restricts Turkey's obligations in regard to the Convention only to those refugees who are fleeing European states in line with the Refugee Convention Article 1B(1)(a).⁴¹² The country has not yet lifted this limitation, and of 148 countries who have ratified, Turkey is one of only three (including Madagascar and Monaco) to keep such a geographical limitation.⁴¹³

There is no information in the official documents explaining why Turkey opted to introduce a geographical limitation and retain it upon accession to the Protocol. The country is among the original signatories of the Refugee Convention, and took part in the drafting process of both the Convention and the Protocol. An analysis of the minutes of the Conference of Plenipotentiaries does not assist us in understanding Turkey's stance, since the Turkish delegate did not make a substantial contribution to the discussions. One practical explanation is provided by İçduygu and Biehl, who suggest that Turkey tried to prevent refugee movements from the Middle East at a time when the region was experiencing disturbances, especially in Palestine.⁴¹⁴

If this is the case, why did Turkey adopt the Refugee Convention/Protocol in the first place? Kirişçi adopts a realist approach, underlining the impact of the Cold War context in Turkey's decision; he asserts that granting refugee status to those escaping the Soviet Union and Eastern Europe underscored Turkey's anti-Communist stance in international politics.⁴¹⁵ This stance is parallel to the generous approach of Western countries at the time, in providing asylum to people fleeing

⁴¹⁰ Law No359 (29.08.1961) Official Gazette No10898 (05.09.1961); Refugee Protocol promulgated into national law on 01.07.1968 by Republic of Turkey Council of Ministers Decision No6/10266 (01.07.1968) Official Gazette No 12968 (05.08.1968)

⁴¹¹ UNTC Status of Treaties, https://treaties.un.org/Pages/ViewDetails.aspx?src=INDandmtdsg_no=V-5andchapter=5andclang=en accessed (01.07.2019)

⁴¹² Refugee Convention, Article 1B(1)(a)

⁴¹³ UNTC Status of Treaties, https://treaties.un.org/Pages/ViewDetailsII.aspx?src=INDandmtdsg_no=V-2andchapter=5andTemp=mtdsg2andclang=en#EndDec accessed (01.07.2019)

⁴¹⁴ İçduygu and Biehl (n 398) 35

⁴¹⁵ K Kirişçi, 'Is Turkey Lifting the 'Geographical Limitation'? – The November 1994 Regulation on Asylum in Turkey' (1996) 8 International Journal of Refugee Law 293, 296

Communist countries. For Turkey though, the acceptance of European refugees into the country was not considered a concern, since their numbers were not high and most of them were resettled in Western countries.⁴¹⁶ There is no official record for the numbers of European refugees who came to Turkey until 1970, but from 1970 to 1996 it is estimated that 13,552 European refugees registered in Turkey, and the majority of them were resettled in Western countries.⁴¹⁷

Following the incorporation of the Refugee Convention/Protocol, the ethnic/religious dichotomy—of the permanency of *muhacirs* based on their identities, and the temporality of refugees—continued to shape Turkish refugee policies. *Muhacirs* from non-European or European countries were integrated into Turkey in line with the 1934 Law on Settlement. For instance, 10,000 Iranian Azeris gained Turkish citizenship,⁴¹⁸ while the Turkish government resettled around 4000 Afghanis of Turkish origin from the refugee camps in Pakistan in 1982.⁴¹⁹ In 1989, over 300,000 Bulgarian Turks were forced to abandon their homes and migrate to Turkey as a result of the Bulgarian government's assimilationist policies towards its Turkish minority.⁴²⁰ They could have been granted refugee status under the Refugee Convention/Protocol since they were coming from a European country—however, due to the connotations of temporality (exclusion) attached to the refugee identity in the Turkish context, refugee status was not considered suitable for Bulgarians who were deemed of Turkish origin. In line with the historical legacy of *muhacirs* coming from the Balkans, they were regarded as 'kindreds', and their migration to Turkey was perceived as a return to their homelands.⁴²¹ They were permanently resettled in Turkey on the basis of the 1934 Law on Settlement and

⁴¹⁶ Kirişçi (n 415) 296

⁴¹⁷ Ibid 296

⁴¹⁸ A D Danış, C Taraghi and JF Perouse, 'Integration in Limbo: Iraqi, Afghan, Maghrebi, and Iranian Migrants in Istanbul' in A İçduygu, and K Kirişçi (eds) *Land of Diverse Migrations: Challenges of Emigration and Immigration in Turkey* (Istanbul Bilgi University Press 2009) 611

⁴¹⁹ Özgür and Özer (n 394) 120

⁴²⁰ N A Şirin Öner and D Genç 'Continuity and Change in Turkey's Mass Migration Policy: From 1989 émigrés to Syrian "guests"' in Güven Şeker, Ali Tilbe, Mustafa Ökmen, Pınar Yazgan, Deniz Eroğlu and İbrahim Sirkeci (eds), *Turkish Migration Conference 2015 Selected Proceedings* (Transnational Press 2015) 25

⁴²¹ ibid 25; Gül Çatır, 'Zorunlu Göç Tecrübesinin Devlet Politikalarındaki Yansıması: Bulgaristan'dan Türkiye'ye Kitleli Göçün Analizi, in S. Gülfer İhlamur-Öner and N.Aslı Şirin Öner, (ed), *Küreselleşme Çağında Göç: Kavramlar, Tartışmalar* (İletişim Yayıncılık 2012) 229

benefited from official aid. The majority of them acquired Turkish citizenship in a short period of time.⁴²²

The conditions of non-European refugees were defined by the absence of any legal regulation beyond the 1934 Law on Settlement, which referred only to their temporality in Turkey. The movement of non-European asylum-seekers and refugees to Turkey began to increase during the 1980s. Instability in neighbouring countries compelled hundreds of thousands of people from Iran, Iraq, or Afghanistan to seek safety in Turkey, or to use the country as a transit route on their way to Europe or North America. In dealing with non-European refugees, Turkey started to collaborate with the UNHCR.

The UNHCR has been present in the country since 1960 ‘to fulfil its duties and assist refugees pursuant to the 1951 Convention’.⁴²³ In the mid-1980s, as a result of the collaboration with Turkish government, the UNHCR started to conduct refugee status determination (RSD) for non-European asylum-seekers. Those recognised by the UNHCR as refugees, according to the Refugee Convention/Protocol, were allowed to stay in Turkey on a temporary basis, until the Office arranged their resettlement (or voluntary repatriation if possible) in third countries.⁴²⁴ The toleration of a temporary stay was dependent on the discretion of the authorities. The identities of non-European refugees migrating to Turkey played an important role in illustrating the country’s limits of toleration.

⁴²² K Kirişçi and S Karaca, ‘Hoşgörü ve Çelişkiler: 1989, 1991 ve 2011’de Türkiye’ye Yönelen Mülteci Akınları in Murat Erdoğan and Ayhan Kaya (eds), *Türkiye’nin Göç Tarihi: 14. Yüzyıldan 21. Yüzyıla Türkiye’ye Göçler* (İstanbul Bilgi Üniversitesi Yayınları 2015) 302-303

⁴²³ In 1960, ‘through correspondence dated 20 October 1960, the Prime Ministry of the Republic of Turkey instructed the Ministry of Foreign Affairs to allow UNHCR to fulfil its duties and assist refugees pursuant to the 1951 Convention.’: UNHCR ‘Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v Turkey (Application No 30471/08)* (20.01.2009), para 4 (1); ‘The legal basis of cooperation between the UNHCR Office in Turkey and the Turkish authorities is not governed by a host state agreement or memorandum of understanding. It is loosely governed by the Revised Standard Agreement between the United Nations and the Government of Turkey of 1965, which refers to the Convention of the Privileges and Immunities of the United Nations of 13 February 1946. However, it does not define the scope of the UNHCR operations and programmes in Turkey, it only regulates the privileges and the immunities’: UNHCR ‘Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v. Turkey (Application No 30471/08)* (20.01.2009), para 4 (2)

⁴²⁴ From 1983 to 1991 nearly 90,000 asylum-seekers, who were mostly Iranians, were granted temporary stay in Turkey: Özgür and Özer (n 394) 120

In 1988, Iraqi Kurds fled to south-eastern parts of Turkey during the Anfal campaign of the Iraqi regime against the Iraqi Kurds, under a cloud of accusations that the Kurdish population collaborated with Iran during the Iran-Iraq War of 1980-1988. During the Halabja massacre of 1988, the Iraqi regime forces used chemical bombs, and killed nearly 5000 Kurdish people.⁴²⁵ The same year, 100,000 people escaped across the Turkish border.⁴²⁶ The Kurdish refugee movement was perceived as a security threat within the context of the ongoing armed struggle between Kurdish groups in Turkey and the Turkish army; Turkey did not want to accept Kurdish Iraqi refugees.⁴²⁷ As a result of pressure from the international community, Kurdish asylum seekers were accepted into the country, and kept in camps under strict scrutiny. Their status in Turkey was never regularised; instead they were called ‘temporary guests’ and later returned to their country—Iraq.⁴²⁸

In 1991, nearly half a million Kurdish Iraqi asylum seekers attempted once more to cross the Turkish border, fearing possible persecution by the Iraqi regime during the first Gulf War.⁴²⁹ Turkey resisted opening its borders. But when some asylum seekers entered into the country irregularly, they were kept in closed camps as ‘temporary guests for humanitarian reasons’.⁴³⁰ Many more were abandoned on the mountains at the Turkish-Iraqi border.⁴³¹ As a result of the political insistence of the Turkish government, the UNHCR, UN, and the USA established a ‘safe haven’ for refugees in northern Iraq, and the majority of them ultimately returned to their homes once the war was over.⁴³² Alongside Kurdish Iraqi refugees, Turkmen Iraqi groups who also suffered under the conditions of the Gulf War came to Turkey in 1991.⁴³³ In contrast to their Kurdish co-citizens, Turkmens ‘experienced a hospitable atmosphere.’⁴³⁴ They obtained a right to residence permit when the Turkish government issued a special regulation, and benefited from ‘informal state

⁴²⁵ Daniş, Taraghi and Perouse (n 418) 493

⁴²⁶ *ibid* 493-494

⁴²⁷ *ibid* 494

⁴²⁸ *ibid* 494

⁴²⁹ Kirişçi and Karaca (n 422) 305

⁴³⁰ Daniş, Taraghi and Perouse (n 418) 495

⁴³¹ Kirişçi and Karaca (n 422) 305

⁴³² *ibid* 305-306

⁴³³ Daniş, Taraghi and Perouse (n 418) 517

⁴³⁴ *ibid* 517

assistance’—such as assistance in finding jobs—in rebuilding their lives in Turkey.⁴³⁵

The Turkish response to refugee movements inevitably led to uncertainty with regard to their protection in Turkey. The government approach—in admitting different groups, defining their legal status, and their general treatment—was handled in an *ad hoc* manner. Only in 1994, the Turkish government adopted a regulation to govern the movement of non-European refugees, namely the ‘Regulation on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum From Another Country’.⁴³⁶ The next section examines the dynamics of temporality, legality, and uncertainty as constructed under the Turkish asylum system to control refugee movement.

2.5 The 1994 Regulation: Temporality, Legality and Uncertainty in Turkish Asylum System

The 1994 Regulation continued to tolerate the temporary stay of non-European asylum seekers and refugees in Turkey. What was new about this regulation is that it introduced a two-tiered mechanism of parallel RSD procedures, which were conducted by both the Turkish authorities and the UNHCR. Under this system, first the Turkish Department of Foreigners, Border and Asylum of the General Directorate of Security was authorised to conduct interviews for determining the status of non-Europeans according to the criteria set out in the Refugee Convention.⁴³⁷ The successful applicants were not granted refugee status, due to the geographical limitation. Instead, they obtained ‘asylum-seeker status’ and were provided with a temporary stay permit until their resettlement in third countries by the UNHCR.⁴³⁸ Second, the UNHCR Office was responsible for conducting

⁴³⁵ *ibid* 517

⁴³⁶ Republic of Turkey ‘Regulation on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from Another Country’ (19.01.1994) No 1994/6169 (1994 Regulation)

⁴³⁷ The Turkish Governorships were authorised to conduct their RSDs and the Ministry of Interior was authorised to conclude the final decision: 1994 Regulation, Article 4 and 5

⁴³⁸ 1994 Regulation, Article 3

separate but parallel RSDs for non-European asylum-seekers, in order to determine their refugee status eligibility for resettlement in third countries.⁴³⁹

According to the official statistics provided by the Turkish Foreigners Department of the Ministry of the Interior, between the adoption of the 1994 Regulation until 2000, nearly 20,000 asylum applications were filed by non-European asylum-seekers from Iran, Iraq, Afghanistan, and other non-European countries.⁴⁴⁰ However, Turkey's asylum and refugee-processing capabilities were 'severely limited' because, prior to the 1994 Regulation, it was solely the UNHCR's responsibility to conduct RSDs in Turkey.⁴⁴¹ As a result, a common practice evolved in regard to the parallel RSD mechanism. As the UNHCR explains, 'usually, the Turkish authorities wait until UNHCR has reviewed a case before taking a decision on whether or not to grant temporary asylum: the Turkish authorities generally agree to grant temporary asylum to persons UNHCR considers to be refugees'.⁴⁴² However, as the UNHCR underlines, the cooperation among Turkish authorities and the UNHCR was not a formalised one, and occasionally Turkish authorities rejected the claims of those who were recognised as refugees by the UNHCR.⁴⁴³

With regard to the possible outcomes of the two-tiered temporary asylum applications, the Turkish asylum regime could be regarded as flawed.⁴⁴⁴ When the Turkish authorities rejected the asylum claims, the non-European asylum-seekers/refugees faced the risk of deportation, even if the UNHCR granted them refugee status. In that case, the prohibition of *refoulement* in the Refugee Convention could not be applied on behalf of non-European refugees, due to the geographical limitation. Notwithstanding, Turkey is still bound by 1950 European

⁴³⁹ UNHCR 'Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v Turkey* (Application No 30471/08) (20.01.2009), para 2 (7)- 2 (9)

⁴⁴⁰ K Kirişçi, 'UNHCR and Turkey: Cooperating for Improved Implementation of the 1951 Convention Relating to the Status of Refugees' (2001) 13 *International Journal of Refugee Law* 71, 94

⁴⁴¹ *ibid* 93

⁴⁴² UNHCR 'Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v Turkey* (Application No 30471/08) (20.01.2009), para 4 (5)

⁴⁴³ *ibid*

⁴⁴⁴ M Zieck, 'UNHCR and Turkey, and Beyond: of Parallel Tracks and Symptomatic Cracks' (2010) 22 *International Journal of Refugee Law* 593, 609

Convention for the Protection of Human Rights and Fundamental Freedoms.⁴⁴⁵ Article 3 of the Convention, which states that ‘No one shall be subjected to torture or to inhuman or degrading treatment or punishment’, is interpreted by the European Court of Human Rights (ECtHR) as implying the prohibition of the expulsion of aliens to a place where they would face a real and substantiated risk of ill-treatment.⁴⁴⁶ There have been several cases brought to the ECtHR on this basis, by refugees who had been granted refugee status by the UNHCR but whose application was rejected or found to be ineligible by the Turkish authorities.⁴⁴⁷ In all cases, the Court relied on the results of the RSDs conducted by the UNHCR, since the Turkish procedure of the access to asylum and the actual conduct of RSDs were not found to be reliable.⁴⁴⁸

When both the UNHCR and the Turkish authorities considered an asylum application to be successful, the applicant became eligible for resettlement, and the UNHCR submitted the case to the foreign embassies of the third countries, which made the final resettlement decision. However, it was extremely difficult to find resettlement places for refugees, and hence, there was no guarantee of resettlement in a third country for successful applicants. According to the data provided by the Foreigners Department of the Ministry of Interior of Turkey, from 1994 to 2010 77,430 people applied for asylum in Turkey.⁴⁴⁹ Nearly 10,152 (13 per cent) were rejected, and only 39,084 of them (slightly over half) were resettled in the USA, Canada, Australia, and Scandinavian countries.⁴⁵⁰

The availability of resettlement places is often related to the policy concerns of resettlement countries, rather than the subjective conditions of individual asylum seekers/refugees. Following the Iraqi war of 2003, for instance, the USA suspended the resettlement quotas for Iraqi refugees, suggesting that after the overthrow of the

⁴⁴⁵ European Convention for the Protection of Human Rights and Fundamental Freedoms (04.11.1950) ETS 5

⁴⁴⁶ *Ahmed v Austria* (1996) ECHR 71/1995/577/663; *Chahal v the United Kingdom* (1996) ECHR 70/1995/576/662

⁴⁴⁷ *Abdolkhani and Karimnia v Turkey* App No 30471 (ECHR, 2009); *Keshmiri v Turkey* App no 36370/08 (ECHR, 2010); and *Tehrani and others v Turkey* Apps nos. 32940/08, 41626/08, 43616/08 (ECHR, 2010)

⁴⁴⁸ Zieck (n 444) 609-610

⁴⁴⁹ K Kirişçi, ‘Turkey’s New Draft Law on Asylum: What to Make of It?’ in Seçil Paçacı Elitok and Thomas Straubhaar (eds) *Turkey Migration and the EU: Potentials, Challenges, and Opportunities* (Hamburg University Press 2012) 71

⁴⁵⁰ *ibid* 72

Iraqi regime there would be peace and democracy in the country. In response, the UNHCR Turkey office suspended the asylum applications of Iraqis between 2003 and 2006, despite the increasing numbers of Iraqis entering Turkey.⁴⁵¹ It was only in 2007 that the UNHCR reconsidered its policies towards Iraqi refugees, and declared Iraqis as persons of concern and *prima facie* refugees, while US officials reinitiated the resettlement programme for Iraqi refugees.⁴⁵²

In the case of Afghani and African refugees, the availability of resettlement places has always been limited. The major resettlement countries such as the USA, Canada and Australia justify the lack of resettlement quotas for Afghani refugees and refugees from the African states by citing the potential effect on available resettlement programmes of increased human smuggling.⁴⁵³ According to the resettlement countries, in the absence of a border between Turkey and refugees' countries of origins, those refugees could only reach Turkish territories through the help of human smugglers, and the availability of resettlement programmes would further increase human smuggling into Turkey.⁴⁵⁴

Even if resettlement places are eventually secured, the resettlement process can take years to finalise.⁴⁵⁵ The Helsinki Citizens' Assembly's report of 2007 reveals that it took more than a year for the UNHCR to conduct RSD interviews, while many more asylum seekers had to wait for a decision for more than two years.⁴⁵⁶ According to the UNHCR, the resettlement process takes an additional four to ten months on average; it may take even longer, especially when one resettlement country rejects the application, and the case is resubmitted to other countries.⁴⁵⁷ A

⁴⁵¹ According to the data provided by the Ministry of Tourism and Culture of Turkey, the number of Iraqis entering Turkey was 15,765 in 2002, 24,727 in 2003, 111,475 in 2004, 107,968 in 2005, 123,118 in 2006, 180,217 in 2007 and 250,130 in 2008: Didem Danış, 'Changing Fortunes: Iraqi Refugees in Turkey' (2011) 5 (2) International Journal of Contemporary Iraqi Studies 199, 201

⁴⁵² *ibid* 203

⁴⁵³ The UNHCR Ankara Office Resettlement Associate, Interview with the Author No1, (10.12.2016, Ankara)

⁴⁵⁴ *ibid*

⁴⁵⁵ UNHCR, 'Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v. Turkey (Application No 30471/08)*', (20.01.2009), para 2 (10)

⁴⁵⁶ Helsinki Citizens Assembly Refugee Advocacy and Support Program, 'An Evaluation of Turkey's Compliance with UNHCR's RSD Procedural Standards' (September 2007) <https://www.mhd.org.tr/assets/2007-an-evaluation-of-unhcr-turkey's-compliance-with-unhcr-s-rsd-procedural-standards-.pdf> accessed (12.01.2017)

⁴⁵⁷ UNHCR, 'Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v Turkey (Application No 30471/08)*' (20.01.2009), para 2 (10)

UNHCR Resettlement Associate in the Ankara office explained that long waiting periods can stretch up to 14 years.⁴⁵⁸

Biner, who undertook an empirical study on the conditions of Iranian refugees in Turkey, highlights that the legal recognition of refugees in Turkey does not bring an end to the uncertainties inherent in displacement—rather, it creates another set of uncertainties relating to the resettlement process and waiting period within Turkey.⁴⁵⁹ The UNHCR notes that long waiting periods can compel refugees to move to other countries in an irregular manner.⁴⁶⁰ Others remain within the Turkish asylum mechanism, hoping that they might eventually be resettled one day.⁴⁶¹

The 1994 Regulation did not outline the content of protection that would be provided to non-European refugees, except for *non-refoulement*. During their temporary stay in Turkey, non-European asylum seekers and refugees were treated the same as any other foreigners in Turkey, under various laws applying to foreigners.⁴⁶² They were required to apply for a residence permit like all other foreigners intending to stay in Turkey for more than one month, with no fee-exemption for asylum seekers and refugees.⁴⁶³ In practice, police departments did not force asylum seekers and refugees to obtain residence permits. However, when they were in need of exit permits to leave the country for their resettlement countries, they were required to pay the accumulated residency fee debt; those who failed to do so could not leave the country.⁴⁶⁴

Turkey adopted a policy of dispersal as the main feature of temporary asylum mechanism. Accordingly, those who sought asylum in Turkey were allowed to

⁴⁵⁸ UNHCR Ankara Office Resettlement Associate, Interview with the Author (No1), (10.12.2016, Ankara)

⁴⁵⁹ Ö Biner, *Türkiye’de Mültecilik: İltica, Geçicilik ve Yasallık ‘Van Uydu Şehir Örneği* (İstanbul Bilgi Üniversitesi Yayınları 2016) 36

⁴⁶⁰ UNHCR, ‘Written Submission of the United Nations High Commissioner for Refugees in the Case of *Abdolkhani and Karimnia v. Turkey (Application No 30471/08)*’ (20.01.2009), para 2 (10)

⁴⁶¹ Biner (n 459) 37

⁴⁶² Republic of Turkey The Law on Sojourn and Movement of Foreigners in Turkey No5683 (15.07.1950), the Official Gazette No: 7564 (24.07.1950); Republic of Turkey The Passport Law No5682 (15.07.1950), the Official Gazette No: 7564 (24.07.1950); Republic of Turkey The Law on Work Permits for Foreigners No: 4817 (27.02.2003) the Official Gazette No: 25040 (06.03.2003)

⁴⁶³ Republic of Turkey, The Law on Sojourn and Movement of Foreigners in Turkey, No5683, (15.07.1950), Article 3

⁴⁶⁴ Biehl (n 323) 67

reside in places assigned by the Ministry of Interior,⁴⁶⁵ the so-called ‘satellite cities’. In the satellite cities to which they were assigned, asylum seekers were obliged to present themselves to the Local Foreigners Department under the Governorates. The frequency of this obligation varied, but in some places it might even have been daily.⁴⁶⁶ Although the policy of dispersal might seem to have its roots in the Ottoman *iskan* [settlement] policies, Turkish policy lacked the central aspect of these policies: providing opportunities for people to rebuild their lives.

Thus, ‘protracted uncertainty’⁴⁶⁷ became a fundamental aspect of the Turkish asylum regime creating structural barriers for refugees to rebuild their lives in Turkey. In dealing with the temporality, uncertainty and absence of systematic support mechanisms, refugees have undertaken different strategies to pursue their lives in Turkey. Since the asylum mechanism did not offer reliable opportunities, many refugees have remained outside the asylum system, and stayed in Turkey irregularly without any legal status. In her analysis of the Iraqi refugees, for instance, Daniş reveals a disinclination among Iraqis to enter into asylum system, by finding in an analysis of statistics that the annual asylum applications of Iraqi in Turkey are lower than other states, while the number of irregular Iraqi migrants arrested by the police are overwhelmingly higher than the number of asylum applications.⁴⁶⁸

In order to survive in Turkey, asylum seekers and refugees also had to find irregular ways to meet their needs—costs of living, including accommodation, must be covered by their own means.⁴⁶⁹ Alongside the legal difficulties of obtaining a work permit,⁴⁷⁰ asylum seekers and refugees could not find work opportunities in the

⁴⁶⁵ Republic of Turkey, The Law on Sojourn and Movement of Foreigners in Turkey, No5683, (15.07.1950), Article 17

⁴⁶⁶ UNHCR ‘The Practice of Satellite Cities in Turkey’, <http://www.unhcr.org/50a607639.pdf>, accessed (10.12.2016)

⁴⁶⁷ Biehl, (n 323) 57

⁴⁶⁸ Annual asylum applications by Iraqis are around 3000/4000 per year until 2002 while the number of arrested irregular migrants per year were between 95.000-180.000: D Daniş, ‘Changing Fortunes: Iraqi Refugees in Turkey’ (2011) 5(2) International Journal of Contemporary Iraqi Studies 199, 204-205

⁴⁶⁹ R Levitan, E Kaytaz and O Durukan, ‘Unwelcome Guests: The Detention of Refugees in Turkey’s “Foreigner’s Guesthouses”’ (2009) 26 (1) Refuge 77, 80

⁴⁷⁰ First of all, foreigners needed to acquire valid residence permits to work legally according to the 2003 Law on Work Permits for Foreigners. They had a right to apply for a residence permit according to the Law on Residence yet authorities granted few to asylum seekers: United States Committee for Refugees and Immigrants (USCRI), ‘World Refugee Survey 2009—Turkey’ (2009) <http://www.refworld.org/docid/4a40d2b480.html> accessed (10.11.2016); Moreover, the work

satellite cities, even in the informal economy.⁴⁷¹ However, asylum seekers were barred from living in major metropolitan cities like Ankara, Izmir and Istanbul, which would offer greater opportunities in terms of employment.⁴⁷² The UNHCR has provided very modest financial assistance to recognised refugees, and one-time assistance to vulnerable applicants—not enough to meet even the basic needs of survival.⁴⁷³ As a result, most refugees had to join the exploitative informal economy in metropolitan cities, facing the risk of arrest and deportation.

2.6 The Law on Foreigners and International Protection: Continuities and Changes in Turkish Refugee Protection

At the beginning of the 2000s, Turkey initiated a reform process in the field of refugee protection, mainly in response to the increasing need to deal with greater numbers of non-European asylum seekers and migrants reaching Turkish territories, criticisms from international and national NGOs, ECtHR and other human rights institutions,⁴⁷⁴ and the conditionality of Turkey's EU accession process to the harmonisation of asylum policies between Turkey and the EU.⁴⁷⁵ While the number of new applications lodged for asylum in Turkey was around 5000 annually until the mid-2000s, the UNHCR Turkey Office became the second largest office in the world with 13,000 new asylum claims lodged in 2008.⁴⁷⁶ At the same time, Turkey's bid for EU membership and the negotiation process with the

permits were provided directly to the employers not to the asylum-seekers. Yet, most of the time employers avoid it to benefit from the cheap labour force of asylum seekers in the informal economy and avoid additional expenses such as income tax and social security payments: UNHCR Ankara Office, Interview with the Author (No18), (06.01.2017, Ankara)

⁴⁷¹ United States Committee for Refugees and Immigrants (USCRI), 'World Refugee Survey 2009-Turkey' (2009) <http://www.refworld.org/docid/4a40d2b480.html> (accessed 10.11.2016)

⁴⁷² UNHCR 'The Practice of Satellite Cities in Turkey' <http://www.unhcr.org/50a607639.pdf> accessed (10.12.2016)

⁴⁷³ Levitan, Kaytaz and Durukan (n 469) 80

⁴⁷⁴ Amnesty International, 'Stranded: Refugees in Turkey Denied Protection' (2009) <https://www.amnesty.org/en/documents/EUR44/001/2009/en/> accessed (11.01.2017); Helsinki Citizens' Assembly 'Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigner's Guesthouses"' (2007) <http://mhd.org.tr/assets/2007-unwelcome-guests.pdf> accessed (10.12.2016)

⁴⁷⁵ M Açıkgöz and H Onur Ariner 'Turkey's New Law in Foreigners and International Protection: An Introduction' (2014) Turkish Migration Studies Group at Oxford Briefing Paper 2 https://www.compas.ox.ac.uk/media/BP-2014-TurkMis-Turkey_New_Law_Foreigners-1.pdf accessed (12.12.2016), 4; L Bertan Tokuzlu, 'Burden-Sharing Games for Asylum Seekers between Turkey and the European Union' (2010) EUI Working Papers RSCAS 2010/05, http://cadmus.eui.eu/bitstream/handle/1814/13096/RSCAS_2010_05.pdf;jsessionid=5395FB26EAC2E17C503BECC5E012F20C?sequence=1 accessed (12.12.2016); B Çiçekli, 'Reforms Introduced by the Act on Foreigners and International Protection (AFIP) into the Turkish Law on Foreigners and Refugees' (2016) 12 (1) Review of International Law and Politics 75; Kirişçi (n 440) 71

⁴⁷⁶ UNHCR 'Global Trends' (2008), 16

EU introduced a new dynamic for Turkish asylum policies. In 2001, the European Council affirmed Turkish official candidature, and launched a pre-accession process by adopting the Accession Partnership document.⁴⁷⁷ The requirements of the Turkey's EU accession process necessitated the harmonisation of Turkish asylum policies with the EU asylum system.

More particularly, the Accession Partnership document required Turkey to improve the capacity of public administration to adopt, implement and manage the *acquis* in the short term, and to lift the geographical limitation to the Refugee Convention in the medium term.⁴⁷⁸ To this end, Turkey adopted the 'National Programme for the Adoption of the Acquis' (NPAA) in 2003,⁴⁷⁹ and published the 'National Action Plan for the Adoption of the EU Acquis on Asylum and Migration (Action Plan)' in 2005.⁴⁸⁰ The NPAA proposed that Turkey would adopt the Law on Asylum in 2005,⁴⁸¹ while the issue of geographical limitation would be addressed during the progression of EU accession negotiations.⁴⁸² The 2005 Action Plan postponed the proposed date of the adoption of the Law on Asylum to 2012. The Turkish government imposed two conditions for lifting the geographical limitation: the completion of the changes in necessary legislation and infrastructure that would not encourage direct refugee movements into the Turkey, and cooperation with EU member states for burden-sharing.⁴⁸³

One of the most important outcomes of the reform process was the adoption of the LFIP in 2013 as the first ever Turkish asylum law.⁴⁸⁴ The LFIP provides a framework for the entry, stay and deportation of all foreigners, and international protection for asylum seekers and refugees in a single law, which would prevent

⁴⁷⁷ Council of the European Union, Council Decision 2001/235/EC of 8 March 2001 on the Principles, Priorities Intermediate Objectives and Conditions Contained in the Accession Partnership with the Republic of Turkey (2001) OJ L 85/13

⁴⁷⁸ *ibid* 19-22

⁴⁷⁹ Republic of Turkey, Council of Ministers, Turkey's National Program for the Adoption of the Acquis (2003 NPAA), the Official Gazette. No 25178 (24.07.2003)

⁴⁸⁰ Republic of Turkey, National Action Plan of Turkey for the Adoption of EU Acquis in the Field of Asylum and Migration (2005 NAP) (25.03.2005), [https://en.goc.gov.tr/kurumlar/goc.gov.tr/files/turkiye_ulusal_eylem_plani\(1\).pdf](https://en.goc.gov.tr/kurumlar/goc.gov.tr/files/turkiye_ulusal_eylem_plani(1).pdf) (03.07.2018) accessed

⁴⁸¹ 2003 NPAA, Table 24.1.1

⁴⁸² *ibid* (1)

⁴⁸³ 2005 NAP, para 4 (13)

⁴⁸⁴ Republic of Turkey, The Law on Foreigners and International Protection (LFIP) No2013/6458 (04.04.2013, entry into force 4.04.2014), the Official Gazzete No28615 (11.04.2013)

the previous complexity in implementing various different secondary laws. It introduced procedural rights for applicants and beneficiaries of international protection, defined their legal status in Turkey, removed some impediments to accessing asylum, and, most importantly, incorporated the principle of *non-refoulement* for non-European refugees. However, Turkey did not lift the geographical limitation to the Refugee Convention, in line with its proposed conditions put forward in the Action Plans.

The LFIP provides two forms of protection for refugees: international protection and temporary protection. International protection is provided for refugees, conditional refugees and beneficiaries of subsidiary protection.⁴⁸⁵ Refugee status is granted to those who are fleeing European countries and who are considered refugees according to the Refugee Convention.⁴⁸⁶ Those who are fleeing from non-European countries but can be defined as a refugee according to the Refugee Convention are granted ‘conditional refugee status’.⁴⁸⁷ Conditional refugees ‘shall be allowed to reside in Turkey temporarily until they are resettled to a third country’.⁴⁸⁸

The subsidiary protection mechanism is adopted from the EU acquis for those who either do not qualify as a refugee or as a conditional refugee but who, if returned to the country of origin, would be ‘a) sentenced to death or face execution of the death penalty; b) face torture or inhuman or degrading treatment or punishment; c) face serious threat to himself or herself by reason of indiscriminate violence in situations of international or nationwide armed conflict’.⁴⁸⁹ The principle of *non-refoulement* incorporated in Article 4 is also extended to beneficiaries of subsidiary protection.⁴⁹⁰

⁴⁸⁵ *ibid* Article 3 (r)

⁴⁸⁶ *ibid* Article 61

⁴⁸⁷ ‘A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted conditional refugee status upon completion of the refugee status determination process.’ LFIP Article 62

⁴⁸⁸ ‘Conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country’: *ibid* Article 62

⁴⁸⁹ *ibid* Article 63(1), see also Council Directive 2004/83/EC (29.04.2004), Article 15

⁴⁹⁰ (LFIP) Article 4

The parallel system for RSDs between state authorities and the UNHCR came to an end with the adoption of the LFIP. The newly established Directorate General of Migration Management (DGMM)⁴⁹¹ took over the responsibility for protecting beneficiaries of international protection, including the responsibility for conducting RSDs. According to the latest statistics published by the DGMM, 114,537 people applied for international protection status in 2018.⁴⁹² More than half of them are from Iraq, while the rest are from Afghanistan, Iran, Somalia, Pakistan, Yemen, Turkmenistan, Palestine and Yemen.⁴⁹³ The DGMM does not provide any statistics about the results of the RSD process or the division of statuses acquired. Since the resettlement process still requires the UNHCR to assess the eligibility of refugees for resettlement, the Office continues to conduct eligibility-determination processes for conditional refugees, after they are referred by the DGMM.⁴⁹⁴

In terms of the social and economic rights of beneficiaries of international protection, there are minor differences among refugees, conditional refugees, and beneficiaries of subsidiary protection. Both the applicants and beneficiaries of all types of international protection have the right to access primary and secondary education⁴⁹⁵ and access to medical insurance.⁴⁹⁶ In terms of access to the labour market, applicants and conditional refugees need a work permit; they can apply for such a permit six months after their claim-lodging date.⁴⁹⁷ Refugees and beneficiaries of subsidiary protections may work independently or be employed once granted the status.⁴⁹⁸

The LFIP provided a more secure legal status for non-European refugees, namely the conditional refugee status. Nevertheless, despite the procedural and administrative improvements, the fundamental nature of refugee conditions in Turkey remained the same: temporary and uncertain. The legal status of conditional refugees is built upon the durable solution of resettlement in the LFIP. Yet, due to

⁴⁹¹ *ibid* Part V

⁴⁹² Republic of Turkey Directorate General of Migration Management, 'Statistics' http://www.goc.gov.tr/icerik6/international-protection_915_1024_4747_icerik accessed (10.01.2019)

⁴⁹³ *ibid*

⁴⁹⁴ UNHCR Ankara Office, Interview with the Author No18 (06.01.2017, Ankara)

⁴⁹⁵ LFIP Article 89(1)

⁴⁹⁶ *ibid* Article 89 (3a)

⁴⁹⁷ *ibid* Article 89 (4a)

⁴⁹⁸ *ibid* Article 89 (4b)

restrictive resettlement opportunities, their condition in Turkey can be described as ‘indefinite and unpredictable waiting’.⁴⁹⁹ According to the UNHCR, as of September 2018, more than 350,000 people were registered with the Office; around 14,000 were submitted for resettlement.⁵⁰⁰ A UNHCR Resettlement Associate in the Ankara office explained in December 2016 that, ‘for instance, if an Iraqi refugee applies to the UNHCR for resettlement today, we would set her registration date to 2020 [four years later].’⁵⁰¹

In addition to international protection, temporary protection status was introduced into the Turkish asylum system with the adoption of the LFIP amidst the Syrian displacement. It is defined in Article 91 as a form of protection that ‘may be provided to foreigners who, having been forced to leave their country and cannot return to the country they left, have arrived at or crossed the borders of Turkey in masses seeking emergency and temporary protection’.⁵⁰² In the LFIP, temporary protection represents further ambiguity and uncertainty, since a detailed account of the conduct of temporary protection arrangements was not provided, leaving it to the decision of the Council of Ministers at the time.⁵⁰³

2.7 Conclusion

In the light of the historical analysis of domestic legislation and *ad hoc* policies, a pattern in Turkish refugee politics emerges: the categorisation of refugees and their treatment has been shaped by the rigid construction of permanency and temporality. The permanency/temporality of refugees has been determined by their religious and national identities, and a pre-determined durable solution is aligned to their displacement, in line with Turkish domestic/foreign policy concerns. Their treatment in Turkey has been shaped at the intersection of permanency/temporality, refugee identities, and pre-determined durable solutions.

In the case of *muhacirs* of Muslim/Turkish origin, integration/naturalisation is encouraged, since they were seen as a constitutive part of the Turkish nation

⁴⁹⁹ Biehl (n 323) 58

⁵⁰⁰ UNHCR ‘Turkey: Key Facts and Figures’ (2018) <https://www.unhcr.org/tr/en/unhcr-turkey-stats> accessed (10.01.2019)

⁵⁰¹ The UNHCR Ankara Office Resettlement Associate, Interview with the Author (No1), (10.12.2016, Ankara)

⁵⁰² LFIP, Article 91

⁵⁰³ For a detailed analysis see Chapter 3

following the late Ottoman legacy of nation-state formation. As such, they were not granted refugee status, but immediately provided with Turkish nationality. Their permanent settlement is encouraged, since Turkey is seen as their home/homeland. European refugees, the only group that acquired refugee status under the Refugee Convention/Protocol in Turkey, constituted an exception in Turkish history, since their numbers have been limited, and Cold War politics facilitated their resettlement in third countries.

For non-European refugees—who constitute nearly all refugees in Turkey—resettlement is deemed as the sole durable solution, in line with the geographical limitation maintained under the Refugee Convention/Protocol. As such, their stay in Turkey is permitted only on a temporary basis. This group had an ambiguous legal status until the adoption of the LFIP in 2013. Despite the introduction of a more secure legal status by the LFIP, namely the conditional refugee status, their temporariness (exclusion) has continued to restrict opportunities for refugees to rebuild their lives in Turkey. In the case of ‘temporary guests’, such as Kurdish Iraqi refugees, quick repatriation was framed as the ultimate durable solution. They were not provided with an opportunity to enter into the Turkish asylum mechanism leading to resettlement, nor were they able to obtain a legal status for their stay—rather, they were strictly confined to camps until their return to Iraq.

The failure of the top-down and static durable solution framework in providing refugees with opportunities for building meaningful lives has been discussed already in the previous chapter. In the Turkish context—which prioritises durable solutions over the quality of asylum or refugee protection mechanisms—the failure of resettlement or repatriation means uncertainty and precarity for refugees. Understanding the historical construction of permanency and temporality leads us to comprehend the emergence of temporary protection for Syrian refugees. In the light of this historical analysis, in the next chapter we turn to a discussion of how Syrian refugee identities were conceived by the Turkish government, and how foreign policy considerations affected the determination of durable solutions.

CHAPTER 3: THE (RE)CONSTRUCTION OF TEMPORARY PROTECTION STATUS FOR SYRIAN REFUGEES IN TURKEY FROM 2011 to 2018—FROM ACUTE UNCERTAINTIES TO STRUCTURAL UNCERTAINTIES

3.1 Introduction

The movement of Syrian refugees started in April 2011. In 2019, the number of Syrian refugees residing in Turkey exceeded 3.5 million.⁵⁰⁴ Contemporary Turkish law and policies addressing large-scale displacements have been shaped by the practice of temporary protection provided for Syrians since 2011. The implementation of *ad hoc* responses constructed an important bulk of temporary protection activities on the ground, while domestic legislation also addressed temporary protection with the adoption of the LFIP in 2013 and Temporary Protection Regulation in 2014. This chapter focuses on the construction and continuous (re)construction of temporary protection in Turkey, by which we may understand how the temporary protection category has been conceived, shaped, and interpreted by the Turkish state in recent times.

The discussion of the history of refugee protection in Turkey in Chapter 2 revealed that it is not possible to discern legal criteria to understand the Turkish response to large-scale refugee movements. The admission of refugees into the country, the content of protection, and the preference for durable solutions have all been dependent on the socio-political context of particular cases of displacement and the national identities of refugees who are displaced. Hence, this chapter starts with the discussion of the Turkish government's decision to accept Syrian refugees into Turkey, within the wider context of its foreign policy towards the Arab uprisings in the Middle East and North Africa. In other words, we question why and how Syrian refugees were seen as legitimate subjects by the Turkish authorities and deserving of protection in Turkey.

The second section turns to the construction of *de facto* temporary protection for Syrians through *ad hoc* humanitarian responses on the ground. In doing so, it focuses on the discourse of 'crisis'—which led to the formation of presumed short-

⁵⁰⁴ UNHCR 'Syria Regional Refugee Response' (2019) <https://data2.unhcr.org/en/situations/syria/location/113>, accessed (25.02.2019)

term emergency response in camp-settings—and the discourse on ‘hospitality’/‘generosity’ towards Syrian refugees within the wider context of the Turkish normative stance in its foreign policy, as the protector of Syrians. The third section focuses on Turkey’s continuous (re)construction of temporary protection, following its incorporation into the domestic legislation in 2014.

As the second section reveals, the *de facto* temporary protection regime led to acute uncertainties with regard to the legal subjectivities of Syrians in Turkey, and the content and duration of protection provided. *De jure* temporary protection, on the other hand, perpetuated the structural uncertainties of the protection regime. The third section discusses structural uncertainties in regard to three pillars of the temporary protection regime—namely, the admission (and registration/legal status) of Syrians, protection against *refoulement*, and standards of protection with regard to access to health, education, and work permits. Understanding the deliberate governance through structural and protracted uncertainty⁵⁰⁵ as theorised by Horst and Grabska is fundamental in grasping the *de facto*, selective and discriminatory inclusion of Syrians in Turkey while their temporality remains intact. The final section discusses the reconsideration of the future of Syrians, in line with the government’s changing foreign policy considerations, and the re-emergence of return as a solution to Syrian presence in Turkey has been reinvented.

3.2 Turkey as the Protector of Syrian Refugees

The Syrian uprising started in March 2011 in the city of Deraa. In the first week of March, ten school children—inspired by the slogan of the Arab uprisings—wrote ‘down with the regime’ on the wall of their school.⁵⁰⁶ Alerted by the toppling of Tunisian and Egyptian governments during the Arab uprisings in the same year, the Syrian security forces immediately arrested the children.⁵⁰⁷ The news that the children were interrogated and tortured in the capital city of Damascus triggered the first Syrian protests.⁵⁰⁸ While the families of the arrested children were demanding their release, a few hundred protestors were calling for the reforms of the repressive system of government under the Baath regime. The security forces

⁵⁰⁵ Biehl (n 323) 57

⁵⁰⁶ DW Lesch, *Syria: The Fall of the House of Assad* (Yale University Press 2012) 55

⁵⁰⁷ *ibid* 55-56

⁵⁰⁸ *ibid* 56

responded to the protests by opening fire on civilians, killing four people.⁵⁰⁹ During the funeral of the victims, the number of people joining the march against the Baath regime rose to 20,000.⁵¹⁰

From March 2011 onwards, daily protests spread to several cities, particularly Homs, Kurdish-dominated Qamishli, al-Hasaka, Hama, Latakia and some suburbs of Damascus.⁵¹¹ Amidst the Syrian security forces' brutal responses—notably from the secret police known as the *Mukhabarat*—the situation in Syria escalated into armed clashes between the regime and the opposition, compelling more and more people to leave their homes in search of safety.⁵¹² In the first year of the Syrian uprising, 40,000 Syrians escaped to the neighbouring countries of Jordan, Lebanon, Turkey and Iraq.⁵¹³

In his monograph, Achcar characterised the situation in Syria in 2012 as a full civil war.⁵¹⁴ On the one hand, there were continued armed clashes between the regime forces and armed opposition groups. On the other, several factions within opposition groups were fighting each other.⁵¹⁵ In August 2012, Kofi Annan, the Joint Special Envoy of the UN and Arab League in Syria, summarised the deadlock in Syria as follows:

the bloodshed continues, most of all because of the Syrian government's intransigence and continuing refusal to implement the six-point plan, and also because of the escalating military campaign of the opposition—all of which is compounded by the disunity of the international community.⁵¹⁶

In its third year, the conflict had already resulted in over 100,000 deaths.⁵¹⁷

⁵⁰⁹ *ibid*

⁵¹⁰ *ibid*

⁵¹¹ *ibid* 69

⁵¹² International Crisis Group, 'Popular Protest in North Africa and the Middle East (VI): The Syrian People's Slow Motion Revolution' (2011) Report No108

⁵¹³ UNHCR 'Syria Regional Response Plan' (March 2012), 4

⁵¹⁴ G Achcar, *The People Want: A Radical Exploration of the Arab Uprisings* (Saqi Books 2013) 218

⁵¹⁵ *ibid* 218-227

⁵¹⁶ UN News Agency, 'Kofi Annan Resigns as UN Arab League Joint Special Envoy for Syria' (02.08.2012) <http://www.un.org/apps/news/story.asp?NewsID=42609#.Wn86gmXFwww> accessed (01.01.2018)

⁵¹⁷ UN News Agency, 'Syria: UN-Arab League Envoy Brahimi Resigns' (13.05.2014) <http://www.un.org/apps/news/story.asp?NewsID=47780#.Wn8-fGXFwww> accessed (01.01.2018)

Throughout the Syrian war, numerous armed groups and alliances were formed and dissolved. In its 2017 report, the Independent International Commission of Inquiry on the Syrian Arab Republic of UNGA lists the main actors of the war as the Syrian government and pro-government forces, the so-called Islamic State of Iraq and the Levant (ISIL), the Kurdish People's Protection Units (YPG), and numerous other opposition armed groups, as well as the international coalition forces fighting against ISIL.⁵¹⁸ Although the clashes and fighting were generally contained within Syrian territory, regional and international actors were also involved in the conflict, displaying signs of the internationalisation of the conflict, especially from 2015.⁵¹⁹ One of the main results of the competition among international and regional powers is the 'exacerbation of the sectarian dimensions, instigated by intervention of foreign fighters and extremist clerics'.⁵²⁰

The complicated conflict in Syria has repeatedly been described as 'the biggest humanitarian crisis of our times'⁵²¹—killing more than half a million Syrians in seven years.⁵²² By the end of 2018, more than 13 million Syrians were forced to flee their homes; over 5.6 million Syrians are residing in the neighbouring countries of Lebanon, Jordan, Turkey, Egypt and Iraq, and more than six million Syrians have been displaced internally.⁵²³ As a result of the onward migration of Syrians to Europe, over one million Syrians have arrived in European countries.⁵²⁴

⁵¹⁸ UNGA 'Independent International Commission of Inquiry on the Syrian Arab Republic: Human Rights Abuses and International Humanitarian Law Violations in the Syrian Arab Republic, 21 July 2016-28 February 2017' (10.03.2017) UN Doc. A/HRC/34/CRP.3

⁵¹⁹ UNGA 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic' (13.08.2015) UN Doc A/HRC/30/48, para 9

⁵²⁰ *ibid* para 9

⁵²¹ UNHCR 'Syria Conflict at 5 Years: The Biggest Refugee and Displacement Crisis of Our Time Demands a Huge Surge in Solidarity' (15.03.2016) <http://www.unhcr.org/afr/news/press/2016/3/56e6e3249/syria-conflict-5-years-biggest-refugee-displacement-crisis-time-demands.html> accessed (10.10.2017); Amnesty International, 'Syria: The Worst Humanitarian Crisis of Our Time' (07.04.2015) <https://www.amnesty.org.nz/syria-worst-humanitarian-crisis-our-time> accessed (10.10.2017); UN 'Syria 'Worst Man-Made Disaster Since World War II' - UN Rights Chief' (14.03.2017), <https://news.un.org/en/story/2017/03/553252-syria-worst-man-made-disaster-world-war-ii-un-rights-chief> accessed (10.10.2017)

⁵²² Mercy Corps, 'Quick Facts: What You Need to Know About the Syria Crisis' <https://www.mercycorps.org/articles/iraq-jordan-lebanon-syria-turkey/quick-facts-what-you-need-know-about-syria-crisis> accessed (01.03.2018)

⁵²³ 'Regional Refugee and Resilience Plan: Regional Strategic Overview 2019/2020' (2019), 6

⁵²⁴ The numbers of Syrian refugees: 'Germany (532,100), Sweden (109,300), Austria (49,200), the Netherlands (32,100), Greece (23,900), Denmark (19,700), Bulgaria (17,200), Switzerland (16,600), France (15,800), Norway (13,900) and Spain (13,800): UNHCR 'Global Trends 2018'

The first group of 250 Syrian refugees, who crossed the border into Turkey on 29 April 2011, were sheltered in Hatay province, at a sports hall, where their immediate needs were met.⁵²⁵ Krajewski reports that the Turkish government was ready with tent cities as soon as the initial group of Syrians crossed the border.⁵²⁶ The first refugee camps were built quickly, in the south-eastern region of Turkey, close to the Syrian border, in order to provide shelter for displaced Syrians.

In the literature, the Turkish government's response has frequently been criticised for its short-sighted and inaccurate prediction of a quick resolution to the conflict in Syria.⁵²⁷ Accordingly, since it was thought that the Syrian refugees would return to their country relatively soon, Turkey welcomed Syrians and provided a limited form of protection, confined to sheltering Syrians in camps on a temporary basis. The statements of government officials support such an understanding of the Syrian conflict: even in 2012, when the Syrian conflict turned into a fully-fledged civil war, the then Minister of Foreign Affairs Davutoğlu stated that 'Turkey would be reluctant to accept more than 100,000 Syrians'.⁵²⁸

Nevertheless, the government's initial miscalculation can only partially explain the government's policies, particularly the initial policy of camp-based protection. A closer look reveals that more determinant factors were the foreign policy calculations and identification of Syrian refugees within this context. While it is out of the scope of this study to have a detailed analysis of the Turkish foreign policy considerations at the time, contextualising the response to Syrian refugee movement within the wider context of Turkish foreign policy is relevant, in order

⁵²⁵ Turkish Parliament Human Rights Inquiry Committee, 'Ülkemize Sığınan Suriye Vatandaşlarının Barındıkları Çadırkentler Hakkında İnceleme Raporu' (2012) https://www.tbmm.gov.tr/komisyon/insanhaklari/docs/2012/raporlar/28_02_2012_1.pdf accessed (01.10.2017), 2

⁵²⁶ Jenna Krajewski, 'Taking Refuge: The Syrian Revolution in Turkey' (2012) *World Policy* <http://www.worldpolicy.org/journal/summer2012/taking-refuge-syrian-revolution-in-turkey> accessed (01.01.2018)

⁵²⁷ K Kirişçi and E Ferris, *The Consequences of Chaos: Syria's Humanitarian Crisis and the Failure to Protect* (Brookings Institution Press 2016) 38; A İçduygu, 'Syrian Refugees in Turkey: The Long Road Ahead' (2015) Migration Policy Institute, 1; B Gümüş and D Eroğlu, 'Partial Integration of Syrian 'Escapees' Under the Rule of Turkey's Justice and Development Party (JDP)' (2015) 8 (4) *Contemporary Arab Affairs* 469, 470

⁵²⁸ 'Turkey keeps its door open for Syrian influx' *Hurriyet Daily News* (16.10.2012) <http://www.hurriyetdailynews.com/turkey-keeps-its-door-open-for-syrian-influx.aspx?pageID=238&andID=32509&NewsCatID=338> accessed (20.07.2014)

to understand the development of the temporary protection regime for Syrians in Turkey.

When the Syrian uprising started in 2011, Turkish-Syrian relations were characterised as a success story of transformation from ‘enmity to amity’, a showcase of the Turkish foreign policy of ‘zero problems’ with their neighbours.⁵²⁹ Historically, the two countries had a problematic relationship dating back to Ottoman rule over Syrian territory. Following the formation of the Turkish and Syrian nation-states, bilateral relations continued to be challenging, due to a number of issues including the territorial dispute over the province of Hatay, water-sharing difficulties, the Syrian support for insurgent Kurdish groups in Turkey, and the Cold War rivalry between the US ally Turkey and the USSR ally Syria.⁵³⁰ During the late 1990s, relations between the two countries witnessed a gradual normalisation,⁵³¹ and some degree of reconciliation was underway prior to the election of the AKP (Justice and Development Party) government in Turkey in 2002.⁵³² The main transformation of relations was realised during the AKP era, under the leadership of Ahmet Davutoğlu, who served as Chief Advisor to the Prime Minister from 2003 to 2009 and took over the office of Foreign Minister from 2009 to 2014.⁵³³

Davutoğlu constructed an ambitious foreign policy towards the Middle East, which aimed at having a leadership role in the region, expanding strategic and economic interests, and acquiring moral responsibility towards Sunni Muslims in the former Ottoman territories.⁵³⁴ Under Davutoğlu’s leadership, Turkey pursued deeper involvement in the Middle East than at any time in Turkey’s Republican history.⁵³⁵ An important part of Turkey’s opening up to the Middle East was the Turkish bid for having soft power within the region. The then Prime Minister Erdoğan gained popularity in the Arab countries following his critical stance towards Israel, while Turkish soap operas dominated the cultural market in the region.⁵³⁶ Syria was

⁵²⁹ R Hinnebusch, ‘Introduction: The Study of Turkey-Syria Relations’ in R Hinnebusch and Ö Tör (eds) *Turkey-Syria Relations: Between Enmity and Amity* (Routledge 2013) 6

⁵³⁰ Lesch (n 506) 140

⁵³¹ Hinnebusch (n 529) 1

⁵³² C Phillips, ‘Into the Quagmire: Turkey’s Frustrated Syrian Policy’ (2012) *Chatham House*, 4

⁵³³ M Benli Altunışık, ‘Turkey as an ‘Emerging Donor’ and the Arab Uprisings’ (2014) 19 (3) *Mediterranean Politics* 333, 336

⁵³⁴ *ibid*

⁵³⁵ *ibid* 336

⁵³⁶ Phillips (n 532)

labelled the ‘poster child for zero problems’ with neighbours.⁵³⁷ The rapprochement between the two countries culminated in a bilateral free trade agreement in 2004, and a visa-free regime started in 2009.⁵³⁸

Turkey immediately expressed its support for the Arab uprisings in Tunisia, Egypt and Libya throughout 2010 and 2011, and the newly established regimes by the opposition groups received financial support from Turkey through various foreign aid programmes.⁵³⁹ When the uprising began in Syria in March 2011, the AKP government attempted to convince the Assad regime to implement political reforms, and to include the opposition in a political power share.⁵⁴⁰ However, when it became apparent that the conflict between the Assad regime and various forms of opposition would continue, the Turkish government started to oppose the Assad regime, and publicly condemned it for its brutal crackdown of the opposition.⁵⁴¹ The government expanded its support to the Syrian opposition, by hosting not only the exiled political leaders, who established the Syrian National Council in 2011 in Turkey, but also the armed opposition leaders, who established the Free Syrian Army in Turkey in July 2011.⁵⁴² Hinnebusch summarises the Turkish-Syrian relationship during the course of the Syrian conflict as follows: ‘Assad and Erdoğan, formerly praised by the media in the neighbouring countries, were now demonised in the rival capitals: Assad was the dictator with blood on his hands; Erdoğan was the “Turkish-Ottoman-Wahhabi Sectarian enemy that rules in Istanbul.”’⁵⁴³

The Turkish government conceptualised its open border policy towards the Syrian refugees within the broader framework of its bid for normative leadership among

⁵³⁷ *ibid* 4

⁵³⁸ *ibid* 3

⁵³⁹ Altunışık (n 533) 337

⁵⁴⁰ ‘The then Prime Minister Davutoğlu visited President Asad in Damascus in August 2011 and advised him to implement a wide range political reforms: ‘Turkey to Press Syria to End Bloodshed’ *The Guardian* (09.08.2011) <https://www.theguardian.com/world/2011/aug/09/turkey-press-syria-end-crackdown> accessed (01.10.2017)

⁵⁴¹ ‘Syria: Turkish Prime Minister Calls for Asad to Resign’, *The Telegraph* (22.11.2011) <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/8906532/Syria-Turkish-prime-minister-calls-for-Assad-to-resign.html> accessed (16.03.2017)

⁵⁴² Phillips (n 532) 6

⁵⁴³ Raymond Hinnebusch, ‘Back to Enmity: Turkey-Syria Relations Since the Syrian Uprising’ (2015) *Orient* I 14, 15

the Sunni Muslim populations of the Middle East.⁵⁴⁴ First of all, closing the border to Syrian refugees would raise ethical and political questions about the sincerity of the Turkish government in its stance against the Assad regime. Secondly, the hospitality to Syrian ‘guests’ is one of the main pillars of the Turkish government’s ‘soft-power’ in the Middle East.⁵⁴⁵ In 2012, the then Prime Minister Davutoğlu explicitly stated that: ‘we hugged Syria and will continue to hug Syrians... a new Middle East is emerging and we will continue to be the pioneer of this new Middle East’.⁵⁴⁶ In line with such ambitions, the AKP government provided the most important bulk of its foreign aid to the Sunni Muslim opposition groups in Syria, IDPs within Syria, and Syrian refugees in Turkey.⁵⁴⁷

The analogy of the willingness of European states to accept refugees from the USSR during the Cold War in order to signify the failure of Communism is useful in understanding the Turkish government’s decision to open the borders for Syrian refugees. Borrowing from Loescher’s analysis for Cold War refugees in Europe: Syrian escapees who crossed over to Turkey ‘voted with their feet’, and represented the legitimacy of the Turkish stance against the Assad regime.⁵⁴⁸ Still, the government’s decision to admit Syrians and provide protection for them in Turkey necessitated the formulation of a framework of protection, discussed in the next section.

3.3 The Construction of *de facto* Temporary Protection in Turkey: The Period of Acute Uncertainties

When the first group of Syrians entered Turkey in 2011, Turkish domestic legislation on refugee protection was undergoing a reform process. As discussed in Chapter 2, the 1994 Regulation was still in effect at the time, as the LFIP was adopted in 2013. The 1994 Regulation provided three different options for the response to Syrian displacement, in line with the geographical limitation Turkey maintains in regard to the Refugee Convention: (i) Syrians could have been treated

⁵⁴⁴ Öz Oktav and A Çelikaksoy, ‘The Syrian Refugee Challenge and Turkey’s Quest for Normative Power in the Middle East’ (2015) 70 (3) *International Journal* 408

⁵⁴⁵ Hinnebusch (n 543) 14

⁵⁴⁶ ‘Davutoğlu’nun Açıklaması TBMM’yi Karıştırdı’ *Hürriyet* (26.04.2012) <http://www.hurriyet.com.tr/davutoglundun-aciklamasi-tbmm-yi-karistirdi-20427451> (01.12.2017) accessed

⁵⁴⁷ Altunışık (n 533) 333

⁵⁴⁸ Loescher (n 183) 7

as ‘asylum-seekers’ in Turkey, like all the other non-European refugees; (ii) they could be stopped at the border if the Syrian displacement amounted to a ‘mass influx’; (iii) a political decision could be taken not to stop the Syrian movement into Turkey, even if it amounted to a ‘mass influx’ situation.⁵⁴⁹

As discussed above, it is clear that a political decision was taken to admit Syrians into Turkey, but what has not been clear is whether they were admitted in accordance with the first option, i.e. treated as non-European asylum-seekers, or according to the third option, i.e. admitted as part of a mass influx. For a very short period of time, the first groups of Syrian refugees were treated as other non-European refugees. In April and May 2011, they were registered by the UNHCR and subjected to the general procedures of the 1994 Regulation for non-European asylum seekers.⁵⁵⁰ Eventually, it became clear that the Turkish government did not treat Syrians as other non-European asylum seekers, but instead applied an exceptional emergency response.

A *de facto* temporary protection regime emerged in the first years of the Syrian displacement, until the entry into force of the LFIP and the adoption of the Temporary Protection Regulation (TPR) in 2014. Three aspects of the *de facto* protection regime played a role in the formulation of temporary protection: (i) the emergency response to immediate refugee ‘crisis’; (ii) the discourse on the Turkey’s hospitality towards Syrian ‘guests’; and (iii) the encampment of Syrians. As discussed below, it can best be understood as a period of acute uncertainties with regard to the legal basis of protection, the status of Syrians, the content of protection, and their future.

3.3.1 Emergency Response to Syrian Refugee ‘Crisis’

The Syrian displacement was viewed within the paradigm of a crisis in the international sphere. The language of the first Syria Regional Response Plan (RRP) in 2012—the strategic framework document prepared by the UNHCR—reflects such an understanding towards the Syrian displacement in its first year: RRP is a framework of addressing the ‘regional dimension of the humanitarian response to

⁵⁴⁹ 1994 Regulation, Article 8

⁵⁵⁰ UNHCR ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey’ (2016) ES/2016/03, 35

the crisis in Syria'.⁵⁵¹ However, an important question to understand in the crisis response is how one understands the phenomenon of crisis in the first place.

In the conventional approach, crisis is approached as a 'singular event', and as a 'short-term explosive situation' that awaits normalisation.⁵⁵² Emergency responses are framed as short-term humanitarian responses aimed at keeping refugees alive in the closest spaces of refuge. In the RRP, the UNHCR defined basic objectives of humanitarian response as: ensuring access to neighbouring countries,⁵⁵³ protection against *refoulement*,⁵⁵⁴ meeting basic needs of Syrians,⁵⁵⁵ and undertaking 'contingency measures for a potential mass influx'.⁵⁵⁶ Simply stated, refugees should be kept alive in the closest spaces of refuge, i.e. neighbouring countries, and should not be sent back forcefully.

The details of the Turkish emergency response were first explained by the then Minister of Interior during a conference led by the UNHCR in Geneva in October 2011.⁵⁵⁷ He declared that Turkey was implementing temporary protection for Syrians, which included: (i) admission to the country; (ii) protection against *refoulement*; and (iii) humanitarian assistance in camps.⁵⁵⁸ The humanitarian assistance in camps—including shelter, food, health, education, and security—was coordinated by the Prime Ministry Disaster and Emergency Management Presidency (AFAD).⁵⁵⁹ The coordination of response by AFAD was itself signalling the framing of the response in terms of disaster/emergency. AFAD was established in 2009 under the Prime Ministry as 'an institution working to prevent disasters and minimise disaster-related damages, plan and coordinate post-disaster response, and promote cooperation among various government agencies'.⁵⁶⁰ Prior

⁵⁵¹ UNHCR 'Regional Response Plan' (RRP1) (March 2012), 4

⁵⁵² H. Vigh, 'Crisis and Chronocity: Anthropological Perspectives on Continuous Conflict and Decline' (2008) 73(1) *Ethnos* 5, 8-9

⁵⁵³ UNHCR Syria Regional Response Plan (RRP1) (March 2012), 8

⁵⁵⁴ *ibid*

⁵⁵⁵ *ibid* 9

⁵⁵⁶ *ibid* 9

⁵⁵⁷ European Council on Refugees and Exiles (ECRE) 'AIDA Country Report: Turkey' (2015), 104

⁵⁵⁸ UNHCR 'Information Notice Regarding Syrian Nationals Seeking International Protection' (23.11.2011)

http://archiv.proasyl.de/fileadmin/proasyl/fm_redakteure/Newsletter_Anhaenge/181/UNHCR_Turkey_Syrian_Information_Note_Nov_2011.pdf accessed (01.12.2017)

⁵⁵⁹ UNHCR 'Evaluation of UNHCR's Emergency Response to the Influx of Syrian Refugees into Turkey' (2016) ES/2016/03, 35

⁵⁶⁰ AFAD, 'About Us' <https://www.afad.gov.tr/en/2572/About-Us> accessed (07.08.2018)

to the Syrian displacement, the Office did not have any experience of dealing with displacements; rather it had only responded to natural disasters such as earthquakes.⁵⁶¹

The conventional approach to crises as short-term disruptions overlooks the fact that ‘crisis’ is a much more enduring and persistent situation for many people.⁵⁶² Vigh introduces the term ‘chronicity’ to capture an understanding of crises as ongoing, long-term and ‘pervasive critical states’ in people’s experiences.⁵⁶³ As he stresses, conflict, violence, or poverty can be ‘so embedded in social fabric’ that people make their lives in fragmented worlds, rather than waiting for a quick normalisation of life.⁵⁶⁴ Horst and Grabska, on the other hand, conceive chronicity—particularly in the context of forced displacement—as insufficient.⁵⁶⁵ Rather, they argue that refugees and IDPs do not accept chronic perceptions of crisis and ‘their act of moving illustrates refusal to live in such conditions’.⁵⁶⁶ As such, their approach to the situation of refugees and IDPs prioritises the agency of displaced people during the crisis. Here, I will present a more nuanced understanding of crisis/chronicity during forced displacement of Syrians to Turkey, by bringing together Vigh’s chronicity, and Horst and Grabska’s consideration upon it.

Chronicity and the context of crisis are endured in different tempo-spatial settings and under different circumstances for the displaced. Obviously, the crisis—or ‘radical uncertainty’, as Horst and Grabska frame it⁵⁶⁷—was pertinent to Syrian experiences during the conflict in Syria. However, their denial to live in such conditions and subsequent movement to Turkey did not bring an immediate end to the chronicity of the crisis. Although the uncertainty and crises inside Syria and Turkey are qualitatively and quantitatively different, fleeing Syrians continued to face acute uncertainties in Turkey. Hence, despite the importance of acknowledging agency during forced displacements, we need to have a more nuanced understanding of it. As Vigh argues, although the experience of crisis does not lead

⁵⁶¹ *ibid*

⁵⁶² Vigh (n 552) 8

⁵⁶³ *ibid* 10

⁵⁶⁴ *ibid* 8-10

⁵⁶⁵ Horst and Grabska (n 73) 2

⁵⁶⁶ *ibid* 2

⁵⁶⁷ *ibid* 3

to passivity, agency is not necessarily ‘a question of capacity—we all have the ability to act—but of possibility; that is, to what extent we are able to act within a given context’.⁵⁶⁸ In other words, in order to grasp the agency of Syrian refugees, we also need to examine the context of acute uncertainty in Turkey.

The *de facto* temporary protection regime did not clarify the basis of Syrians’ stay in Turkey, its duration, or the content of protection that they might receive in Turkey. Except for the then Minister of Interior’s above-mentioned statement, there was no arrangement describing what was meant by temporary protection. In 2012, the Republican People’s Party (CHP)—the main opposition party in the Turkish parliament—lodged a parliamentary inquiry for the clarification of the legal basis of the new temporary protection regime. It was revealed in the government’s response that the Ministry of the Interior had adopted Regulation No 62 in regard to temporary protection of Syrians in March 2012—yet the Regulation has still not been published and made available to the public.⁵⁶⁹ Fundamental questions such as who would be admitted (whether all Syrians, with or without proper documents?), for how long, where they might stay in Turkey, what would be the legal basis of their stay, what rights or freedoms they would have in Turkey—all of these were uncertain. In the context of such acute uncertainties, the basis of the Turkish response was characterised by the fluid concept of ‘hospitality’ of the Turkish state towards Syrian ‘guests’, which is discussed in the next section.

3.3.2 Hospitality towards Syrian ‘Guests’

The Syrians’ stay in Turkey under a temporary protection regime was framed by the Turkish authorities as hospitality/generosity provided for Syrian guests. The President of the Turkish Red Crescent, for instance, stated that ‘we are acting in line with the Prime Minister Erdoğan’s instructions that Syrians are our guests and should not be referred as refugees or migrants’.⁵⁷⁰ The then President of the Middle

⁵⁶⁸ Vigh (n 552) 11

⁵⁶⁹ Republic of Turkey, The Regulation No62 ‘Türkiye’ye Toplu Sığınma Amacıyla Gelen Suriye Arap Cumhuriyetinde İkamet Eden Vatansız Kişilerin Kabulüne ve Barındırılmasına Dair Yönerge [Regulation on Reception and Accommodation of Syrian Arab Republic Nationals and Stateless Persons who reside in Syrian Arab Republic, who arrive to Turkish Borders in Mass Influx to Seek Asylum]’ (30.03.2012) cf. Kemal Kirişçi, ‘Syrian Refugees And Turkey’s Challenges: Going Beyond Hospitality’ (2014) *Brookings*, 14

⁵⁷⁰ ‘Başbakan Erdoğan’dan ‘Misafir’ Talimatı’ (22.06.2011) <http://www.akparti.org.tr/site/haberler/babakan-erdoandan-misafir-talimat/9522#1> (accessed 10.07.2014)

East Department under the Ministry of Foreign Affairs, responsible for the administration of camps, commented: ‘we explained to foreign and domestic journalists for hundreds of times that Syrians are not refugees in Turkey, yet they continue to label them as such’.⁵⁷¹ The then President of AFAD explained the choice of the term ‘guests’ as: ‘in order to reflect the hospitality of Turkish nation, we did not use the term “asylum-seeker”. We consider them as “guests”’.⁵⁷²

The identification of refugees as ‘guests’ is a common practice in Middle Eastern states such as Lebanon, Syria and Jordan. These countries are not parties to the Refugee Convention/Protocol, and more often than not do not accord refugee status to displaced people. Rather, in line with the cultural discourse on hospitality, they label asylum seekers as ‘guests’.⁵⁷³ In the literature, there are attempts to contextualise Middle Eastern or Muslim hospitality to understand the role of cultural norms in hosting displaced people. A recent example is Chatty’s formulation of ‘*karam*’—the duty to be generous—as an alternative to the rights-based asylum of Western practice.⁵⁷⁴

Chatty explains that the duty to provide refuge, hospitality and generosity to strangers is widespread in the Middle East.⁵⁷⁵ It has its roots in social and religious norms, and is linked to the legacy of Ottoman *millet* system, which provided means of multi-religious and multi-ethnic forms of living together.⁵⁷⁶ The ‘family or lineage’s social reputation’ in this region is associated with its ‘correct behaviour towards a guest/stranger’.⁵⁷⁷ Inappropriate acts of misbehaving towards guests/strangers can lead to disrespect and insecurity for a family, which associates hospitality with security and respect.⁵⁷⁸ Religious norms also dictate ‘collecting merit by good behaviour for the Day of Judgment’ (known as *Thawaab*) that works

⁵⁷¹ Cansu Çamlıbel, ‘İşte Suriyeli Konteyner Kenti’ (13.04.2012) *Hürriyet* <http://www.hurriyet.com.tr/iste-suriyeli-konteyner-kenti-20334981> accessed (07.11.2017)

⁵⁷² ‘Çok Oluyorsunuz!’ (07.10.2014) *Yeni Şafak* <https://www.yenisafak.com/politika/cok-oluyorsunuz!-690612>, accessed (01.08.2018)

⁵⁷³ D Chatty, ‘The Duty to be Generous (Karam): Alternatives to Rights-Based Asylum in the Middle East’ (2017) 5 *Journal of the British Academy* 177, Dallal Stevens, ‘Legal Status, Labelling, and Protection: the Case of Iraqi ‘Refugees’ in Jordan’ (2013) 25 (1) *International Journal of Refugee Law* 1

⁵⁷⁴ *ibid* 177

⁵⁷⁵ *ibid* 178

⁵⁷⁶ *ibid* 189

⁵⁷⁷ *ibid* 190

⁵⁷⁸ *ibid* 190

as an incentive for generosity.⁵⁷⁹ For Chatty, in contrast to the Western understanding of hospitality that is formulated as state hospitality via ‘rights-based law’ towards legally recognised refugees,⁵⁸⁰ the Middle Eastern ‘duty-based obligations to the guest and stranger, and person in need’ can offer sanctuary for a wider range of people.⁵⁸¹

Turkish discourse on hospitality reflects Chatty’s analysis. Syrian refugees were depicted as the Muslim brothers and sisters⁵⁸² of Turkish people.⁵⁸³ The then Prime Minister Erdoğan’s analogy of depicting Syrian refugees as *muhacirs* and Turkish people as *ensars* is crucial to understand the government’s identification of Syrians.⁵⁸⁴ In this analogy, the then Prime Minister was making reference to the story of immigrant Muslims under the leadership of Prophet Mohammad, which has an important place in Islamic tradition. When the Prophet Muhammad and his Muslim followers (*muhacirs*) escaped from persecution in the city of Mecca, the people of the city of Medina (*ensars*) welcomed immigrant Muslims and provided hospitality for them.⁵⁸⁵ According to Erdoğan, the whole Turkish nation—not only the state authorities—should welcome and show its generosity to Syrian *muhacirs*, in line with the Islamic tradition of the *ensars* of Medina.

At this point, the reference to the term *muhacir* emerges in a different context than its traditional use in the Turkish history of categorisation of forced migrants.⁵⁸⁶ In contrast to *muhacirs* of Muslim/Turkish origin, who are considered as constitutive parts of Turkish nation and encouraged to integrate and permanently settle in Turkey,⁵⁸⁷ Syrian *muhacirs* were considered temporary ‘guests’, who deserve Turkish hospitality as Muslim brothers and sisters. A closer look at the politics of

⁵⁷⁹ *ibid* 190

⁵⁸⁰ *ibid* 191

⁵⁸¹ *ibid* 196

⁵⁸² In Turkish parlance, both ‘brother’ and ‘sister’ can be translated as ‘kardeş’, which does not indicate any gender. Prime Minister refers to Syrian ‘kardeşler’ (plural) and I translated it as ‘brothers and sisters’ although in its Turkish meaning it lacks any gendered identification.

⁵⁸³ ‘Başbakan’dan Önemli Açıklamalar’ (24.05.2013) *Hürriyet* <http://www.hurriyet.com.tr/basbakandan-onemli-aciklamalar-23357568> accessed (01.12.2017)

⁵⁸⁴ *ibid*

⁵⁸⁵ E Carpi and HP Şenoğuz, ‘Refugee Hospitality in Lebanon and Turkey: On Making of “the Other”’ (2019) 57 (2) *International Migration* 126, 134

⁵⁸⁶ See Chapter 2

⁵⁸⁷ See Chapter 2

hospitality challenges Chatty's formulation of it as a viable alternative for refugee protection.

Although Chatty's criticism of the narrow understanding of hospitality in the Western context is valid, in understanding the failure of contemporary international refugee law to address displacement, her approach to Middle Eastern hospitality is misleading. The hospitality/generosity in the Middle Eastern, Islamic or Turkish culture cannot be described as an 'absolute, unconditional, hyperbolic hospitality' in Derridian terms, which is 'to give the new arrival all of one's home and oneself, to give him or her one's own, our own, without asking a name, or compensation, or the fulfilment of even the smallest condition'.⁵⁸⁸ The politics of generosity/hospitality in the context of welcoming Syrian refugees is a conditional one.

First of all, the term 'guest' obviously does not provide a legal status for displaced Syrians, or any means of security and stability for their stay in Turkey. What is pertinent here is that, as Stevens points out, the label 'guest' 'infers transience, generosity of the host, and, arguably, responsibility on the visitor not to overstay his or her welcome.'⁵⁸⁹ In the Turkish culture, most of the proverbs on guests reflects this temporality. Proverbs such as 'guests remain as guests for three days' reflect Stevens' point on the responsibility of the visitor not to overstay the hosts' welcome.

The willingness of hosts to provide generosity can also be hampered by material hardship as the time passes. As Chatty rightly explains, in Jordan, Turkey, and Lebanon, various forms of hospitality emerged among host communities upon the arrival of Syrian refugees.⁵⁹⁰ However, without any systematic, structural mechanisms to support Syrian refugees' self-sustainability, the hospitality of local people starts to wear thin; hospitality can turn into hostility when the economic concerns of the host become increasingly prominent.

⁵⁸⁸ Jacques Derrida, *Of Hospitality* (translated by Rachel Bowlby, Stanford University Press 2000) 77

⁵⁸⁹ Stevens (n 573) 19

⁵⁹⁰ Chatty (n 573) 194

Secondly, the limits of hospitality can be contested considering the inherent hierarchical relationship between the host and the guest. On the one hand, the host—that is the Turkish state/nation—has full control to choose which guests should receive its generosity. As discussed in Chapter 2, the Kurdish Iraqi refugees who were also labelled ‘temporary guests’ were not perceived as deserving hospitality of the Turkish nation (due to the context of the ongoing conflict with Kurdish organisation PKK and Turkey). Syrians were deemed legitimate subjects of Turkish hospitality only in the context of the Turkish government’s foreign policy considerations—which cannot be relied upon for an ethical stance on hospitality. On the other hand, Turkish hospitality towards Syrians also have important delimitations. Erdoğan, in his large empirical study on Turkish attitudes towards Syrians, reveals that alongside the characterisation of Syrians as people escaping war and persecution, guests, brothers and sisters, more than half of the correspondents labelled Syrians as a burden, dangerous people, beggars, or foreigners.⁵⁹¹

Thirdly, the hospitality towards guests is conceived as a gift, and constructs hierarchy between the host and guest, leading to the dependency of guests on the hosts. An officer working in the Islahiye camp reflected such hierarchy and dependency by arguing, ‘being a strong state means that you feel pity. The Turkish state feels pity towards Syrians and this is why we feed them and let them stay in Turkey’.⁵⁹² In that sense, the protection activities depend to an extent on the discretionary power of the government and the host community. Importantly, the discourse on hospitality avoids the need for greater rights-based clarifications on guests’ freedoms or any notion of obligation. As a famous proverb in Turkish dictates: ‘guests eat (enjoy) what they find, not what they have hoped for’.

3.3.3 *Encampment*

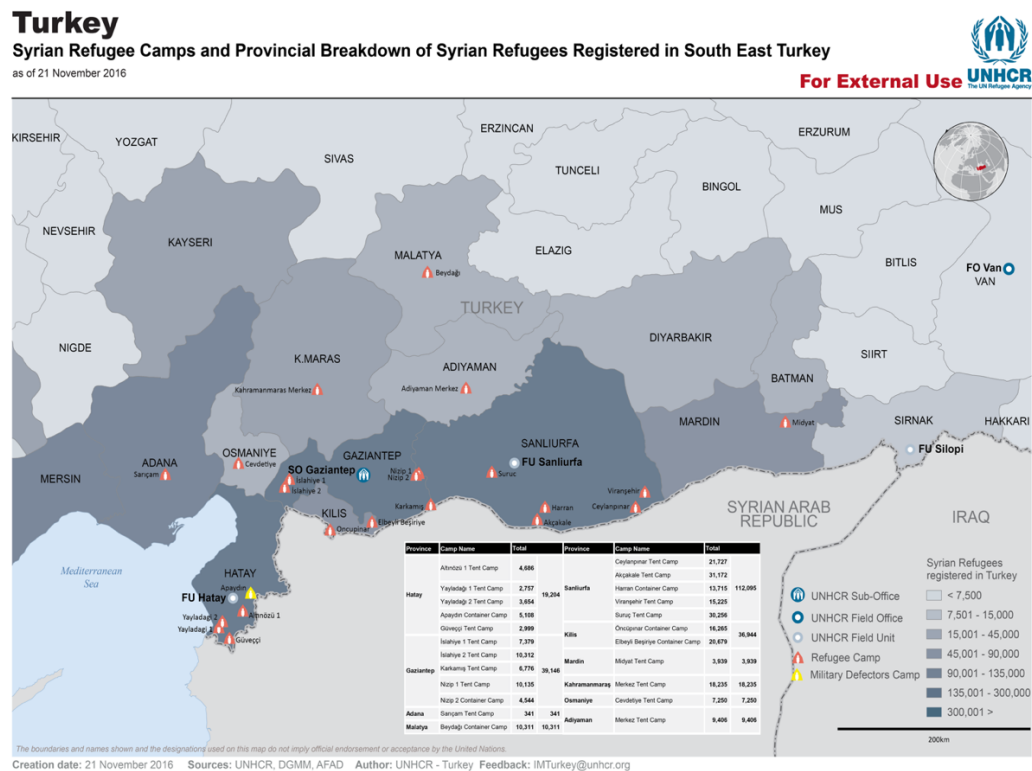
At the start of the Syrian displacement, the Turkish state hosted most of the Syrian refugees in refugee camps. As of January 2012, over 9000 Syrians were residing in

⁵⁹¹ MM Erdoğan, *Suriyeliler Barometresi: Suriyelilerle Uyum İçinde Yaşamın Çerçevesi* (İstanbul Bilgi Üniversitesi Yayınları 2017) 55

⁵⁹² Ş Özden, ‘Syrian Refugees in Turkey’ (2013) European University Institute, 5

seven tent-camps in the province of Hatay.⁵⁹³ Nearly a year later, there were around 200,000 Syrians living in camps established in the border cities.⁵⁹⁴

Figure 1: Syrian Refugee Camps as of November 2016⁵⁹⁵



The encampment of refugees signifies an exceptional short-term response in the Turkish history of refugee protection. As discussed in Chapter 2, the Ottoman Empire pursued *iskan* (settlement) policies in integrating immigrants into Ottoman society. In the history of the Turkish Republic, displaced people who are deemed to have Turkish origin were permanently settled in urban locations, while non-European refugees were sent to designated cities, namely the ‘satellite cities’, awaiting their resettlement to third countries. Camps were established only in cases when the Turkish state was reluctant to admit refugees, such as the Kurdish Iraqi refugees of 1990s, and kept them in isolated camp-settings until their quick return.

⁵⁹³ Turkish Parliament Human Rights Inquiry Committee, ‘Ülkemize Sığınan Suriye Vatandaşlarının Barındıkları Çadırkentler Hakkında İnceleme Raporu’ (2012), 2-3, https://www.tbmm.gov.tr/komisyon/insanhaklari/docs/2012/raporlar/28_02_2012_1.pdf, accessed (01.10.2017)

⁵⁹⁴ AFAD, ‘Syrian Refugees in Turkey 2013: Field Survey Results’ (2013)

⁵⁹⁵ UNHCR <https://data2.unhcr.org/en/documents/download/52347> accessed (01.02.2018)

The establishment of camps is not common in the Middle East region, except for the Palestinian displacements in 1948 and 1967. The historical lesson learnt through the Palestinian displacement is that camp settings could easily turn into permanent residencies for refugees, who have no prospect of returning home.⁵⁹⁶ During the 2003 Iraqi displacement, for instance, the Iraqi refugees in Syria, Jordan, Turkey, and Lebanon were not placed in camps, but settled in urban centres.⁵⁹⁷ The establishment of camps for Syrian refugees in Turkey can be explained by the presumption of a short time emergency response, taking into account the initial miscalculation of the Turkish government that the Assad regime would be toppled quickly and Syrians would be able to return to their countries.

The encampment of refugees is mostly associated with the expectation of refugee return in contemporary refugee history. As Malkki stresses, the containment of refugees in camps in the management of mass displacement was standardised towards the end of Second World War. As she outlines:

The segregation of nationalities; the orderly organisation of repatriation or third country resettlement; medical and hygienic programs and quarantining; ‘perpetual screening’ and the accumulation of documentation on the inhabitants of the camps; the control of movement and black-marketing; law enforcement and public discipline; and schooling and rehabilitation were some of the operations that the spatial concentration and ordering of people enabled or facilitated.⁵⁹⁸

Since the mid-1980s, in particular, the UNHCR undertook the long-term maintenance of refugee camps around the world for refugees awaiting the durable solution of repatriation or resettlement.⁵⁹⁹ Officially labelled as ‘transitory exceptional spaces’, camps became permanent locations for many refugees, the most visible consequences of the failure of traditional durable solutions.⁶⁰⁰

⁵⁹⁶ Chatty (n 573) 183

⁵⁹⁷ *ibid* 180

⁵⁹⁸ LH Malkki, ‘Refugees and Exile: From ‘Refugee Studies’ to the National Order of Things’ (1995) 24 *Annual Review of Anthropology* 495, 498

⁵⁹⁹ Loescher (n 183) 12

⁶⁰⁰ B Diken and C Bagge Lausten, *The Culture of Exception: Sociology of Facing the Camp* (Routledge 2005), 89; Jennifer Hyndman, *Managing Displacement: Refugees and the Politics of*

The UNHCR transformed its policy of encampment, and started to prioritise hosting refugees in urban centres. In 2014, the Office published a policy paper on ‘Policy Alternatives to Camps’,⁶⁰¹ explaining that the Office will avoid camps so that ‘refugees have the possibility to live with greater dignity, independence and normality... able to exercise their rights, such as the ability to move freely, choose where to live, work or open a business, cultivate land or access protection and services’.⁶⁰² However, acknowledging the host countries’ considerations in establishing camps during emergencies, the Office also accepted that camps might be set up when it is necessary to save lives and ensure protection, but only as an exceptional temporary measure.⁶⁰³

The encampment policy of Turkey is closely associated with the preferred solution of return or removal: non-Syrian refugees in urban settings undergo individual RSDs, and their stay in Turkey is based on awaiting resettlement in a third country; Syrians, who are protected on a group basis, reside in camps awaiting their return to Syria. As such, the UNHCR explains the government rationale for encampment with the ‘challenges which might arise in dispersing the population either locally or throughout the country’⁶⁰⁴ in arranging their return. In addition, the establishment of camps also made the distribution of humanitarian/survival aid practical.⁶⁰⁵ As the UNHCR explains, in the Turkish camps, ‘new arrivals are rapidly settled at the newly established tent sites... food, accommodation and medical assistance have been provided... without interruption’.⁶⁰⁶

Importantly, the international response to encampment of Syrians in Turkey signalled the acceptance of encampment as a viable option during large-scale displacement, despite the discourse of moving from camp-based protection to urban protection. Despite the resentment of Syrian refugees towards encampment,⁶⁰⁷ the quality of the refugee camps in Turkey was frequently praised by experts. For

Humanitarianism (University of Minnesota Press 2000); M Agier, *Managing the Undesirables: Refugee Camps and Humanitarian Government* (translated by David Fernbach, Polity 2011)

⁶⁰¹ UNHCR ‘Policy Alternatives to Camps’ (2014) HCP/2014/9

⁶⁰² *ibid* 4

⁶⁰³ *ibid* 6

⁶⁰⁴ UNHCR ‘Syria Regional Response Plan (RRP1)’ (March 2012), 65

⁶⁰⁵ Loescher, Betts and Milner (n 150) 37

⁶⁰⁶ UNHCR ‘Syria Regional Response Plan (RRP1)’ (March 2012), 64

⁶⁰⁷ See Chapter 4

example, Ferris, the senior policy advisor to the UNHCR, stated that ‘I can clearly say the camps in Turkey are magnificent [in] the level of resources, infrastructure, services, space and security provided.’⁶⁰⁸ The International Crisis Group, an independent organisation reporting on crisis situations, defined those in Turkey as the best refugee camps ever seen.⁶⁰⁹ In the international media, the camps were described as the ‘perfect refugee camp’.⁶¹⁰

The UNHCR characterised the Turkish emergency response in camps as commendable in the RRP of March 2012⁶¹¹, and of a ‘consistently high standard’ in RRP2 of June 2012.⁶¹² According to the UNHCR Ankara Office, the establishment of camps for Syrians can be regarded as an acceptable approach, taking into account the urgent need to shelter a large-number of people.⁶¹³ Yet, the office underlines that in the long term, refugees should not be isolated in camp-settings and should live in harmony with the host community.⁶¹⁴

Eventually, with the shift of government policies to a more urban-based protection, only a minority of Syrians in Turkey continued to live in camps. During the (re)construction of temporary protection, the camps turned into sites of precarity and a form of imprisonment, as discussed in the following section.

3.4 The Continuous (Re)Construction of Temporary Protection: Structural Uncertainties

Since 2013/2014, the temporary protection policies in Turkey have undergone major transformations. First, the overwhelming majority of Syrian refugees began to be hosted in urban settings—although the camps were not totally demolished, but continue to provide shelter for Syrian refugees who were identified as the ‘most vulnerable’, and gained a new function as sites of punishment/imprisonment for those who were identified as a threat to public security. Second, the temporary

⁶⁰⁸ Cited in the International Crisis Group, ‘The Rising Costs of Turkey’s Syrian Quagmire’ (April 2014) Europe Report No230, 4

⁶⁰⁹ International Crisis Group, ‘Blurring the Borders: Syrian Spillover Risks for Turkey’ (April 2013) Europe Report No225, 9

⁶¹⁰ M McClelland, ‘How to Build a Refugee Camp’ (13.02.2014) *New York Times* <https://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html> accessed (11.11.2017)

⁶¹¹ UNHCR ‘Syria Regional Response Plan (RRP1)’ (March 2012), 64

⁶¹² UNHCR ‘Revised Syria Regional Response Plan (RRP2)’ (June 2012), 70

⁶¹³ UNHCR Ankara Office, Interview with the Author (No18), (06.01.2017, Ankara)

⁶¹⁴ *ibid*

protection regime was incorporated into domestic legislation, with the adoption of LFIP in 2013 and its entry into force in 2014, and the adoption of the TPR in 2014. Third, the government policies of emergency response transformed into a more complex form of response that can be characterised by structural uncertainties.

The acute uncertainties of conflict, flight and the indeterminacies of *de facto* temporary protection paved the way for long-term and ‘protracted uncertainty’ during the (re)construction of the temporary protection regime.⁶¹⁵ The instability and uncertainty that Syrians face in their prolonged exile in Turkey are, on the one hand, related to the ongoing conflict in Syria that hampers their possibility of return. However, the instability under the temporary protection regime is also inextricable from the social, political and legal structures of their governance.⁶¹⁶ In order to stress the importance of structure in explaining uncertainties, I prefer to use the term ‘structural uncertainty’, borrowing its analytical framework from Horst and Grabska’s terminology of ‘protracted uncertainty’.⁶¹⁷ The following sections deal with the task of examining how temporary protection was transformed over time, by unravelling structural uncertainties as the defining feature of the governance of Syrians in Turkey.

3.4.1 Camps as Sites of Precarity and Imprisonment

In the summer of 2013, more than half of the Syrian population was living in urban centres. As of August 2013, there were around 200,000 camp residents, while the estimated number of Syrians who were living outside of the camps was thought to be around 350,000.⁶¹⁸ Since the emergency response was designed to be implemented in camp-settings, the situation of refugees in urban areas was unknown, until the adoption of the TPR in 2014. The numbers of Syrians living in urban centres could only be estimated, and it was projected to be double the actual number of refugees registered with the authorities.⁶¹⁹ At the end of 2014, there was still no clear information either on the numbers of Syrians outside of the camps or

⁶¹⁵ Horst and Grabska (n 73)

⁶¹⁶ El-Shaarawi highlights the importance of inextricable relation between social and political dynamics and the instability in the context of the Iraqi refugees in Egypt: Nadia El-Shaarawi, ‘Living an Uncertain Future: Temporality, Uncertainty, and Well-Being Among Iraqi Refugees in Egypt’ (2015) 59 (1) *Social Analysis* 38, 39

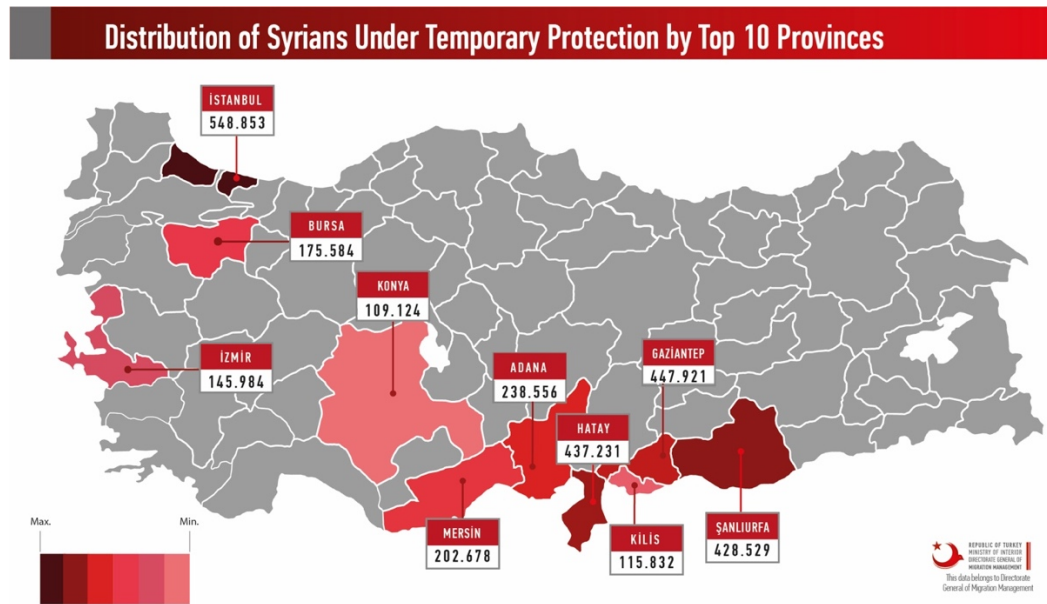
⁶¹⁷ Horst and Grabska (n 73)

⁶¹⁸ AFAD, ‘Syrian Refugees in Turkey 2013: Field Survey Results’ (2013), 17-18

⁶¹⁹ UNHCR ‘Syria Regional Response Plan (RRP5)’ (June 2013), 212

their whereabouts.⁶²⁰ Since then, the response to Syrian displacement has been conducted overwhelmingly in the cities, and the population in the camps has increased only slightly. As of 2018, 233,400 Syrians were living in 21 camps in ten cities, constituting less than the 10 per cent of over 3.5 million Syrian refugees in Turkey.⁶²¹

Figure 2: Numbers of Syrian Refugees in Major Urban Centres by 2019⁶²²



The shift to urban-based protection was partially linked to the government's acknowledgment that the Syrian conflict would not soon come to an end. Also, the financial costs of camp management became unbearable, with the rising number of Syrian arrivals. According to the International Crisis Group's interviews with Turkish officials in 2013, 'a 10,000-person camp costs \$10 million to establish and takes a month to build, and aid costs between \$200 and \$300 per month per refugee', which makes it hard to sustain the 'perfect camps' in the long run.⁶²³ Despite Turkey's initial rejection of any contribution from the international

⁶²⁰ MM Erdoğan, *Türkiye'deki Suriyeliler* (İstanbul Bilgi Üniversitesi 2015) 38

⁶²¹ AFAD, 'Turkey Response to Syria Crisis' <https://www.afad.gov.tr/en/2601/Turkey-Response-to-Syria-Crisis>, accessed (01.12.2017) After the writing up of this thesis, a new policy of closing down the camps initiated by the government in 2019. According to the latest statistics, there remained 67,066 Syrians living in 11 camps in 8 cities as of August 2019: Republic of Turkey DGMM, 'Statistics' <https://www.goc.gov.tr/gecici-koruma5638>, accessed (10.08.2019)

⁶²² DGMM <https://en.goc.gov.tr/temporary-protection27> accessed (06.08.2019)

⁶²³ International Crisis Group, 'Blurring the Borders: Syrian Spillover Risks for Turkey' (2013), 11

community,⁶²⁴ the Turkish government decided to make a request for foreign material support in April 2012,⁶²⁵ signalling the hardship of sustaining the financial costs of camps.

Although the bulk of protection activities shifted to urban centres, the camps continued to be used as the only form of housing/shelter support for the Syrians in dire situations. Syrians who cannot find means of survival or shelter in urban settings are only provided with the option of shelter in the camps. In the absence of official housing support, or any regulation on sheltering of Syrians in urban centres, camps are framed as the humanitarian face of the Turkish state.

Another function of the camps became the containment of Syrians who were considered a threat to public order and security. According to the regulation adopted in June 2014, Syrians ‘who are involved in commission of crimes, considered a threat to public order and public security, and begging and living in the streets despite warnings’ are faced with two choices: staying in camps or returning to Syria.⁶²⁶ The function of camps in containing/punishing those who were deemed as threats reveals the technologies of power behind the camps in ‘managing the undesirables’, as Agier frames it.⁶²⁷ Crucially, as discussed in the next chapter in detail, the threat of being sent to camps feeds heavily into Syrians’ feeling of unsafety, instability and lack of trust under the temporary protection regime.

3.4.2 Formation of Temporary Protection de jure: Legality and Uncertainties of Temporary Protection Status

In April 2013, the legal ground for the temporary protection regime was finally clarified by the adoption of the LFIP.⁶²⁸ Alongside the international protection status, the LFIP defined temporary protection status as ‘a measure to be provided to those who are forced to leave their country and who have arrived at or crossed the borders of Turkey *en masse* seeking emergency and temporary protection.’⁶²⁹ However, the scope and content of protection was not defined in the law, leaving

⁶²⁴ UNHCR, ‘Syria Regional Response Plan (RRP1)’ (March 2012), 64

⁶²⁵ UNHCR, ‘Revised Syria Regional Response Plan (RRP2)’ (June 2012), 71

⁶²⁶ UNHCR, ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015’ (2016), ES/2016/03, 46

⁶²⁷ Agier (n 600)

⁶²⁸ LFIP

⁶²⁹ *ibid* Article 91

its regulation to the executive—and therefore discretionary—power of the state. The LFIP identified the Council of Ministers as the responsible organ for governing the temporary protection.⁶³⁰ To this end, the Council of Ministers adopted the Temporary Protection Regulation (TPR, or the Regulation) in October 2014.⁶³¹

The TPR defined temporary protection as ‘provided to foreigners, who were forced to leave their countries and unable to return to the countries they left and arrived at or crossed our borders in masses to seek urgent and temporary protection and whose international protection requests cannot be taken under individual assessment’.⁶³² Mass influx is characterised as ‘situations where a high number of people come from the same country or a geographical region and procedures related to international protection status cannot be individually followed because of the high number of people’.⁶³³ Provisional Article 78 retrospectively applied temporary protection to Syrians, who arrived in Turkey due to the events that had been taking place in Syria since April 2011, even if they had already filed an application for asylum in Turkey.⁶³⁴

During their stay in Turkey, Syrians’ access to rights and services were defined by the Regulation. In order to have access to services and benefits under the TPR, Syrians are required to obtain identification documents upon registration.⁶³⁵ The temporary protection identification document (TPID)—also known as AFAD card, DGMM card or *kimlik* (in Turkish)—grants beneficiaries the right to stay in Turkey, and the right to benefit from temporary protection in Turkey. Syrians who are accommodated in camps have automatically been registered by Turkish authorities upon their arrival there. Registration of Syrians residing outside of camps began in January 2013. Initially, AFAD was coordinating this process;⁶³⁶ after the entry into

⁶³⁰ *ibid*

⁶³¹ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153

⁶³² Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153 Article 3 (f)

⁶³³ *ibid* Article 3 (j)

⁶³⁴ *ibid* Article (1)

⁶³⁵ *ibid* Article 22

⁶³⁶ UNHCR ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015’ (2016), ES/2016/03, 36

force of the LFIP and the TPR in 2014, the newly established DGMM took over this responsibility.⁶³⁷

Syrians who arrive either with or without passports can apply for TPIDs, according to the Regulation. There is no punishment for illegal entry and stay of Syrians, and those who enter into Turkey unofficially can regularise their stay by registering with the relevant authorities.⁶³⁸ Syrians who entered into Turkey with passports can also apply for short or long-term residence permits like all other foreigners, depending on their conditions, i.e. marital status, studentship or job status. In this case, their stay in Turkey is not regulated by temporary protection but by the domestic legislation applied to a foreigner's stay in Turkey, namely the LFIP. According to the latest DGMM statistics of 2018, 99,643 Syrians were residing in Turkey with a residence permit.⁶³⁹

There are also significant numbers of Syrians who are not yet registered with the authorities. Before the adoption of the TPR, the low-rates of registration among Syrians without passports was highlighted as one of the most important protection challenges in Turkey.⁶⁴⁰ In 2013, AFAD reported that one in three Syrians had no registration in Turkey, while acknowledging that the actual numbers of unregistered Syrians could be much higher.⁶⁴¹ The low-rates of registrations were explained by Syrians' concerns that registration would hamper their future plans.⁶⁴² Syrians who are planning to move to third countries, especially to Europe, are afraid to get registered in Turkey, because they think that they would be sent back there if it appears as their first country of asylum in official papers.⁶⁴³ Some Syrians also have concerns that the Assad regime would have access to their identity documents and whereabouts in Turkey.⁶⁴⁴ After the adoption of the TPR, the registration process has been accelerated, and there is a requirement that Syrians must obtain TPIDs in

⁶³⁷ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 21

⁶³⁸ *ibid* Article 5

⁶³⁹ DGMM, <https://www.goc.gov.tr/ikamet-izinleri>, accessed (12.12.2018)

⁶⁴⁰ AFAD, 'Syrian Refugees in Turkey 2013: Field Survey Results' (2013), 20

⁶⁴¹ *ibid* 20

⁶⁴² Erdoğan (n 620) 69

⁶⁴³ *ibid* 69

⁶⁴⁴ *ibid* 70

order have access to public services. This has resulted in increasing rates of registration among Syrians.

Syrians under temporary protection are permitted to stay in Turkey until the termination of the temporary protection regime. Yet, the TPR does not bring an end to the uncertainties regarding the duration of temporary protection. Rather, temporary protection lasts until the Council of Ministers takes a decision to terminate it.⁶⁴⁵ The uncertainties associated with duration of the temporary protection, the power of the Council of Minister to terminate temporary protection, and the temporal quality of TPIDs all keep Syrians in a liminal state: Syrians are not only caught between places—i.e. Syria as the state of origin to which they would return, Turkey as a temporary stop, or other, third countries for permanent resettlement—but also between categories.⁶⁴⁶ They are not refugees or beneficiaries of international protection in the legal sense, as the TPR explicitly states that beneficiaries of temporary protection ‘shall not be deemed as having been directly acquired one of the international protection statuses as defined in the Law’.⁶⁴⁷

They do not have a secure legal residence, as the Regulation states that ‘temporary protection status shall not be deemed equal to a residence permit, shall not grant the right or transition to a long term residence permit and shall not entitle its holder to apply for Turkish citizenship’.⁶⁴⁸ Access to RSDs for international protection is also restricted, as the Regulation makes it clear that asylum applications of temporary protection beneficiaries will not be processed until the temporary protection regime comes to an end.⁶⁴⁹ Crucially, access to RSD is not secure even after the end of the temporary protection. According to the 2014 Regulation, the Council of Ministers may decide to return beneficiaries to their own countries, grant collective status to beneficiaries, conduct assessment of individual applications, or allow them to stay in Turkey.⁶⁵⁰

⁶⁴⁵ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazette No29153, Article 11 (1)

⁶⁴⁶ El-Shaarawi (n 616) 39

⁶⁴⁷ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazette No29153, Article 7 (3)

⁶⁴⁸ *ibid* Article 25

⁶⁴⁹ *ibid* Article 16

⁶⁵⁰ *ibid* Article 11 (2)

3.4.3 Content of Temporary Protection

As discussed above, before the adoption of the TPR, there was no legal regulation defining the content of protection. The state authorities explained the three pillars of temporary protection as the (i) admission of Syrians (ii) protection against *refoulement* and (iii) humanitarian aid inside the camps. Under the TPR, the content of protection was defined alongside the same pillars, yet, in addition to the humanitarian aid inside the camps, the TPR also described Syrians' access to services in urban centres.⁶⁵¹ This section focuses on each pillar in turn, and considers the changes/continuities throughout the course of temporary protection. As discussed below, despite the crucial improvements in particular policy areas, such as access to health, education and employment, the structural uncertainties continued to be fundamental to the prolonged displacement of Syrians.

i. Uncertainty Regarding Admission:

From the beginning of the Syrian displacement until 2016, Turkey did not require Syrian nationals to hold a visa in order to enter Turkey. Thanks to the improvement of Turkish-Syrian relations prior to the Syrian conflict, the two countries signed a mutual visa waiver agreement in 2009 for visits of less than 90 days.⁶⁵² Importantly, the Turkish government reiterated that Turkey follows an official open-door policy for those who are escaping the Syrian conflict.⁶⁵³ The open-border policy is of

⁶⁵¹ *ibid* Part Six

⁶⁵² Türkiye Cumhuriyeti Hükümeti ile Suriye Arap Cumhuriyeti Hükümeti Arasında Vizenin Karşılıklı Olarak Kaldırılmasına Dair Anlaşma (signed 13.10.2009), the Official Gazette No 27441 (23.12.2009)

⁶⁵³ In June 2011, The Prime Minister Erdogan expressed that 'We will keep our doors open for all Syrian brother and sisters who are seeking refuge in our country': 'Suriyeli Kardeşlerimize Kapımızı Açık Tutacağız' (09.06.2011) *Hürriyet* <http://www.hurriyet.com.tr/suriyeli-kardeslerimize-kapimizi-acik-tutacagiz-17993766> accessed (10.10.2017). In March 2012, the then Minister of Foreign Affairs Davutoğlu declared that Turkey will continue its open-door policy: 'Esad'ın Generalleri Türkiye'ye Kaçtı' (09.03.2012) *Hürriyet* <http://www.hurriyet.com.tr/esadin-generalleri-turkiye-ye-kacti-20088255> accessed (07.11.2017). In February 2013 he stated that 'our doors will always remain open to our Syrian brothers and sisters': 'Davutoğlu: Tek Yol Esad'ın Gitmesi' (04.02.2013) *Hürriyet* <http://www.hurriyet.com.tr/davutoglu-tek-yol-esadin-gitmesi-22517205> accessed (10.11.2017). In April 2014, The then Spokesperson of the Ministry of Foreign Affairs stated 'Turkey continues to pursue open door policy towards Syrians without any discrimination on religion, sect or ethnicity': 'Açık Kapı Politikası Sürdürülüyor' (30.04.2014) *Anadolu Ajansı* <https://aa.com.tr/tr/turkiye/acik-kapi-politikasi-surduruluyor/163103> accessed (10.10.2017). In March 2015, The then Prime Minister Davutoğlu underlined 'Our doors are open and we are accepting refugees. We are implementing an open border policy with humanitarian reasons of course.': 'Suriye Halkına Sadece İki Hak Vermek Adil Değil' (06.03.2015) *Hürriyet* <http://www.hurriyet.com.tr/dunya/davutoglu-suriye-halkina-sadece-iki-hak-vermek-adil-degil-28375805> accessed (07.10.2017). In April 2016, he reiterated that 'Our doors are open to oppressed

paramount importance, especially for Syrians who arrive at the border without passports or relevant documentation. Nevertheless, border politics in regard to admission of Syrians into Turkey are more complex than the government's statements, and restrictions on admission heavily affected the Syrians access to protection in Turkey. The lack of transparency and insufficient independent monitoring of border crossings make it problematic to have a clear picture of admission policies.⁶⁵⁴ Still, restrictions on admission, temporary border closures, and allegations of push-backs have been reported frequently, from the very beginning of the migration.

From mid-2012 onwards, the Turkish authorities began to restrict entries at legal crossings by various means.⁶⁵⁵ First of all, since 2012, admission of Syrians without documents has been linked to the available capacities within the camps, except for cases of medical emergency.⁶⁵⁶ Considering that the camp capacities were already strained since the summer of 2012, Syrians arriving at Turkish borders without passports were forced to wait at the Syrian side of the border until additional places in camps became available. According to Amnesty International's report in 2014, the Turkish officials acknowledged that official border crossings were only available for Syrians who held valid passports and those who had an urgent medical or humanitarian need.⁶⁵⁷

Secondly, the border region between Turkey and Syria has itself been a conflict zone since the start of hostilities, and Turkish authorities closed several legal

and innocents, our country is open but most importantly our hearts are open and will stay open. We will continue this humanitarian stance in the upcoming periods': 'Başbakan Davutoğlu'ndan Avrupa'nın Kalbinde 'Mülteci' Sistemi' (19.04.2016) *Hürriyet* <http://www.hurriyet.com.tr/dunya/basbakan-davutoglundan-avrupanin-kalbinde-multeci-sitemi-40091187> accessed (10.10.2017). In July 2017, The President Erdoğan 'We expressed that we are implementing open door policy in the first days of the Syrian crisis. Until now, we are hosting more than 3 million Syrians as guests in our country': 'Cumhurbaşkanı Erdoğan'dan G20 Zirvesi Sonrası Açıklamalar' (08.07.2017) *Habertürk* <http://www.haberturk.com/haber/haber/1556826-cumhurbaskani-erdogan-dan-g20-zirvesi-sonrasi-aciklamalar> accessed (10.10.2017)

⁶⁵⁴ B Togrul Koca, 'Deconstructing Turkey's 'Open Door' Policy Towards Refugees from Syria' (2015) 12 (3) *Migration Letters* 209

⁶⁵⁵ OB Dinçer and others, 'Turkey and Syrian Refugees: The Limits of Hospitality' (2013) *Brookings Institution*, 5

⁶⁵⁶ UNHCR 'Syria Response Plan (RRP6)' (December 2013), 7

⁶⁵⁷ Amnesty International, 'Struggling to Survive: Refugees from Syria in Turkey' (2014), 10

crossings due to security threats, either temporarily or permanently.⁶⁵⁸ There are thirteen legal crossings along the 911 km border between Turkey and Syria. At the beginning of 2014, only six of them were open for entry.⁶⁵⁹ In 2014, border management was further hardened, and restrictions on entries increased enormously. For instance, in September 2014, during the Kobane conflict in the Kurdish-dominated northern Syria, the Turkish authorities admitted refugees very slowly, only after screening them ‘for possible criminals and terrorists’.⁶⁶⁰ From March 2015 onwards, the UNHCR started to characterise the Turkish border policies as a ‘very strict management regime’, since all border crossings were closed except for Hatay and Kilis, where only those who had medical or humanitarian needs and those who applied for family reunion were admitted.⁶⁶¹

Thirdly, reports published by human rights NGOs since 2015 highlight the allegations of pushbacks, killings or unlawful detentions of Syrians while they attempted to cross the border, based on the accounts of refugees who witnessed such incidents.⁶⁶² The UNHCR, too, acknowledged such allegations, and stated that it was in contact with Turkish authorities on the issue.⁶⁶³ However, the Office chose ‘not to go public’ about allegations, due to ‘a judgement call on the part of the Representative that seems reasonable in the highly sensitive political context in which UNHCR operates in Turkey’.⁶⁶⁴

As admission into Turkey through official land crossings became almost impossible, Syrians were left only with the option of unofficial crossings. As Dinçer and others suggested, although the authorities linked admission to the availability of places in camps, the rise of the number of Syrians living outside of the camps throughout 2012 and 2013 makes it clear that Syrians continued to enter into Turkey

⁶⁵⁸ International Crisis Group, ‘The Rising Costs of Turkey’s Syrian Quagmire’ (April 2014) Europe Report No230; International Crisis Group, ‘Blurring the Borders: Syrian Spillover Risks for Turkey’ (April 2013) Europe Report No225

⁶⁵⁹ UNHCR ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015’ (2016) ES/2016/03, 43

⁶⁶⁰ *ibid* 43

⁶⁶¹ *ibid* 44

⁶⁶² Human Rights Watch, ‘Turkey: Syrians Pushed Back At The Border: Closures Force Dangerous Crossings with Smugglers’ (2015) <https://www.hrw.org/news/2015/11/23/turkey-syrians-pushed-back-border> accessed (01.09.2017); Human Rights Watch, ‘Turkey/Syria: Border Guards Shoot, Block Fleeing Syrians’ (05.02.2018) <https://www.hrw.org/print/314572> accessed (01.03.2018)

⁶⁶³ UNHCR ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015’ (2016) ES/2016/03, 43

⁶⁶⁴ *ibid* 44

unofficially, sometimes with the help of human smugglers.⁶⁶⁵ In order to prevent smuggling and unofficial border crossings, the Turkish government started to construct a wall along the Syrian border in 2015.⁶⁶⁶ At the end of 2017, the construction of the wall was almost completed: 731 km of a 911 km long border between Syria and Turkey was separated by the wall.⁶⁶⁷ A further restriction of admission was applied in 2016 for Syrians who attempt to enter Turkey from third countries. In January 2016, Turkey started to implement a visa requirement for Syrians who come to Turkey via air or sea routes.⁶⁶⁸ Since there are no direct entries into Turkey from Syria by air or sea, the visa aims to place an obstacle on Syrians who are attempting to enter Turkey from third countries such as Lebanon or Egypt.

ii. Uncertainties in Protection against Refoulement

Although Turkey maintains its geographical limitation with regard to the Refugee Convention/Protocol, the country is still bound by the norm of *non-refoulement* established in international human rights law for the so-called non-European refugees. Turkey is party to the European Convention on Human Rights, and as discussed in the previous chapter, the interpretation of Article 3 of the Convention (which the ECtHR prohibits the expulsion of aliens to a place where they would face a real and substantiated risk of ill-treatment) has constituted legal basis for deportation cases brought to the ECtHR.⁶⁶⁹ The domestic regulation in Turkey provides legal grounds for the protection of Syrians against involuntary returns, and has been incorporated into both the LFIP and TPR.⁶⁷⁰ In this regard, Syrians are legally entitled to be protected against *refoulement* if certain circumstances apply.

Considering the ongoing conflict and insecurity in Syria, in 2017 the UNHCR made it clear that the Office ‘does not promote or facilitate refugee returns to Syria

⁶⁶⁵ Dinçer and others (n 655) 10

⁶⁶⁶ ‘Turkey-Syria Border Wall to be Completed by End of September’ (22.09.2017) *Hurriyet Daily News* <http://www.hurriyetdailynews.com/turkey-syria-border-wall-to-be-completed-by-end-of-september-118278> accessed (10.10.2017)

⁶⁶⁷ *ibid*

⁶⁶⁸ DGMM, http://www.goc.gov.tr/mobilicerik6/ulkemiz-ile-suriye-arasindaki-vize-muafiyeti-anlasmasinin-yururlukten-kaldirilmasi_350_360_8989_icerik accessed (10.10.2017)

⁶⁶⁹ ‘No one shall be subjected to torture or to inhuman or degrading treatment or punishment’: European Convention for the Protection of Human Rights and Fundamental Freedoms (04.11.1950) ETS 5, Article 3; *Ahmed v Austria* (1996) ECHR 71/1995/577/663; *Chahal v the United Kingdom* (1996) ECHR 70/1995/576/662

⁶⁷⁰ Republic of Turkey, The Law on Foreigners and International Protection No2013/6458 (04.04.2013, entry into force 4.04.2014), the Official Gazzete No28615 (11.04.2013), Article 6

because conditions for voluntary, safe and dignified returns are not in place’;⁶⁷¹ any involuntary returns to Syria should be considered as *refoulement*. In early 2018, the Office reiterated that ‘necessary conditions are not in place for safe and dignified return’ and underlined that there are some ‘self-organised’ returns of approximately 77,000 Syrians in total.⁶⁷² The number of spontaneous returns registered by the UNHCR in 2018 was around 56,000.⁶⁷³ Since any involuntary returns could be considered as *refoulement*, it is important to question the voluntariness of returns from Turkey to Syria in analysing the practice of *non-refoulement* under temporary protection.

Monitoring the voluntariness of returns is among the core functions of the UNHCR.⁶⁷⁴ In Turkey, the Office participates in voluntary repatriation interviews of Syrians. As discussed above, Syrians who were considered as a threat to public order and security were forced either to stay in camps or return to Syria. Those who chose to go back to Syria instead of living in a camp have been subjected to voluntary-repatriation interviews with the state authorities, and their return is considered voluntary. The UNHCR declined to observe voluntary repatriation interviews for such cases, arguing that the voluntariness of such returns is in doubt.⁶⁷⁵ Due to this strategy by the UNHCR to denounce the government policies, and the subsequent decline in UNHCR observed-interviews, it became nearly impossible to examine the voluntariness of returns in such cases. The UNHCR was involved in 18,690 voluntary return interviews as an observer in 2018⁶⁷⁶—however, the Minister of Interior Affairs stated the number of Syrians who returned to Syria in 2018 as 285,424.⁶⁷⁷ Due to the absence of official statistics, it is not known how

⁶⁷¹ UNHCR ‘Durable Solutions for Syrians Refugees’ (2017) <https://data2.unhcr.org/en/documents/download/59482> accessed (01.03.2018)

⁶⁷² UNHCR ‘Comprehensive Protection and Solution Strategy: Protection Thresholds and Parameters for Refugee Return to Syria’ (February 2018), 2

⁶⁷³ ‘Regional Refugee and Resilience Plan: Regional Strategic Overview 2019/2020’ (2019), 6

⁶⁷⁴ UNHCR ‘Syria Regional Response (RRP5)’ (June 2013), 248.

⁶⁷⁵ UNHCR ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015’ (2016) ES/2016/03, 46

⁶⁷⁶ ‘Regional Refugee and Resilience Plan: Turkey 2019/2020’ (2019), 11

⁶⁷⁷ The Minister stated that these numbers refer to numbers of Syrians that return since the Operation of Afrin and Olive Branch: ‘Bakan Soylu, ülkesine dönen Suriyelilerin sayısını açıkladı’ (03.12.2018) *CNN Türk* <https://www.cnnturk.com/turkiye/bakan-soylu-ulkesine-donen-suriyelilerin-sayisini-acikladi> accessed (10.01.2019) Since these operations started in January 2018, the numbers assumed to refer to numbers of return in the year 2018.

many of these returns occurred without voluntary return interviews, or in how many of these cases the UNHCR declined to observe an interview.

Article 8 of the TPR also defines those who may not be granted temporary protection status, or who might have his/her temporary protection cancelled. Accordingly, those who are covered by Article 1 F of the Refugee Convention, who committed cruel acts outside of Turkey, took part in armed conflicts and did not permanently cease such activities, participated in terrorism, or have been convicted of crimes against humanity are not deemed eligible for temporary protection in Turkey.⁶⁷⁸ Furthermore, ‘those who are considered to be a threat to public due to being convicted of a serious crime and those who are considered to pose danger to national security, public order, or public security’ cannot obtain temporary protection status, or their status can be cancelled.⁶⁷⁹ If such a decision is taken by the DGMM, such persons may be accommodated in places determined by the governorates for humanitarian reasons, until their return to Syria.

Amnesty International claimed in 2014 and 2016 that Turkish authorities are sending Syrians back forcefully.⁶⁸⁰ Similar allegations were repeated by the Human Rights Watch in 2018.⁶⁸¹ It is argued that, in some cases, Syrians are detained without being told why, and sent back to Syria after being coerced by the Turkish authorities, who informed them that their detention would last for an indefinite period of time unless they agreed to be returned.⁶⁸² One of the obstacles to monitoring returns is the lack of access by humanitarian or human rights organisations to removal centres.⁶⁸³ Also, in some cases, those who are to be sent back are unable to ask for legal support, since they are removed from the country very quickly and in an isolated manner.⁶⁸⁴ Although many humanitarian workers

⁶⁷⁸ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 8

⁶⁷⁹ *ibid* Article 8 (e)

⁶⁸⁰ Amnesty International, ‘Struggling to Survive: Refugees from Syria in Turkey’ (2014); Amnesty International ‘ Turkey: Illegal mass returns of Syrian refugees expose fatal flaws in EU-Turkey deal’ (April 2016) <https://www.amnesty.org/en/latest/news/2016/04/turkey-illegal-mass-returns-of-syrian-refugees-expose-fatal-flaws-in-eu-turkey-deal/> accessed (07.03.2018)

⁶⁸¹ Human Rights Watch, ‘Turkey Stops Registering Syrian Asylum Seekers: New Arrivals Deported, Coerced Back to Syria’ (July 2018) <https://www.hrw.org/news/2018/07/16/turkey-stops-registering-syrian-asylum-seekers> accessed (02.03.2019)

⁶⁸² Amnesty International, ‘Struggling to Survive: Refugees from Syria in Turkey’ (2014)

⁶⁸³ A humanitarian worker, Interview with the Author (No11), (20.12.2016, Gaziantep)

⁶⁸⁴ A humanitarian worker, Interview with the Author (No19), (19.01.2017, Skype)

heard that those begging on the street or those who marched to the Bulgarian border attempting to cross into Europe were sent to removal centres, they only have superficial information about any such removals, since they cannot access actual files of assessment on removals.⁶⁸⁵

iii. Regulation of Access to Services Outside of the Camps through Structural Uncertainties

Prior to the adoption of the TPR in October 2014, Syrians' access to basic services, such as health, education, and social/welfare aid was addressed by *ad hoc* initiatives in the absence of a domestic regulation on their stay. According to the UNHCR, from 2011 to 2015 the authorities adopted over 30 circulars regulating Syrians' situation in urban locations.⁶⁸⁶ With the adoption of the TPR, it was expected that a more systematic and clear access would be provided.

Part 6 of the TPR lists basic services to which Syrians can have access in Turkey. Nevertheless, the language of the Regulation failed to clarify rights or freedoms of Syrians. Article 26 stipulates that the beneficiaries '*may be provided with health, education, access to labour market, social assistance, interpretation and similar services [emphasis added]*'.⁶⁸⁷ Further procedures and principles related to such services are left to the regulation of relevant Ministries through circulars. Under governance through ever-changing circulars, the standards of access to services remained highly fluid and dependent on the government's discretion, while Syrians have been subjected to a complicated and structural uncertainty.

Before the adoption of the TPR, access to health services outside of the camps had been regulated by the AFAD Circular in 2013, which provided Syrians access to medical care at health centres and hospitals free of charge.⁶⁸⁸ According to the TPR, the Ministry of Health is responsible for the coordination of health services,⁶⁸⁹ and Syrians with TPID cards can benefit from primary and emergency public health

⁶⁸⁵ A humanitarian worker, Interview with the Author (No11), (20.12.2016, Gaziantep)

⁶⁸⁶ UNHCR 'Evaluation of UNHCR's Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015' (2016) ES/2016/03

⁶⁸⁷ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 26

⁶⁸⁸ AFAD, 'Suriyeli Misafirlerin Sağlık ve Diğer Hizmetler Hk. Genelge' Circular 2013/8 (09.09.2013) https://www.afad.gov.tr/upload/Node/2311/files/saglik_genelgesi.tif accessed (01.03.2018)

⁶⁸⁹ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 27 (2)

services without paying the patient contribution fee.⁶⁹⁰ Unregistered Syrians cannot benefit from medical care in public health centres or hospitals, except in emergency cases. Although they can go to private hospitals, they need to pay the fees for the services from which they benefit. The health services for Syrians who have residence permits are regulated on the same basis as Turkish nationals: they need to be part of valid national health insurance schemes depending on their marital status, job status or studentship.

In principle, all children, including foreigners, have the right to primary education in Turkey. Nevertheless, the administration of Syrian children's education in Turkey has, from the outset, been complicated, since it was expected that their stay in Turkey would last for a short period of time. At the beginning of the displacement, the then Minister of National Education Dinçer stated that Syrian children would receive education in camps according to the Turkish curriculum, while the language of education would be Arabic.⁶⁹¹ Importantly, he stated that 'we try to stay away from a stance that would reinforce [Syrian children's] families stay in Turkey'.⁶⁹² In October 2012, he reported that the Turkish authorities do not attempt to teach Turkish to Syrian children, since they were seen as 'guests' that would eventually return to Syria.⁶⁹³ Until 2013, Syrian children outside of the camps did not have access to education.

In order to respond to the increasing number of Syrians living outside of the camps, the Ministry of National Education published its first circular regulating education policies for Syrian children in urban centres in April 2013.⁶⁹⁴ According to the circular, Syrians who have residence permits in Turkey can register with the public schools in Turkey. Those who were under the *de facto* temporary protection at the time could only get education in Temporary Education Centres (TECs). The TECs

⁶⁹⁰ *ibid* Article 29 (1) (b)

⁶⁹¹ 'Dinçer: Oyunun Kuralı Değişmemeli' (31.07.2012) *Dünya Bülteni*, <http://www.dunyabulteni.net/servisler/haberYazdir/221066/haber> accessed (01.03.2018)

⁶⁹² *ibid*

⁶⁹³ AR Seydi, 'Türkiye'nin Suriyeli Sığınmacıların Eğitim Sorununun Çözümüne Yönelik İzlediği Politikalar' (2014) 31 SDU Faculty of Arts and Sciences Journal of Social Sciences 267, 275 *cf.* MEB Web Sitesi, 'Batı ülkelerinden 2 saat az ders veriyoruz' (10 Mart 2012) <http://www.meb.gov.tr/haberler/2012/03102012.pf> accessed (04.10.2013)

⁶⁹⁴ Republic of Turkey Ministry of National Education, 'Ülkemizde Geçici Koruma Altında Bulunan Suriye Vatandaşlarına Yönelik Eğitim Öğretim Hizmetleri' (26.09.2013)

were established by Syrian initiatives, and volunteer Syrian teachers provided informal education in Arabic according to the Syrian curriculum.

The Ministry of National Education published another circular in September 2014.⁶⁹⁵ This stated that registered Syrians could have access to free education in public schools at all levels, except for higher education.⁶⁹⁶ TECs were permitted to continue their functions, although the Syrian curriculum taught in those centres was revised by the Ministry of National Education.⁶⁹⁷ UNICEF has heavily supported the government's policy on education and contributed to the TEC system.⁶⁹⁸ However, as an anonymous humanitarian worker in Gaziantep points out, UNHCR adopts a cautious approach to informal education:

‘the UNHCR used to support informal education in especially camp based environments. 4 or 5 years ago this policy has shifted. It is argued that the informal education is lacking quality. For the UNHCR, education should be accredited and qualified while accredited teachers should be provided. So it is not investing in informal education anymore, since kids come out without accredited education.’⁶⁹⁹

Besides the problems with the quality of education and its accreditation, education in TECs deters the integration of Syrian children to the host community, since they are strictly separated from their Turkish counterparts. In its 2016-2017 planning, the Ministry of National Education decided to close down TECs, and gradually incorporate all Syrian children into the formal national education system—the policy also supported by the UNICEF and international community.⁷⁰⁰

⁶⁹⁵ Republic of Turkey, Ministry of National Education, Circulation No2014/21 (23.09.2014)

⁶⁹⁶ *ibid* Article 4

⁶⁹⁷ *ibid* Article 3

⁶⁹⁸ A humanitarian worker, Interview with the Author (No9), (19.12.2016, Gaziantep); For detailed account of UNICEF's policies in education sector see: UNICEF ‘Turkey-UNICEF Country Programme of Cooperation 2016-2020: Annual Report of 2017’ <https://www.unicef.org/turkey/media/6646/file/UNICEF%20TURKEY%20ANNUAL%20REPORT%202017.pdf> accessed (03.07.2018)

⁶⁹⁹ A humanitarian worker, Interview with the Author (No9), (19.12.2016, Gaziantep)

⁷⁰⁰ Republic of Turkey Ministry of National Education, ‘Suriyeli çocukların eğitimi için yol haritası belirlendi’ (22.08.2016) <http://meb.gov.tr/suriyeli-cocuklarin-egitimi-icin-yol-haritasi-belirlendi/haber/11750/tr> accessed (15.03.2017)

The new policy is signalling an important shift in government policies towards the integration of Syrian children into state education. However, this creates further problems for Syrians in adapting to the new circumstances. For a child who has been attending TECs for six years, the shift to the Turkish curriculum could be quite challenging. Also, Turkey still pursues a temporary protection regime, which foresees Syrians return to their countries. Hence, a shift to the Turkish curriculum might cause further problems if/when Syrians' return, since the Turkish curriculum is totally different to the Syrian one.⁷⁰¹

Such a contradictory and complicated process can be understood within the paradigm of structural uncertainty. As Horst and Grabska argue, 'the protracted uncertainty that follows with long-term displacement is to a certain extent caused by the unwillingness of individuals, governments, and donors to accept the status quo as the new reality'.⁷⁰² On the one hand, the government policy of integrating Syrian children to the national education system reflects the *de facto* situation on the ground: Syrians have stayed sufficiently long that their incorporation into the national structures is now necessary. On the other hand, the state authorities continue to deny providing residency or any form of permanent stay for Syrian refugees, resulting in a complicated system of governance. In the absence of facilitation for the permanent settlement of Syrians, especially in economic terms, the ability of Syrian parents to send their children to school becomes dependent on their capacity to cope with the socio-economic hardships.

According to the AFAD Field Survey Results, only 14 per cent of school-aged children from the camps attended schools in 2013.⁷⁰³ In 2017, the UNICEF declared that more than 40 per cent of Syrian children are still out of school;⁷⁰⁴ in 2018, it announced that there had been a five per cent increase in school registration, yet still 400,000 Syrian children remained out of school.⁷⁰⁵ First of all, unregistered

⁷⁰¹ A humanitarian worker of a Turkish NGO, Interview with the Author (No11), (20.12.2016, Gaziantep)

⁷⁰² Horst and Grabska (n 73) 7

⁷⁰³ AFAD, 'Syrian Refugees in Turkey 2013: Field Survey Results' (2013), 50

⁷⁰⁴ UNICEF 'News Note' (19.01.2017) https://www.unicef.org/media/media_94417.html accessed (15.03.2017)

⁷⁰⁵ UNICEF 'Turkey 2018 Humanitarian Results' (December 2018) <https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Turkey%20Humanitarian%20Situation%20Report%20No%2028%20-%20January-December%202018.pdf> accessed (01.02.2019)

Syrians cannot attend public schools. Also, a significant number of registered Syrians do not send their children to school. The most important challenge to Syrian children's access to education is related to economic factors. Most of the children are working in the informal economy, frequently in street jobs, in order to meet their families' survival needs such as food and shelter.⁷⁰⁶ Hence, it is vital to explore Syrians' access to employment and living conditions in order to have a comprehensive understanding of the factors leading to their precarious conditions in Turkey.

As discussed, under the temporary protection frameworks, the most common restrictions on the rights of refugees are related to economic and social rights, which could facilitate integration in the host country. In Turkey, the right to a work permit was provided for Syrians only in 2016 in a highly restrictive manner. According to the 2014 Regulation, the Ministry of Labour and Social Security is responsible for determining procedures and principles concerning the work permit of temporary protection beneficiaries, upon the proposal of the Council of Minister.⁷⁰⁷ Until 2016, the Council of Ministers had not made such a proposal, and Syrians with temporary protection status were prevented from finding legal employment in Turkey.

Kivilcim characterises the legal inaction in regard to employment rights as a form of 'legal violence', especially in relation to women.⁷⁰⁸ Such inaction rendered Syrians flexible and exploitable labour in the Turkish market, since most of them were compelled to work in the informal economic sector.⁷⁰⁹ Irregular migrant labour in the Turkish labour market has already been on the rise for the last two or three decades, particularly in domestic work, construction and agriculture sectors.⁷¹⁰ Syrians who have been denied legal work permits joined the irregular

⁷⁰⁶ For a detailed analysis on Syrian refugees strategies and perspectives on education see Chapter 4.

⁷⁰⁷ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014) Official Gazzete no.29153, Article 29 (1)

⁷⁰⁸ Z Kivilcim, 'Legal Violence Against Syrian Female Refugees in Turkey' (2016) 24 Feminist Legal Studies 193, 204

⁷⁰⁹ *ibid* 204

⁷¹⁰ A İçduygu and others, 'Migration Profile: Turkey' (2013) *Migration Policy Centre* http://www.migrationpolicycentre.eu/docs/migration_profiles/Turkey.pdf, accessed (15.03.2017), 2

labour force as cheap and precarious workers.⁷¹¹ There are several empirical studies in the literature that highlight the exploitation of Syrians in the informal economy, working in unacceptable conditions and for extremely low wages.⁷¹²

In January 2016, the Council of Ministers decided to grant work permits for Syrians, with the adoption of the Regulation on Work Permit of Refugees Under Temporary Protection.⁷¹³ According to this regulation, registered Syrians would be able to apply for a work permit six months after they obtained their TPIDs. Syrians' social security rights are thus protected,⁷¹⁴ and it has been made clear that they cannot be paid below the minimum wage.⁷¹⁵ Nevertheless, the regulation imposes a 10 per cent quota for the number of Syrians at any workplace.⁷¹⁶ The only exception to the need to obtain work permits is in part-time seasonal jobs in the agricultural sector.⁷¹⁷

Although the adoption of this regulation has been a welcome step towards protecting Syrian employment rights, the bureaucratic barriers to obtaining work permits makes it almost impossible for Syrians to access these rights. There is a lack of incentives for employers to hire Syrians legally: employers have to go through a complicated bureaucratic process to apply for permits on behalf of Syrian employees, and must then pay Syrians the same wage as Turkish employees, including social security.⁷¹⁸ The country director of an international NGO explains: 'if you are working in manual labour, you are very open to exploitation because

⁷¹¹ For a detailed study on irregular migrant labour force in Turkey: N Canefe, 'Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies' (2016) 54 *New Perspectives on Turkey* 9

⁷¹² Amnesty International, 'Struggling to Survive: Refugees from Syria in Turkey' (2014); ORSAM, 'The Situation of Syrian Refugees in the Neighbouring Countries: Findings, Conclusions and Recommendations' (April 2014) Report No189; İçduygu (n 527); Izza Leghtas and Ann Hollingsworth, 'I am Only Looking for My Rights': Legal Employment Still Inaccessible for Refugees in Turkey' (December 2017) *Refugees International*; International Crisis Group, 'Turkey's Syrian Refugees: Defusing Metropolitan Tensions' (January 2018) Europe Report No248

⁷¹³ Republic of Turkey Regulation on Work Permit of Refugees Under Temporary Protection No2016/8375 (11.01.2016)

⁷¹⁴ *ibid* Article 13

⁷¹⁵ *ibid* Article 10

⁷¹⁶ *ibid* Article 8

⁷¹⁷ *ibid* Article 5(4)

⁷¹⁸ C Bellamy and others, 'The Lives and Livelihoods of Syrian Refugees' (February 2017) *Humanitarian Policy Group*, 41

your employer applies for the work permit for you. And a lot of them say that they would not have time to do that.’⁷¹⁹ Another NGO worker points out:

The social security and income tax contributions are so high that it decreases the incentive for Turkish companies to actually employ a Syrian in a formal way. I believe that many companies are employing a minimum staff on a formal basis and they pay the rest of their employees on a cash basis. So factories in Gaziantep and Urfa are probably paying less income tax even for Turkish persons than they should be. This is a hindrance for Syrians to enter regular employment.⁷²⁰

Secondly, although domestic legislation on legal employment regulates the penalty for hiring employees without work permits, Syrians are unlikely to report their employers, since they risk losing their jobs. Furthermore, it is hard for Syrians to report their employers and force them to apply for a work permit, since the employee also has to pay a fine of 2,492 TL (approximately 670 \$) him/herself for violating the law.⁷²¹

The struggles of Syrians and their strategies in establishing their lives in Turkey under structural uncertainties regarding their status, access to services, means of economic survival are discussed in detail in the next chapter. What is important here is to unravel the effects of the fluidity in the temporary protection regime in leading to selective and discriminatory inclusion of Syrians.

As discussed above, the socio-economic status of Syrians plays an important role in their navigation of the system: those who have sufficient means can afford to pay human smugglers to cross the border, while the increasingly rigid border regime restricts many others’ access to protection in Turkey; those who have better economic means can live in urban centres while the lowest strata of Syrian refugees have no other option than to go to camps; those who have wealth may set up a business, or the necessary qualifications to allow them to be integrated into formal

⁷¹⁹ A humanitarian Worker, Interview with the Author No10, (26.01.2017, Skype)

⁷²⁰ A humanitarian Worker, Interview with the Author No10, (19.12.2016, Skype)

⁷²¹ Republic of Turkey Ministry of Labour and Social Policy, ‘Kaçak Yabancı İşçi Çalıştırma Cezası’ (2017) <http://www.calismaizni.gov.tr/html/kacak-yabanci-isci-calistirma-cezasi/> accessed (15.03.2017)

employment—while others have had to slip into the informal economy to survive; those who with a meaningful income, living space and means to invest in their children’s education can send their children to schools—while others have had to rely on their children’s support for income. Furthermore, as discussed in the next sub-section, selective inclusion and structural uncertainties are also related to policy formations for the future of refugee Syrians.

3.4.4 Uncertainties of the Future under the Temporary Protection Regime

The displacement of Syrians has already entered into its eighth year. Even though the Syrian war will come to an end at some point in the future, not all Syrians in Turkey will be able to return. As a Syrian NGO worker reflected in 2016, ‘even if it [Syrian conflict] is solved and Bashar al-Assad stayed [in power] there are a lot that cannot go back. Even if Bashar al-Assad left and an Islamic government [takes power], well, at least I cannot go back.’⁷²² Likewise, the results of Erdoğan’s large-scale empirical analysis shows that more than 60 per cent of Syrians included in the research indicated that they would only return to Syria following the end of war if a ‘good government and administration’ in the country was formed.⁷²³

Yet, the Turkish government’s discourse on the repatriation as the preferred solution continues to dominate the (re)construction of temporary protection status. When Turkish military operations in Northern Syria started in 2016, the establishment of ‘safe zones’ inside Syria and returning Syrians to ‘safe zones’ gained prominence in the official discourse. In the summer of 2018 President Erdoğan stated that, ‘we intend to make all Syria safe and aim to sustain the return of *all our Syrian guests* to their homes [emphasis added]’.⁷²⁴

Although the UNHCR continues to resettle Syrian refugees in third countries, only 15,351 Syrians were resettled between 2014-2019.⁷²⁵ Furthermore, Syrians with

⁷²² A humanitarian worker of an International NGO, Interview with the Author (No15), (20.12.2016, Gaziantep)

⁷²³ Erdoğan (n 591) 141

⁷²⁴ ‘Erdoğan: “Seçimin ardından tüm Suriye topraklarını güvenli hale getirmeyi ve misafirlerimizin tamamının evlerine dönmelerini sağlamayı hedefliyoruz”’ (21.06.2018) *Milliyet* <http://www.milliyet.com.tr/erdogan-seccimin-ardindan-tum-suriye-gaziantep-yerelhaber-2879207/> (21.06.2018) accessed (01.02.2019)

⁷²⁵ Republic of Turkey DGMM ‘Statistics’ <https://www.goc.gov.tr/gecici-koruma5638> accessed (01.02.2019)

temporary protection status do not have individual access to apply for the resettlement process. The DGMM refers to lists of Syrians that are deemed eligible for resettlement. The UNHCR Ankara office Resettlement Associate points out that when the UNHCR officers in the field reach out to Syrians whose cases are suitable for resettlement, they can initiate their process of transfer to third countries with the approval of the Turkish authorities.⁷²⁶ As such, temporary protection status depends on the durable solution of repatriation—in contrast to the temporary stay of conditional refugees in Turkey, which is based on the durable solution of resettlement.⁷²⁷ As previously mentioned, the inclusion of Syrians in the Turkish asylum mechanisms in the future is dependent on the decision of the Council of Ministers, upon terminating temporary protection. As such, the temporary protection status creates another level of ‘uncertainty about receiving international protection’.⁷²⁸

As discussed above, government policies on education and access to work permits provide selective or ‘differential inclusion’⁷²⁹ of Syrians into Turkey. Furthermore, a controversial statement by the President Erdoğan in July 2016 revealed ‘some’ Syrian refugees would be able to obtain Turkish citizenship.⁷³⁰ The Mayor of Istanbul declared, in February 2017, that they had submitted the files of 2000 Syrian families to the Ministry of Interior for consideration.⁷³¹

In the politics of granting citizenship, first it should be underlined that the tradition of the naturalisation of people of Turkish descent has continued. Turkmeni Syrians of Turkish origin obtained citizenship in line with the Turkish Citizenship Law.⁷³² Furthermore, those who married Turkish husband/wives could acquire citizenship in Turkey. President Erdoğan’s call for granting citizenship to Syrians by arguing

⁷²⁶ Resettlement Associate, UNHCR Ankara Office, Interview with the Author (No1), (10.12.2016, Ankara)

⁷²⁷ For a detailed analysis of conditional refugees see Chapter 2.

⁷²⁸ Baban, Ilcan and Rygiel (n 58) 48

⁷²⁹ *ibid*

⁷³⁰ ‘Erdoğan: Syrian Refugees Could Become Turkish Citizens’ (03.07.2016) *AlJazeera* <http://www.aljazeera.com/news/2016/07/erdogan-syrian-refugees-turkish-citizens-160703133739430.html> accessed (15.03.2017)

⁷³¹ ‘Suriyelilere Vatandaşlık için Yeni Gelişme’ (23.02.2017) *Hürriyet* <http://www.hurriyet.com.tr/son-dakika-istanbul-valisinden-flas-suriyelilere-vatandaslik-aciklamasi-40374950> accessed (15.03.2017)

⁷³² Republic of Turkey, Turkish Citizenship Law No5901 (29.05.2009), the Official Gazzete No27256 (12.06.2009)

that ‘there are highly qualified people among them, there are engineers, lawyers, and doctors. Let's make use of that talent’⁷³³ refers to an additional group of people, who can obtain the ‘exceptional citizenship’ defined in the Turkish Citizenship Law. According to the Article 12 (1) (a), ‘those who bring into Turkey industrial facilities or have rendered or believed to render an outstanding service in the social or economic arena or in the fields of science, technology, sports, culture or arts’ can acquire citizenship.⁷³⁴ According to the Parliamentary Report of 2018, 30,000 Syrians obtained citizenship and 20,000 of them acquired it on exceptional grounds.⁷³⁵

Individual Syrians do not have a right to apply for exceptional citizenship, which reveals the discretionary selective process of naturalisation. Rather, the Turkish authorities select Syrians who are found to be ‘qualified’. Humanitarian workers state that Syrian who are working in humanitarian organisations receive SMS messages from Turkish authorities, inviting them for a citizenship interview. A representative from a Syrian NGO based in Gaziantep reflects the initial confusion among refugees: ‘People get messages to go to the immigration office and discuss citizenship. They do not know if they could get nationality. Why is this interview invitation coming?’⁷³⁶

There has been no discussion among government officials on granting refugee status, or conditional refugee status to Syrians. The minority of Syrians are able to obtain Turkish citizenship, thanks to their Turkish origins or ‘qualifications’, or will be resettled in third countries. As such, the structural uncertainties of the temporary protection status in regard to Syrians’ lives in Turkey blends into the uncertainties of future, in the failure of top-down and static formulation of durable solutions.

⁷³³ ‘Erdogan Offers Citizenship to Syrian and Iraqi Refugees’ (07.01.2017) <http://www.aljazeera.com/news/2017/01/erdogan-offers-citizenship-syrian-iraqi-refugees-170106195134961.html> accessed (13.03.2017)

⁷³⁴ Republic of Turkey, Turkish Citizenship Law No5901 (29.05.2009), the Official Gazzete No27256 (12.06.2009), Article 12 (1) (a)

⁷³⁵ TBMM İnsan Haklarını İnceleme Komisyonu, Mülteci Hakları Alt Komisyonu, ‘Göç ve Uyum Raporu’ (March 2018), 265

⁷³⁶ A humanitarian worker of a Syrian NGO, Interview with the Author (No8), (16.12.2016, Gaziantep)

3.5 Conclusion

This chapter focuses on how temporary protection status was conceived, constructed, and interpreted by the Turkish authorities. As discussed in the first part, the protection of Syrians in Turkey is intertwined with the Turkish government's broader foreign policy in the Middle East. From the beginning of the Syrian conflict, the Turkish government supported the opposition groups and favoured the downfall of the Assad regime in Syria. Parallel to the foreign policy discourse, the Syrian 'guests' were welcomed as the victims of the Assad regime. Their intended return to their countries after the establishment of a new regime by opposition groups aligned with foreign policy discourse.

The initial considerations of foreign policy concerns led on to a discussion of the use of temporary protection as a pragmatic tool of managing Syrian refugees through uncertainty, as the anticipated end to Syrian conflict has not been realised. The acute uncertainties of the *de facto* temporary protection regime in regard to the status of Syrians, the content of temporary protection, and the camp-based response have transformed into structural uncertainties during the (re)construction of the *de jure* temporary protection. The Turkish government appears to have adopted temporary protection status as a deliberate governing strategy, with the attendant uncertainties and complexities of the Syrians' temporary stay in Turkey. The admission of Syrians, their access to services, health, education, and employment opportunities, and their access to citizenship have all created inevitable uncertainties, and this form of governance provides the state authorities with room for manoeuvre to include 'desirable' Syrians, while denying inclusion for all Syrians on equal terms.

In a top-down formulation of a temporary protection regime, Syrians with temporary protection status are conceived as in a 'limbo' situation, awaiting return as the only solution for the normalisation of their lives. In the next chapter we reconsider this static understanding of temporary protection, by focusing on Syrian perspectives, expectations, struggles and agency, as they seek to take control of their own lives.

CHAPTER 4: SYRIAN LIVES UNDER TEMPORARY PROTECTION— SAFETY, UNCERTAINTY, HOMEMAKING

4.1 Introduction

When I have a good status and I do not need protection, I would not even think about that. But when I feel that I really need and seek protection, or when I need someone to protect me or an entity to give me that protection, that is when the value of protection really comes in. It is not when we just say that we are providing protection for people. What if they do not need it, what if that is not the kind of protection that they are looking for?⁷³⁷

This chapter focuses on what is missing in top-down formulations of temporary protection: how Syrian refugees interpret, conceive, and shape the category of temporary protection. Building upon the empirical work conducted in the city of Gaziantep, in this chapter we examine the Syrian refugees' expectations of 'protection', experiences of extended temporality and uncertainty, and their strategies for enabling their agency and rebuilding their lives. Engaging with refugee agency in exile enables us to deconstruct the static understanding of displacement as a 'limbo' situation, awaiting 'durable solutions', and to reconsider it as a process of 'regaining control and establishing oneself in the new life circumstances'.⁷³⁸ In other words, despite the insecurities of their legal status, the imposed temporality of the Syrians' stay in Turkey, and short- and long-term uncertainties—refugees do not passively 'wait for a solution, but struggle to get on with life in a number of different ways'.⁷³⁹ Understanding Syrian refugees' perspectives, struggles and strategies provides a new and important dimension for considering the temporary protection conundrum.

However, focusing on refugee agency does not mean that Syrians are not restricted in their abilities to realise their intentions.⁷⁴⁰ Rather, they constantly 'appropriate the environment in which they are situated and the manner in which that context

⁷³⁷ A Syrian NGO worker, Interview with the Author, (13.12.2016, Gaziantep)

⁷³⁸ Korac (n 77) 7

⁷³⁹ Brun and Fábos (n 35) 180

⁷⁴⁰ Agency can be defined as 'the ability and capacity of an actor to act consciously and in so doing, to attempt to realise his or her intentions': C Hay, *Political Analysis: A Critical Introduction* (Palgrave MacMillan 2002) 95

circumscribes the parameters of possible action for them'.⁷⁴¹ It is within the dialectical display of structure-agency that we can understand how Syrians 'define and redefine their goals and expectations',⁷⁴² restricted by the permanence of temporariness, and also how they challenge and reshape the dynamics of temporary protection status with their strategies.

Considering that significant question, asked by a Syrian refugee: 'what if that is not the kind of protection that they are looking for?' in the first part of the chapter, we discuss how Syrian refugees reformulate their expectations of 'protection' in the process of displacement. We engage with how Syrians' expectations have transformed over time, from safety as basic 'survival' to safety as 'having homes'. In understanding what having a home means for Syrian refugees, the chapter employs Brun and Fábos's conceptualisation of homemaking in exile.⁷⁴³ The following sections open up a discussion of the interplay between the restrictions of temporary protection status in creating an insecure legal status and structural uncertainties on the one hand, and Syrian struggles of searching for homes on the other. Access to accommodation, access to registration and the navigation of temporary protection, access to employment, access to education, and the Syrians' relationship with the wider environment in Turkey are all examined as particular sites to unravel the dynamics of such interplay.

4.2 Protection, Safety, and Homemaking

The question about the expectations of protection, and what is understood by the term 'protection' elicit similar responses among Syrians: having safety, security, stability in their lives. A middle-aged woman from Idlib explained simply, 'If you go somewhere and say, "protect me, I want to be safe", then this is what you should expect—being safe'.⁷⁴⁴ And yet, escaping from the war in Syria does not translate into feelings of safety, even after years of living in exile. A 45-year-old woman from Aleppo, living in Turkey with her family for more than four years, notes that: 'we came here for safety, but we do not feel safe'.⁷⁴⁵ A young man commented,

⁷⁴¹ Hay (n 740) 128

⁷⁴² Korac (n 77) 10

⁷⁴³ See Chapter 1

⁷⁴⁴ Interview with the Author (No2) (04.07.2017, Gaziantep)

⁷⁴⁵ Interview with the Author (No5), (04.07.2017, Gaziantep)

‘There is an issue of permanent safety, like you don’t feel safe... I don’t feel comfortable, no one is comfortable’.⁷⁴⁶ The characterisation of safety/a safe environment and what is expected from safety varies during the different stages of exile. This section first explores the Syrian refugees’ journey of seeking safety in Turkey. We then question how expectations of protection/safety transform from basic survival to having homes in Turkey, as the time spent in exile prolongs. Then we will conceptualise Syrian refugees’ expectations and urges to have homes in Turkey, by introducing a dynamic understanding of the notion of homemaking in exile.

4.2.1 Refugee Journeys: Safety/Protection as Survival

All interviewees of this study reiterated that their immediate concern in migrating to Turkey was to escape from the violence, bombing, and shelling inside Syria. ‘It was like hell there and I just wanted to make my family safe’, stated a 30-year-old man, summarising the story of the Syrians’ migration.⁷⁴⁷ Initially, safety is mostly associated with reaching safe spaces where Syrians can survive the conflict and violence inside Syria. A 50-year-old man speaking in the name of Syrians argues, ‘these people escaped from war, the barrel [bombs] were falling over their heads. Most of their neighbourhoods were wiped out. What they could expect? They were expecting to live [survive]’.⁷⁴⁸

The refugees’ and internally displaced people (IDP)s’ journeys can be characterised as a strategic use of migration to secure themselves and their loved ones. That is, their journeys represent an ‘active stance’—the agency of displaced people in taking the control of their lives despite the suffering and traumas they experienced.⁷⁴⁹ The ‘very act of moving’ underlines the significance of mobility in accessing protection.⁷⁵⁰ This act of moving is commonly associated with the term ‘flight’ which implies a simple or straightforward process.⁷⁵¹ However, refugee accounts suggest that both the Syrians’ decisions to migrate, and the journey to

⁷⁴⁶ Interview with the Author (No9), (05.07.2017, Gaziantep)

⁷⁴⁷ Interview with the Author (No10), (05.07.2017, Gaziantep)

⁷⁴⁸ Interview with the Author (No25), (11.07.2017, Gaziantep)

⁷⁴⁹ G Benezer and R Zetter, ‘Searching for Directions: Conceptual and Methodological Challenges in Researching Refugee Journeys’ (2014) 28 (3) *Journal of Refugee Studies* 297, 303

⁷⁵⁰ Long (n 59) 12

⁷⁵¹ Flight or fleeing in its ordinary meaning refers to ‘running away from a place or situation of danger’: <https://en.oxforddictionaries.com/definition/flee> accessed (08.08.2018)

reach safety are much more complicated. Thus, as Benezer and Zetter argue, an exploration of refugee journeys provides the means to gain new insights into changing refugee expectations. Questioning these changing expectations opens up a space to consider whether a journey to safety ends with the arrival in a new country.⁷⁵²

Taking the decision to leave is not an easy one, even in conflict situations. In the words of a Syrian woman, who was a university student when the conflict began in 2011, ‘It was very difficult decision to leave everything behind and to leave; we had lots of things to do back then in Syria’.⁷⁵³ Her mother was working as a primary school teacher; her father was an engineer; her siblings were university students, and her elder sister was about to graduate. The family considered all available strategies to continue their lives in Syria, but things were changing rapidly:

We stayed in our hometown for a while. But then, the Free Syrian Army [opposition forces to Assad regime] took control of it...there was lots of shelling around us. We had to flee to Raqqa for a while. But then Daesh [ISIS] took control of Raqqa. We went back to Aleppo. Things were calmer for a while. Then the bombing and shelling happened again. There was a bomb that fell on our building. After that my father decided it is not safe anymore and we could not stay there. So, we fled inside of Syria to our relatives’ house in Afrin. We stayed there for a few months.

Their ability to act is complicated by several factors: people did not have access to reliable or clear information on what would happen next, life-threatening events were occurring at speed, people lacked control over their own future.⁷⁵⁴ Vigh defines such processes as ‘social crisis’: ‘periods of instability and unpredictability in which we see social formations lose control and expediency’, and when we ‘find ourselves unable to halt the deterioration of social fabric’.⁷⁵⁵ When we initially encounter crisis, we experience a feeling of loss in terms of stability, security and clarity, that obstructs our ability to plan ahead.⁷⁵⁶ Horst and Grabska associate these

⁷⁵² Benezer and Zetter (n 749) 304-306

⁷⁵³ Interview with the Author (No28), (11.07.2017, Gaziantep)

⁷⁵⁴ Horst and Grabska (n 73) 4-5

⁷⁵⁵ Vigh (n 552) 16

⁷⁵⁶ *ibid* 16

complications with the condition of ‘radical uncertainty’.⁷⁵⁷ It is in the context of radical uncertainties that Syrians had to evaluate the situation, their position within that situation, and make assessments on the available strategies to secure their own safety.⁷⁵⁸

In dealing with the radical uncertainties of the conflict situation, many Syrians first attempted to migrate within Syria. Most Syrians, including the above-mentioned university student, emphasised that they were initially searching for refuge in different villages or towns within Syria, where their relatives or close friends were living. A 43-year-old woman who lost her husband and son during the conflict explains, ‘My only working child died. After he died, we were left without a provider. But my husband did not want to leave Syria. We changed cities in Syria first... different villages in Aleppo.’⁷⁵⁹ Another woman with six children reiterates this sentiment: ‘At first, we did not want to go out. There was a lot of bombing and shelling around us, but we did not want to leave anywhere. We fled inside Syria. We had our relatives, and we all went to them village by village’.⁷⁶⁰

At the earlier stages of the conflict, the decision to stay inside Syria was related to the hope that the crisis might be over in a short period of time. Crucially though, it was also a strategy that provided Syrians with some kind of familiarity, reducing the uncertainties of migration. They were attempting to stay in known spaces, together with their own social network of families and friends. When the search for safety necessitates crossing state borders, refugees face further uncertainties in questions about where and how to migrate. In this context, Gaziantep is considered a suitable destination, thanks to its proximity and familiarity.

Historical, cultural, kinship and trading links between Gaziantep and Syria played a significant role in this. For many Syrians, Gaziantep is a familiar place, thanks to the long-term trade relations within the region. Especially since the rapprochement in Syrian-Turkish relationships in the 2000s,⁷⁶¹ Syrians have established strong business and trading partnerships in Gaziantep.⁷⁶² A 64-year-old man explained

⁷⁵⁷ Horst and Grabska (n 73) 4-5

⁷⁵⁸ Vigh (n 552) 16

⁷⁵⁹ Interview with the Author (No7), (04.07.2017, Gaziantep)

⁷⁶⁰ Interview with the Author (No29), (12.07.2017, Gaziantep)

⁷⁶¹ See Chapter 3 for a detailed discussion.

⁷⁶² Carpi and Şenoğuz (n 585) 126, 128

why he came to Gaziantep when the war broke out: ‘I was coming into Gaziantep every ten days before the war. I was doing business here. I was bringing products such as carpets, straw mats, brooms. Then I came here.’⁷⁶³ Some Syrians had relatives living in Gaziantep, which contributed to their decision to migrate there. They relied on the information that they had about Gaziantep and the social network they had in the city. In this regard, most interviewees explained that they came to Gaziantep because they had relatives, including Turkish citizens and Syrian refugees, or heard from other people that there was a Syrian community based in the city.

However, the Syrians’ ability to cross the Turkish border has been restricted by ongoing insecurities in the border region, and the admission policies of the Turkish state. The 911 km Turkish-Syrian border became part of the warzone during the Syrian conflict. As the Assad regime lost its control over the border zone, several armed groups claimed control of it, and imposed their own border-crossing policies for Syrian refugees. A young Syrian woman recalled the day her family legally crossed the border as ‘the worst day of my life’.⁷⁶⁴ From Afrin to the Turkish border, they went through many checkpoints that were held by different armed groups. They had to give their belongings to these groups in order to be able to cross the checkpoints. The nightmare was still waiting for them at the border:

Since there were FSA [Free Syrian Army] groups and a camp run by the FSA very close to the area that we were trying to cross, a Mig plane [she explained that only the regime forces have Mig planes in Syria so they were sure that it was the regime forces] started to fly over us and dropped a bomb on the camp next to us... At that point it was like judgement day, because people who were staying at the camp ran away from the bombing and joined us at the border checkpoint. There was huge chaos, and the Turkish side closed the border. The Mig plane was exactly above our heads, we were all looking up and just waiting for the bomb to fall on us... After four hours, the Turkish side started to receive people, but very slowly and very strictly... We were in a dilemma: are we going to make it today or would

⁷⁶³ Interview with the Author (No20), (10.07.2017, Gaziantep)

⁷⁶⁴ Interview with the Author (No28), (11.07.2017, Gaziantep)

we wait for another night? My mom lied to the FSA guards, she told them that she had a sick daughter and she need to cross the border that day. She did not even let me know that I was the sick daughter. I looked at my mother and she told me ‘cry’, I started to cry like a crazy person. They let us go ahead of other people. We crossed that day.

Chapter 3 outlined the restrictions on legal admission of Syrians that have been in place since 2012, and explained that from 2015 onwards, admission was limited to medical or humanitarian emergencies at the border. A 22-year-old university student explains that many Syrians, including himself, were forced to enter into Turkey irregularly, even if they had valid passports.⁷⁶⁵ A 27-year-old woman, who crossed the border in 2015, confirmed that irregular crossing is risky: ‘The Turkish authorities sent us back twice at the border... They searched our things, our belongings, and they told the guys who are with us that “if we see you again, we will hit you”’.⁷⁶⁶ In order to travel safely to the border, and be able to cross successfully, refugees turned to smugglers. The construction of a wall in 2016 made it almost impossible to cross the border except for legal admission on medical or humanitarian grounds.

Considering the violence inside Syria, insecurities during their journey to the border and the hardships of crossing the border, in initial stages of the displacement, safety is defined in a narrow sense—that is, as the absence of war, and the survival of refugees’ physical lives. As such, a woman with six children expressed her gratitude: ‘I am grateful that they [Turkish authorities] took us in so we did not die in Syria. Many children have died. We brought our children to Turkey to save them from dying in Syria’.⁷⁶⁷ Another Syrian woman simply commented: ‘we felt better here... because there is no war’.⁷⁶⁸

Benezer and Zetter define the moment that the physical journey ends as ‘when imagination meets reality’, which leads to a reconsideration of expectations.⁷⁶⁹

⁷⁶⁵ Interview with the Author (No9), (05.07.2017, Gaziantep)

⁷⁶⁶ Interview with the Author (No30), (12.07.2017, Gaziantep)

⁷⁶⁷ Interview with the Author (No29), (12.07.2017, Gaziantep)

⁷⁶⁸ Interview with the Author (No07), (04.07.2017, Gaziantep)

⁷⁶⁹ Benezer and Zetter (n 749) 308

With the arrival to Turkey, the ‘flight’ might be over, but search for safety continues long after entry. A 23-year-old woman reflected:

We were not thinking about what to expect. We were just thinking about getting out of here [Syria] and get over with this [war]. When we came to Turkey, we thought that there is no bombing, shelling, war so we would be comfortable. Our life would be easy and nice, as it was in Syria before the war. But it has not been like that.⁷⁷⁰

After arrival, the inherent uncertainties of conflict-induced displacement couples with the structural uncertainties of living under temporary protection status. The search for protection/safety as basic survival transforms into a search for protection/safety as having a home in exile. Understanding how refugees reframe safety in exile is crucial, not only to understand their expectations of ‘protection’, but also regarding their experiences of temporary protection, and how they navigate and negotiate it to rebuild their lives.

4.2.2 Safety as ‘Having a Home’

The search for safety is a constant struggle for Syrians living in Turkey. However, the characterisation of ‘safety’ changes by experiences of exile with temporary protection status over time. At the beginning of the Syrian conflict and resulting displacement, the expectations of return were common among Syrian refugees who migrated to Gaziantep. A Syrian woman, who has lived in Turkey for more than four years, recalled that they were planning to stay in Turkey only for a short period of time, not more than six months.⁷⁷¹ Biner and Soykan underline that in the first years of exile, Syrian refugees in Gaziantep overwhelmingly characterised Gaziantep as a stop-over, while they embarked upon a ‘wait and see’ strategy to be able to return to their homes.⁷⁷² Gaziantep as a border-city became a place where Syrian refugees constantly witnessed the ongoing conflict in Syria, considering the possibility of return. However, hopes of return changed over time.

⁷⁷⁰ Interview with the Author (No8), (05.07.2017, Gaziantep)

⁷⁷¹ Interview with the Author (No22), (10.07.2017, Gaziantep)

⁷⁷² Biner and Soykan (n 58)

This change is, on the one hand, related to the conditions inside Syria. Especially before the construction of the wall and tightening of the border regime, Syrians visited their hometowns to evaluate the possibilities of return. A man whose family found refuge in a Turkish lady's house in Gaziantep explained how he realised he could not go back to Syria after visiting it: 'I might return to Syria but how I would live there? There is no water, no electricity. I went there and saw it with my own eyes. People even stole the water taps; water is pouring into the streets. People cannot find water, but it pours in the streets. This is not a life'.⁷⁷³

The deteriorating conditions of life inside Syria are not the only reason for displaced Syrians' despair of returning. The Syrians' experiences of war, and their disenfranchisement from their previous lives affects their changing hopes. A widow woman asked, 'Where should I go back to? I have nothing left in Syria. My mom died, my father died. I lost my husband. I lost my home. My car burnt. There is nothing like your homeland in the world. But where should I go back to? I have no one in Syria.'⁷⁷⁴

Refugeehood is more and more associated with the feeling of the loss of previous lives and homes, as the time passes in exile. As a Syrian woman who has lived in Gaziantep with her family for over four years expressed, 'A refugee is a person who has no land, nothing, no home'.⁷⁷⁵ A young woman's description of her life in Gaziantep as 'just living' reflected on her feeling of loss: 'being a refugee means that we don't have our own home or network. We are just living here'.⁷⁷⁶ The realisation that their homeland is no longer the place people remember can lead to further feeling of homelessness.⁷⁷⁷ A Syrian man in his 30s, who came to Gaziantep for his child's medical treatment, stated that he was planning to go back to Syria after a couple of years. However, for him there is no place to return anymore:

I went and saw with my own eyes. My siblings are there, I went to see them.
I realised that I cannot stand the life conditions in Syria anymore. If I want
to go inside my country, my own village, I have to go through many

⁷⁷³ Interview with the Author (No20), (10.2017, Gaziantep)

⁷⁷⁴ Interview with the Author (No22), (07.2017, Gaziantep)

⁷⁷⁵ Interview with the Author (No29), (12.07.2017, Gaziantep)

⁷⁷⁶ Interview with the Author (No21), (10.07.2017, Gaziantep)

⁷⁷⁷ M Graham and S Khosravi 'Home is Where You Make It: Repatriation and Diaspora Culture Among Iranians in Sweden' (1997) 10 (2) Journal of Refugee Studies 115, 127

checkpoints. I have to pass through Kurdish checkpoints and they want someone to be a reference for me. If I cannot go and see my own village, what kind of life is this?⁷⁷⁸

While the return to Syria is not totally dismissed as an alternate future, facing the possibility of never returning to Syria makes searching for alternate places to rebuild lives immanent.⁷⁷⁹ Safety and stability in exile, then, is associated with re-establishing what has been lost: a home, a place to live normal lives. ‘Protection’, safety, stability, and having a home are intertwined in refugee accounts. A 55-year-old woman succinctly described what protection should offer in the first place: ‘Protection: it simply means to have a home’.⁷⁸⁰ A middle-aged man who struggled to establish a new life for his family argued, ‘This country should provide us with home, to provide the feeling of safety’.⁷⁸¹

Jansen and Löfving argue that displacement and emplacement should be considered as ‘twin processes’.⁷⁸² Korac puts it as follows: refugeehood is ‘not only about loss of place and disempowerment, but should also be considered as the processes of place making, of regaining control and establishing oneself in the new life circumstances.’⁷⁸³ ‘Having a home’, as Syrian refugees frame it, symbolises the ‘power to emplace oneself’.⁷⁸⁴ An important question here is how we should conceptualise ‘having a home’ in exile.

On the one hand, Syrian refugees associate the rebuilding of lives/homes in exile with material well-being, like being able to pay rent, bills, having a proper kitchen, or having food to cook in that kitchen. However, they also relate it to a ‘feeling of security’, ‘having normal lives’, ‘having decent lives’, ‘stability’, ‘dignity’, ‘belonging’, and ‘recognition’. Eastmond’s approach captures such a holistic

⁷⁷⁸ Interview with the Author (No18), (07.07.2017, Gaziantep)

⁷⁷⁹ Biner and Soykan (n 58) 7

⁷⁸⁰ Interview with the Author (No1), (04.07.2017, Gaziantep)

⁷⁸¹ Interview with the Author (No10), (24.07.2017, Gaziantep)

⁷⁸² Stef Jansen and Staffan Löfving, ‘Introduction: Towards an Anthropology of Violence, Hope, and the Movement of People’ in Stef Jansen and Staffan Löfving (eds) *Struggles for Home: Violence, Hope and the Movement of People* (Berghahn Books 2009) 13

⁷⁸³ Korac (n 77) 7

⁷⁸⁴ S Jansen and S Löfving, ‘Introduction: Towards an Anthropology of Violence, Hope, and the Movement of People’ in S Jansen and S Löfving (eds) *Struggles for Home: Violence, Hope and the Movement of People* (Berghahn Books 2009) 13

understanding of home, as ‘where “normal life” can be lived, providing economic security, a social context and a sense of belonging’.⁷⁸⁵

Brun and Fábos further build upon the holistic understanding of homes, and introduce a triadic framework to unpack aspects of homemaking as material (home), idealised (Home), and institutional (HOME).⁷⁸⁶ Examining these three aspects is helpful to understand the Syrian expectations of protection, and their struggles to rebuild lives in Gaziantep. Material aspects of home are related to transforming the place of displacement, a temporary dwelling, into a ‘particularly significant kind of place.’⁷⁸⁷ This moves beyond having a ‘shelter’, but includes both material and imaginative investments in dwellings in homemaking. However, making a home is always related to idealised notions of home (Home), for which displaced people dream and long.⁷⁸⁸ In this sense, the ideas about lost homes of the past, and hopes and dreams of future homes are intermingled.

Importantly though, homemaking or a place-making process takes place within the institutionalisation of home (HOME) in the international geopolitics of nation and homeland.⁷⁸⁹ In the contemporary nation-state system, the idea of home is conflated with one’s national homeland.⁷⁹⁰ The link between home and homeland is naturalised; homelands are framed as unchanging places to which ‘one must return, no matter how hostile they may be to the returnee’.⁷⁹¹ In other words, refugees can have temporary shelters or houses in exile, but their homes—as places of permanency and rootedness—can only be established in their homelands.⁷⁹²

Korac argues for the importance of ‘decoupling home and homeland’ to unpack how refugees create place in exile.⁷⁹³ In contrast to fixed meanings, attached to homes to be built in homelands, within institutional and nationalised meanings, the

⁷⁸⁵ M Eastmond, ‘Transnational Returns and Reconstruction in Post-war Bosnia and Herzegovina’ (2006) 44 (3) *International Migration* 141, 153

⁷⁸⁶ Brun and Fábos (n 78)

⁷⁸⁷ *ibid* 12

⁷⁸⁸ *ibid* 12

⁷⁸⁹ *ibid* 13

⁷⁹⁰ Čapo (n 326) 20

⁷⁹¹ N Xenos, ‘Refugees: The Modern Political Condition’ (1993) 18 *Alternatives* 419, 427

⁷⁹² Korac (n 77) 27

⁷⁹³ *ibid* 27

Syrian refugees' search for home to rebuild normal lives reflects a dynamic understanding:

At the beginning we were planning to go back to Syria. After one year two years we were thinking that Turkey is good, we considered starting a life here. But recently the only thing [in] our minds is 'we cannot stay here, we don't have a future here'.⁷⁹⁴

I don't want to stay here. Because then my son as a refugee cannot continue his life here. I don't want to be here after five years. If the war is over and Syria is at peace, I would see myself there, continuing my education, having a job; my son is going to school there. If not, I would imagine myself in another country.⁷⁹⁵

At the moment the situation in Syria is really bad so I don't think about going back. I am one of the people—if the war is over completely, then I would go back because I would have a job there; maybe I can go back and start a new life—but if things remain like this, I would prefer to go to Europe.⁷⁹⁶

As such, Syrians' homemaking is continuous in many ways: sustaining their lives in Gaziantep, maintaining connections with Syria to keep return as an option, and searching for the possibility of making a home, whether in Gaziantep or elsewhere.⁷⁹⁷ Brun expresses these multi-scale aspects in refugee experiences as simultaneously moving on, feeling stuck, and actively relating to changing notions of future.⁷⁹⁸

As Xenos argues, 'homes can be made and remade if there is a space for it'.⁷⁹⁹ Yet, the process of making homes where normal lives can be lived is inherently related to one's legal status, and what this status entails and restricts in exile. Chapter 1 revealed that the temporary protection status developed within the international

⁷⁹⁴ Interview with the Author (No28), (11.07.2017, Gaziantep)

⁷⁹⁵ Interview with the Author (No30), (12.07.2017, Gaziantep)

⁷⁹⁶ Interview with the Author (No14), (06.07.2017, Gaziantep)

⁷⁹⁷ Biner and Soykan (n 58) 7

⁷⁹⁸ Brun (n 328) 19

⁷⁹⁹ Xenos (n 791) 427

refugee regime is conditioned upon the eventual return of refugees. Chapter 3 examined the reconstruction of temporary protection status in Turkey through structural uncertainties and complexities, not only with regard to the future of Syrians, but also in terms of their legality, rights, freedoms, and opportunities during their stay in Turkey. In this sense, it is crucial to focus on the interplay between the uncertainties, complexities, and insecurities of the temporary protection status and homemaking practices in Gaziantep, in order to (i) understand how Syrian refugees experience and conceive temporary protection status in their homemaking process, and (ii) question how Syrian refugees as social actors shape the practice of temporary protection, with their strategies of remaking homes in exile.

4.3 Access to Temporary Protection: Navigating Complexities

The temporary protection status in Turkey is governed through uncertainties and complexities. Navigating the complexities of temporary protection is a fundamental challenge for Syrians in accessing that protection (however limited it may be). The availability of information becomes crucial for Syrians to understand their rights, freedoms, and responsibilities, and to gain access to them.

It is striking that none of the Syrians with whom I had conversations during the fieldwork were provided with necessary information about their rights and responsibilities under the temporary protection regime during their registration. A young man who obtained his TPID in 2016 recalled his registration process:

Since there are so many Syrian people in every Turkish city, they just want to get rid of us. They just gave us the card and we left the office. They don't want to deal with us, they just want to get rid of us. So, if there is any information related to us, we learn it through social media or by other people.⁸⁰⁰

As his remarks indicate, the main source of information among Syrians are their neighbours and social media, especially among the youth. A university student in

⁸⁰⁰ Interview with the Author (No9), (05.07.2017, Gaziantep)

Turkey defined the process of acquiring information on her rights as a ‘gradual learning process’:

I was not given any information at the DGMM during my registration. But we have been here for four years, so I can confirm that I got information and awareness on our legal situation here from other Syrian people. Also, when I need to do something, I need to go to the relevant state department to ask for it. So, I would say it was like a gradual learning process. And also, there is social media, and Syrian people here in recent years have become more aware of this. Also, my sisters work [at NGOs] and they helped me a lot, because they get updates about our legal situation here in Turkey. So, it was like a learning process.⁸⁰¹

The ever-changing circulars determining Syrians’ access to services make it even more complicated for Syrians to access accurate information and navigate the system; even Syrians who are working in the NGOs are experiencing difficulty in this. A frustrated Syrian NGO worker in Gaziantep explained: ‘we all need to know exactly what are our rights, what is the exact process? We need to have like, one law—please, stop changing it! We are confused, we don’t feel secure, we don’t feel safe.’⁸⁰²

The refugees are not the only ones who are confused; service providers are also perplexed by the ever-changing circulars. The implementation of domestic legislation itself is uneven and chaotic. The access to services varies among districts, or even within the same district, depending on the awareness and discretion of service providers. The conditions in the southeast region of Turkey (where the majority of the Syrians are living) are better, since service providers are accustomed to the relevant procedures for providing services to Syrians. However, even in Gaziantep, humanitarian workers state that an important bulk of their work is to accompany Syrians to public institutions, hospitals, or schools. They continually inform service providers about which services they are obliged to

⁸⁰¹ Interview with the Author (No30), (11.07.2017, Gaziantep)

⁸⁰² A humanitarian Worker, Interview with the Author (No12), (20.12.2016, Gaziantep)

provide to Syrians. Hence, even though Syrians may ultimately acquire information, they might face barriers in the process of so doing.

Syrians who cannot speak Turkish face further difficulties. In most of the institutions, even if there is a translation service, the number of translators is insufficient to meet demand. The humanitarian sector plays an important role in Gaziantep in providing translators or accompanying Syrians to state institutions, hospitals etc. However, as the representatives from a Turkish NGO indicate, they still cannot meet demand.⁸⁰³ Turkmen Syrians are at an advantage among Syrians in navigating the complicated Turkish bureaucracy, since they speak Turkish. Among the interviewees, Turkmen Syrians clearly indicated that whenever they need information, they contact the service providers directly, whether it is doctors in hospitals, school managers or municipality officials. They also support their Arab or Kurdish Syrian counterparts by accompanying them to different institutions.

Nevertheless, the first step to accessing temporary protection is registration, which is complicated by lack of information, *ad hoc* policymaking, and periodic suspensions. In order to have legal status and regularise their stay in Turkey Syrians have to complete their registration with the authorities. The TPID provided upon registration is key to their access to the services and benefits of the TPR. However, the complexities of the registration system leaves many Syrians without TPIDs. This means that they are permitted to stay in Turkey, since temporary protection is provided on a group basis for Syrians, but they cannot have access to protection—in other words, those without TPIDs are not illegals *per se*, but their legality is in question.

The first complexity of the registration process is the lack of information provided to Syrians, informing them of the very fact that they need to get registered. This, in part, is a result of the restrictions on legal admissions of Syrians into the country. In the case of irregular entries, Syrians do not have contact with any authorities upon their arrival, from which they can obtain information. Even when Syrians visit public institutions, they are not provided with the necessary information. For example, as a 32-year-old woman explained: '[the information about registration]

⁸⁰³ Humanitarian workers of a Turkish NGO, Interview with the Author (No11), (20.12.2016, Gaziantep)

was difficult to obtain. Once I got sick and went to hospital, but I could not get treatment because I did not have a TPID card. At that time, we learned from our Syrian neighbours that we need to get an AFAD card [TPID card]'.⁸⁰⁴ Another Syrian man explained why he and his family did not get registered for over a year: 'Since I do not know any Turkish people, I could not get enough information on what I should do'.⁸⁰⁵ More often than not, Syrians obtain information about registration from other Syrians who arrived in Turkey before them. However, these informal channels of information can lead to inaccuracies. As 27-year-old woman, who gave birth in Gaziantep, resentfully stated, 'I waited for six months to register my new-born baby, since my neighbours and Syrians who helped me in translation in hospital told me that I cannot register my baby here in Turkey'.⁸⁰⁶

The registration system itself is complicated by the *ad hoc* governance policies of Turkish authorities. Initially, it was AFAD who was responsible for the registration of refugees. Following its establishment in 2014, the DGMM took over the responsibility of managing the registration process, introducing a more sophisticated system, aiming to analyse the 'vulnerabilities' of Syrians during their registration. In order to widen the scope of 'vulnerability identification', those who had already registered with AFAD were required to renew their registrations. AFAD card numbers began with '98'. The ID numbers in the DGMM cards began with '99'. TPID cards in everyday parlance now have several connotations, namely, *kimlik* (meaning identity card in Turkish), the AFAD card, the DGMM card, the 98 card or the 99 card. In this complicated process, Syrians again had problems in discovering that they needed to renew their cards.

The inadequate registration system has been overwhelmed, due to the huge numbers of Syrians, especially in cities like Gaziantep. Many refugees wait for days, weeks, or months to be able to obtain their TPID cards, depending on the number of applicants in a particular area. A 40-year-old man stated that his family had immediately applied for registration upon their arrival in the summer of 2016.⁸⁰⁷ However, at the time of our interview in July 2017, the family were still waiting for

⁸⁰⁴ Interview with the Author (No4), (04.07.2017, Gaziantep)

⁸⁰⁵ Interview with the Author (No30), (12.07.2017, Gaziantep)

⁸⁰⁶ Interview with the Author (No17), (07.07.2017, Gaziantep)

⁸⁰⁷ Interview with the Author (No24), (10.07.2017, Gaziantep)

their appointment. Worse still, the state authorities suspend or cancel registration in particular places because they have concerns that the capacities of some municipalities are not sufficient to accommodate high numbers of Syrians.

As a matter of fact, in the summer of 2017, registrations in Gaziantep were suspended. During my participation as an observer in consultations run by a well-known NGO in Gaziantep, many refugees were coming to ask about the possibility of registration recommencement. Syrians who need to renew their out-dated AFAD/98 cards, or who moved from other cities to Gaziantep were also waiting for the registration process to start again.

The TPID cards are location-specific, and only relevant within the province of first registration. Hence, Syrians can only benefit from services within the borders of the province in which they have registered. When they travel to other cities they cannot benefit from public services, or have only limited access. The chair of a Turkish NGO in Gaziantep highlighted problems related to mobility:

If a Syrian is registered in Kayseri comes to Gaziantep to visit her family, and gets sick during the visit, she can only go to emergency services... but cannot get medication from pharmacies. The central system of regulation, namely MEDULA, is not working well and denies their access to medication.⁸⁰⁸

A young man who first obtained his TPID in Kilis and moved to Gaziantep since he could only find a job in Gaziantep stated, ‘I couldn’t transfer my *kimlik* to Gaziantep. They said Gaziantep is full.’⁸⁰⁹ In places where the registration process is suspended, Syrians are not offered any alternative solutions but have to wait until the registration procedure restarts.

The legality of those whom either do not have TPID cards or cannot renew their registration is in question—increasing the difficulty of their already precarious situation. On the one hand, those not holding TPID cards cannot access public services or benefits defined under the TPR, including free health services. A Syrian man, whose child stayed for five days in an intensive care unit, explained that he

⁸⁰⁸ The Chair of a Turkish NGO, Interview with the Author (No2) (13.12.2016, Gaziantep)

⁸⁰⁹ Interview with the Author (No09), (05.07.2017, Gaziantep)

became heavily indebted covering the expensive medication.⁸¹⁰ The access barriers to hospitals/medicine, in particular, creates great anxiety and feelings of insecurity among refugees. A young Syrian woman who lives with her siblings contended that ‘if we died a thousand times in front of the hospitals, they would not accept us’.⁸¹¹ In addition, the Ministry of Interior has notified humanitarian organisations that they should not provide any support/help to Syrians without TPID cards.⁸¹² Some humanitarian workers indicate that they refused these government orders, since they regard unregistered Syrians as the most ‘vulnerable’ people, in need of protection. However, in the case of centralised humanitarian interventions under government control, unregistered Syrians are strictly excluded.⁸¹³

The registration process does not require Syrians to hold proper ID documents or passports. Syrians provide oral information about their identities, name/surname, the city from which they came from, and date of birth during the registration. However, an important requirement for registration is providing proof of address in Turkey. Syrians who have found shelter in abandoned places, makeshift shelters or open public spaces cannot register for TPID cards. Since there is no official support for accommodation or shelter outside of the camps, finding proper accommodation for proof of address depends on one’s financial situation. In other words, although the legal stay of Syrians in Turkey is provided for by the temporary protection status, access to protection is determined by whether they have ‘legal homes’ in Turkey.

4.4 Access to Accommodation in Cities: Making ‘Illegal’ Homes

In the absence of reception policies in cities, thousands of Syrians were initially hosted by their relatives or friends.⁸¹⁴ Those who did not have a social network, or the financial means to rent found shelter in makeshift accommodation. A married man with two children recalled: ‘The first night we slept in the garden [*garden in Arabic also means park*] because we did not know anybody here. In the following

⁸¹⁰ Interview with the Author (No23), (10.07.2017, Gaziantep)

⁸¹¹ Interview with the Author (No08), (05.07.2017, Gaziantep)

⁸¹² Erdoğan (n 620) 70

⁸¹³ For a detailed discussion on humanitarian interventions see Chapter 5

⁸¹⁴ ORSAM, ‘The Situation of Syrian Refugees in the Neighbouring Countries: Findings, Conclusions and Recommendations’ (2014), 17

days we were all going and searching for houses'.⁸¹⁵ According to an AFAD survey of 2013, one in four refugees were living in ruins or open areas.⁸¹⁶ Syrians became 'guests' of their relatives and friends, or 'guests' of the Turkish state staying either in camps or parks.

Even for Syrians who were expecting their stay to be a temporary one, the hierarchies of host/guest relationship were disturbing. A 47-year-old man, who escaped the bombing in Aleppo with his wife and three children in 2014, reflects on their discomfort when staying at their friend's house:

After we arrived in Turkey we could not find a house. I came here to friend's house in Gaziantep, we stayed with them for one and a half month. The situation was very bad. If you are a guest at people's house, you have to pay more money than them, and we ended up indebted...We thought that we came here to have a decent life here in Turkey, but I feel like we arranged our own execution. We are not living here. We are dead.⁸¹⁷

Another woman, who also escaped the violence in Aleppo around the same time, considered going back there with her three children while she was hosted by her elder sister:

At the beginning I was staying at my sister's house. I packed all my luggage and said that we were going back to Aleppo. Then, one of my [other] sisters called me and said they found a house. They wanted 250 liras and some deposit money—I said okay. They wanted three months' money and asked for 1000 liras. It was like a warehouse for coal and other things; it was very bad. I stayed there for two years and three months.⁸¹⁸

Since the rental prices have increased enormously with the rising demand for flats, many Syrians can only afford places with relatively poor living conditions, even though they pay very high rents. Those who cannot afford increasing rents are forced to live in quite poor conditions. A widowed woman, working as a

⁸¹⁵ Interview with the Author (No14), (06.07.2017, Gaziantep)

⁸¹⁶ AFAD, 'Syrian Refugees in Turkey 2013: Field Survey Results' (2013), 34-36

⁸¹⁷ Interview with the Author (No26), (11.07.2017, Gaziantep)

⁸¹⁸ Interview with the Author (No23), (10.07.2017, Gaziantep)

hairdresser, described some houses in her neighbourhood in which Syrians are living as ‘barns’. As she put it, ‘Turkish people rented out places in such poor conditions where even cats would not like to stay. Houses that are not worth even 100TL are rented out to Syrians for 500TL’.⁸¹⁹ The difficulties are not limited to lack of economic means. Syrians can be discriminated against by the property owners because of their ethnicity. A 23-year-old woman expressed her resentment against the discrimination they faced in their search for housing:

We left Bursa to stay with our old neighbours from Syria. We stayed there for 15 days. We all managed to find some kind of job, but we could not find a house. For 15 days, we were going and trying to find houses, but we could not find anybody because we were Syrians, and they shut the door in our faces and didn’t want us to stay in their houses... Once, we saw a house with a notice that it was for rent, so we knocked on the door. A woman opened it; we told her that we are Syrians and would like to rent the house. She started to scream “You are dirty, you are disgusting, you are Syrians!” All of the family started to cry in pain and sadness, because we wondered what we did wrong; it is not our fault.⁸²⁰

Living in ‘illegal’ places is an inevitable result of the hardships Syrians face in the housing market. Yet, the struggles of Syrians in making ‘illegal’ homes, despite the hardships, opens up new spaces for them to gain the control of their lives. The situation of hundreds of Syrian families living in an abandoned industrial site at the outskirts of Gaziantep is revealing. There are around 170 Syrian families residing in the abandoned building. They are living in separate rooms, previously used as workshops, transformed into ‘illegal’ homes which they cannot register as a legal residency. During my visit to the building in July 2017, a 23-year-old woman explained their difficult situation:

Two months after our arrival, a committee came and checked who did not have *kimlik* [TPID] in the house. They registered all of them. We have AFAD cards, but they are the old ones. When we wanted to renew them, they did not accept our applications because this building we are living in is

⁸¹⁹ Interview with the Author (No22), (10.07.2017, Gaziantep)

⁸²⁰ Interview with the Author (No08), (05.07.2017, Gaziantep)

not registered as a legal address. The authorities suggested leaving here and moving to a neighbouring place called Gazikent. But we are financially in a bad situation. Only my mother and little brother are working, and my father is dead. We are always indebted.⁸²¹

Arguably, the everyday practices of homemaking in the building is a strong part of how Syrians organise their lives. It is a process of ‘creating a ‘home’ and becoming ‘of place’.⁸²² There are shops run by Syrian refugees living there; religious prayer rooms; playgrounds for children; and all sorts of social spaces where Syrians spend their time. As a guest in their homes, I was welcomed with hospitality. The organisation of homes was quite similar to the Syrians’ previous homes in Syria, decorated with items they managed to bring with them, or bought off the black market of smuggled products from Syria. The social network created among Syrian families living there helps them alleviate the hardships they face in their daily lives.

However, the denial of their ‘right to establish homes’ in Turkey⁸²³ leads to a constant struggle to overcome insecurities surrounding their legality and socio-economic precarities. A Syrian man, who acts as the *de facto* leader of the families living there, told me ‘people in the building had to learn to do ‘all sort of things’ to sustain their lives in the building. He explained:

There are people, let’s say, a married woman with two children. Her children are sick, and she wants to take them to hospital. She would go to a neighbour or speak to me, and we would provide her with TPIDs of another two children who have *kimliks*, and she can take her children to hospital. There are many women who gave birth with the ID of another woman. I have a single sister, but her brother’s wife gave birth with her ID card, so her brother’s son is her son now, on paper.

He also admits that nearly 170 Syrian families are using illegal electricity in the abandoned industrial site. He describes their tactics to challenge the authorities:

⁸²¹ Interview with the Author (No8), (05.07.2017, Gaziantep)

⁸²² Korac (n 77) 25

⁸²³ *ibid*

The officials from the municipality came here and realised that the electricity is not legal. I pretended that I did not understand anything. I brought my brother and mother to speak to them. My mother was telling them, ‘I am a widow, what do you want? On what basis? Why should we do anything legally if they don’t give us our rights?’ The municipality officials left without taking any action.⁸²⁴

Since Syrians make ‘illegal’ homes, they also face threats of deportation, and consequently they need to find ways to address this: ‘sometimes they threaten to come to take the families to deport them. My mother stick a knife to her neck and told them “I will kill myself if you take families.” They left them’.⁸²⁵ Syrians maintain that in some instances, deportations do take place.

The struggles of homemaking in this building represent its centrality to the maintenance of Syrian refugees’ lives in Gaziantep. In so doing, Syrians challenge the system through their homemaking / placemaking strategies, attempting to make a place that allows them to exercise agency. However, this does not mean that they can have control over their lives in the context of the insecurities, precarities and uncertainties associated with temporary protection status. Hence, they simultaneously search for alternative futures to be able to create homes where they can rebuild decent/normal lives. Thus, a young woman living in the building talked about her hopes of moving to Europe with her family.⁸²⁶ Another man was considering going back to Syria, to Istanbul, or rebuilding his life elsewhere in Gaziantep.⁸²⁷

Refugees’ insistence on finding a space of their own, and their struggles for survival, lead us to consider a question raised by the Chair of a Turkish NGO: ‘We ask refugees “why don’t you just live in camps?”’ Because even those who are extremely in need do not want to go to camps.’⁸²⁸ Despite the opportunity of safety-as-survival in camps, the resentment of Syrian refugees towards encampment was apparent from the beginning. Many empirical studies reveal that the main problems

⁸²⁴ Interview with the Author (No10), (05.07.2017, Gaziantep)

⁸²⁵ Interview with the Author (No10), (05.07.2017, Gaziantep)

⁸²⁶ Interview with the Author (No8), (05.07.2017, Gaziantep)

⁸²⁷ Interview with the Author (No9), (05.07.2017, Gaziantep)

⁸²⁸ The Chair of a Turkish NGO, Interview with the Author (No2), (13.12.2016, Gaziantep)

of camp-life are related to restrictions on the freedom of movement, the proximity of camps to Syria, lack of privacy, and boredom stemming from living in an isolated camp space, lack of employment opportunities, and the strict regulations of camp life.⁸²⁹

Importantly, when comparing survival in camps with the insecurities of life in Syria, some Syrians assert that encampment would even be worse. A woman from Aleppo, struggling to meet her children's needs in Gaziantep, when asked if she ever considered moving to a camp argued, 'We did not even want to think about it. We would go back to Aleppo—even that is better.'⁸³⁰ Life in a camp is seen as a life in indignity. 'I would not be able to live there [in a camp]' claimed a 64-year-old man, 'how can I do that? Living a good life in Syria, and now going to a camp. I would rather die'.⁸³¹ Those who found the minimum amount of money to be able to access accommodation outside of the camps were moving out, according to the observations of a humanitarian worker, who was in touch with many camp residents in several border cities. He explained that they would prefer to live in dire situations in cities, or in places like barns, whenever they could, rather than stay in the camps.⁸³² The agency and resistance shown by Syrians in refusing to live in camps played an important role in the transformation of *de facto* temporary protection in camps to temporary protection in urban centres.

In this section we have focused on the struggles of Syrians in creating homes as a space where they can live normal lives, by challenging the notions of being a guest, making 'illegal' homes, and resisting the mere survival on offer in camps. However, it should be noted that, this does not mean that Syrians' success in rebuilding their lives in exile is dependent only on their own will. They continue to live with insecurities, uncertainties and precarities created by the temporary protection status. Also, it does not mean all Syrian refugees—whether their options have been limited to staying in camps, living with their relatives/friends as guests, or who have enough financial means to access proper accommodation—are not struggling to remake

⁸²⁹ H Yılmaz (ed), 'Türkiye'de Suriyeli Mülteciler—İstanbul Örneği—Tespitler, İhtiyaçlar ve Öneriler' (2013) *Mülteci-Der*, 9; ORSAM, 'The Situation of Syrian Refugees in the Neighbouring Countries: Findings, Conclusions and Recommendations' (2014), 13

⁸³⁰ Interview with the Author (No23), (10.07.2017, Gaziantep)

⁸³¹ Interview with the Author (No20), (10.07.2017, Gaziantep)

⁸³² A Humanitarian Worker, Interview with the Author (No13), (20.12.2016, Gaziantep)

homes in exile. The important point here is that, despite the constraints of legality and precarity of temporary protection status, Syrians are not subjects who are passively waiting for return. Rather, they are challenging restrictions of temporary protection, imagining a home, and making homes in exile.⁸³³ Nonetheless, a crucial aspect of the restraints on the ‘right to establish homes’ is access to viable economic independence, which is the subject of the next section.

4.5 Access to Economic Independence

The access to viable income-generating jobs is severely restricted for Syrian beneficiaries of temporary protection. The Legal Regulation on the Work Permits of Temporary Protection Beneficiaries was only adopted in January 2016, five years after the initial arrivals from Syria. The Regulation only gave limited access to legal employment opportunities, due to the bureaucratic barriers for obtaining work permits, such as: the sponsorship mechanism, which gives employers the responsibility to apply for work permits for their Syrian employees; a lack of incentive for employers to secure work permits for Syrians; the quota mechanism that imposes a maximum quota of ten per cent of Syrians working in a particular place; and inadequate monitoring by the authorities to take action against employers.⁸³⁴

It is common among qualitative studies to focus on the experiences of people rather than quantitative statistics. However, it is also important to consider some crucial quantitative data, in order to have an understanding of the overall picture. In this sense, the percentage of Syrians who have work permits is a significant indication of the impact of restrictions on Syrians’ access to legal employment. By the end of 2018, for example, only 43,298 Syrians had obtained work permits from Turkish authorities.⁸³⁵ Strikingly, none of the interviewees of this thesis had a work permit, one and a half years after the adoption of the Regulation on Work Permits.

Some Syrian refugees were not even aware that they could obtain work permits in Turkey. A married man, who has worked intermittently in factories since he came to Turkey in 2014, was provided with information on work permits only during his

⁸³³ Brun and Fábos (n 78) 10

⁸³⁴ See Chapter 3

⁸³⁵ ‘Regional Refugee and Resilience Plan 2019/2020: Regional Overview’, 6

consultation with the NGO workers during my visit in summer of 2017.⁸³⁶ Crucially though, many Syrians argue that it would be still impossible for Syrians to obtain work permits, despite the adoption of the Work Permit Regulation. A man in his fifties who works at a shoe factory explained:

Nothing has changed in practice after the adoption of the Regulation. Employers would not hire Syrians who have work permits... There is no law or rights for Syrians in Turkey. Employers are benefiting from irregular workers. In the case of Turkish workers, for instance, they pay 2000 TL salary plus 500TL for insurance. When you include the expenses such as transportation and lunch, it amounts to 3000TL. Instead of that, they hire Syrians. They give Syrians 1300TL, no insurance, no tax, no extra coverage for expenses. The business is running as long as the Syrians are working, but on paper, these Syrians are non-existent. I was working in a shoe factory for 850-900TL per month, while Turkish citizens were getting 2000TL.⁸³⁷

Another 50-year-old man, also working at a shoe factory, put it simply: ‘Once you tell the boss that I want *sigorta* [insurance], he would just kick you out of work. My son, who is irregularly working at restaurants, would not dare tell them that he wants *sigorta*, because he is afraid to lose his job’.⁸³⁸

In the absence of legal protection for their worker rights, the working conditions of Syrians are dependent on the discretion of their employers. As another interviewee put it, ‘It depends on the boss. If the boss is a greedy person, he will exploit Syrians more.’⁸³⁹ There are few Syrians whose employers provide them with the same conditions as Turkish workers, but they are rare exceptions. A young single man described himself as lucky enough to work with a fair factory owner, who paid him the same salary as the Turkish workers. Still, he does not have any insurance.⁸⁴⁰ Most Syrians, on the other hand, have been incorporated into the irregular job market in Turkey as a cheap labour force.

⁸³⁶ Interview with the Author (No18), (07.07.2017, Gaziantep)

⁸³⁷ Interview with the Author (No13), (06.07.2017, Gaziantep)

⁸³⁸ Interview with the Author (No25), (11.07.2017, Gaziantep)

⁸³⁹ Interview with the Author (No26), (11.07.2017, Gaziantep)

⁸⁴⁰ Interview with the Author (No09), (05.07.2017, Gaziantep)

The working conditions of irregular Syrian workers are clearly poor; they work for long hours and, as seen, are paid less than Turkish workers. Most interviewees indicated that their salaries are half of what Turkish citizens are getting, and they are working for longer hours than their Turkish counterparts. The frustration and anger became quite visible when Syrian refugees started to talk about their working conditions. A 43-year-old widow whose son is covering the living expenses of their 14 family members, described their desperate situation, and explained that nobody is helping them:

He is working eight hours a day in a shoe factory without a work permit and only earning 220TL per week. It is way less than salaries of Turkish people. He does not receive any food/lunch at the working place, and we don't have anything to provide him with to take to work. So, he spends some of his money for his lunch. At the end of the week, the money that we get decreases to 180-190 TL.⁸⁴¹

As precarious workers without any legal protection, Syrians do not have means to deal with discriminatory and harsh treatment by their employers. A 45-year-old man with five children could only find a job as a farm guard in Turkey. He found it quite unfair that he was paid 600TL per month, despite his poor health condition, while his younger Turkish counterparts were getting 1200 TL per month:

I felt very upset and left the job. I felt it was unfair to me. I decided that my son should go to work [instead of going to a school]. He goes at 7am and comes back at 8pm. All day, while we are sitting at home, he is working under the sun in the field, picking vegetables, fixing the soil, carrying things, and watching sheep.⁸⁴²

Similarly, a married man, working as a shoemaker, indicated he has chosen to quit his job and look for a new one whenever he is badly treated.⁸⁴³ However, it is not always easy to find new jobs; thus most Syrians indicated that they had to accept

⁸⁴¹ Interview with the Author (No07), (04.07.2017, Gaziantep)

⁸⁴² Interview with the Author (No15), (07.07.2017, Gaziantep)

⁸⁴³ Interview with the Author (No15), (06.07.2017, Gaziantep)

their less than favourable conditions. As a 40-year-old factory worker stated, ‘We are just keeping quiet and working’.⁸⁴⁴

Not only are many Syrians forced to quit their jobs as a result of unbearable working conditions, but their employers can also fire them easily, in the absence of any legal responsibility. Hence, many Syrian refugees stated that they are working intermittently and looking for jobs for long periods of time. One interviewee explains ‘It is difficult to have a constant income. Since I can’t work all the time, the income is not enough for my family. At least may be someone can guide us on how to find a job. I go and ask shop owners myself whether I can work with them.’⁸⁴⁵ A married man, whose family is dependent on the income of two sons, suffers from the instability of employment: ‘My children are working, but not all the time. Their jobs are more like seasonal jobs. Every three months they are working with different bosses. And the bosses are firing them for different reasons; some say we have less work now, some say go work with others’.⁸⁴⁶

The exploitation in the job market and diminished living standards despite hard work is a constant reminder of the Syrians’ precarity as foreigners, and reinforces their feeling of loss. A young man, who has worked in mobile and computer accessories shops and nut factories, underlines this:

In Syria even if you have the same working hours, you would be physically, financially, and psychologically well. But here in Turkey, the Syrian person is always unwell and unfortunate physically, financially or psychologically. The boss is either pressuring you psychologically or financially.⁸⁴⁷

The feeling of insecurity in the employment sector is closely related to the problems Syrians face in having long-term safety in Turkey. A university student reflected on her feeling of insecurity:

You don’t feel safe because you don’t have a home here, you don’t have business here, your father is not employed at the government anymore, or

⁸⁴⁴ Interview with the Author (No24), (10.07.2017, Gaziantep)

⁸⁴⁵ Interview with the Author (No14), (06.07.2017, Gaziantep)

⁸⁴⁶ Interview with the Author (No26), (11.07.2017, Gaziantep)

⁸⁴⁷ Interview with the Author (No9), (05.07.2017, Gaziantep)

does not have something like a more secure job. You don't have a stable income. If my sisters stop working now, who will be supporting us?⁸⁴⁸

In the absence of a stable and adequate income, most Syrians refer to financial hardships as the most challenging part of having safety in Turkey. In this sense, having 'dignity', 'decent/normal lives', 'stability', and 'having a home' cannot be thought of as distinct from the material aspects of safety. As a middle-aged man with four children argued: 'To provide the feeling of safety, this country should provide us with work and the basic needs of life.'⁸⁴⁹

The fact that Syrians are working irregularly, and opening up unregistered shops is a well-known fact for authorities. However, they turn a blind eye. A woman whose son is working without a work permit and whose daughters are working irregularly at home by making sandals for workshops explained that during five years of their stay in Turkey, only one journalist visited them: 'She took our pictures while we did our handwork. We told her our story. She asked, "are you receiving less than Turkish people?" etc., and we told her everything. Other than that, no authority asked us anything'.⁸⁵⁰ A Syrian owner of a hairdressing salon explained how she managed to find a way to run her business without a work permit with the help of the authorities themselves:

I am running this hairdressers. The police came two or three times to the hairdressers because I was working without a legal permit. They asked me why I work illegally, and told me to close down the hairdressers. Yet, they did not take any legal action. In order to register my shop, I need to have a passport. In order to have a passport I need to go back to Syria and apply for a passport. I can't do that. I told them that, if you give me a regular salary, then I can close down my business. In their third visit, one of the policeman helped me. He told me to find a Turkish person to register the hairdressers in her/his name. I did it. Now, on paper, a Turkish citizen is the owner of

⁸⁴⁸ Interview with the Author (No28), (11.07.2017, Gaziantep)

⁸⁴⁹ Interview with the Author (No24), (10.07.2017, Gaziantep)

⁸⁵⁰ Interview with the Author (No7), (05.07.2017, Gaziantep)

this hairdressers; I pay a rent to him. Actually, I own and run the hairdressers, I pay all the taxes, expenses etc.⁸⁵¹

The toleration of illegal work by authorities is related to the politics of creating cheap labour in the Turkish economy.⁸⁵² At the same time, it represents the inevitable predicament of the temporary protection leading to ‘permanent temporariness’. As Gibney argues, the focus on return under temporary protection frameworks led to restrictions on the social and economic rights of its beneficiaries, which were seen as mechanisms that ‘assist foreigners in transforming their state of temporary residence into a *home*’.⁸⁵³ Nevertheless, it is also impossible to sustain the survival of large numbers of people with material aid during the prolonged displacement. It is the dichotomy of temporality and its permanence that confines Syrians as legal stayers but ‘illegal’ workers/shop owners. Crucially, the ‘illegality’ in employment not only leads to economic precarity, but feeds into the condition of uncertainty and insecurity, as at any time, the toleration might be abandoned.

4.6 Access to Education: Navigating Future Uncertainties in the Present

Access to education is one of the most crucial aspects for Syrian refugees, in their accounts of their struggles in homemaking in exile to rebuild their lives. At the same time, this element cannot be discussed without considering the structural uncertainties of temporary protection, as education is an important tool for people to invest in their future. In this sense, education is not only about Syrians’ present lives, but also an inherent part of imagining a future in Turkey or elsewhere.

Chapter 3 revealed that Turkish policies in addressing education have been closely related to the government’s assumptions that Syrians will only stay in Turkey for a limited period of time. As we saw, until 2014, government policies had not incorporated Syrian children into the Turkish education system, in order to prevent their integration into the country. Temporary Education Centres (TECs) were developed to fill the gap in education for Syrian children, providing primary and secondary education in Arabic, in line with the Syrian curriculum, with the idea that such an education would facilitate their reintegration to Syria upon their return. In

⁸⁵¹ Interview with the Author (No22), (10.07.2017, Gaziantep)

⁸⁵² For a detailed discussion see Chapter 3

⁸⁵³ Gibney (n 55) 697

2014, Syrian children with TPIDs were given the right to enrol in Turkish public schools, with the acknowledgement that Syrians might stay in Turkey for a longer period of time. In 2016, the Ministry of National Education decided to integrate all Syrian children into the Turkish education system by gradually closing the TECs.

The government's response to primary and secondary education of Syrians under the temporary protection regime is summarised by an anonymous official from the Ministry of National Education (MONE), as cited in the report published by the Open Society Foundation:

Actually, we never thought of opening up TECs. We just were not aware of the immense void the war had created. We couldn't address this need. We always believed that the war would soon end, and devised policies accordingly. We were never ready for what was going on outside the camps. The TECs actually filled the gap created by our mistakes. The TECs actually marked the start of fixing the problems.⁸⁵⁴

Syrian children who had their education in the TECs for many years have further problems in transferring to education in the Turkish language. The representative from a Syrian NGO in Gaziantep expressed his frustration:

I wanted to put my little son (first grade) in a Turkish school last year. They asked whether he knows Turkish. Since he does not speak Turkish, we could not register him. I put him into a Syrian school [TEC] and he did not learn Turkish. Now, they closed all Syrian schools [TECs] in Turkey and enforced Syrians to register in Turkish schools. But just a year ago, he was refused!⁸⁵⁵

A 47-year-old mother explained that she is not satisfied with the quality of informal education in the TECs. However, since her children do not know Turkish, she has concerns about transferring them to Turkish schools:

Syrians here, they don't teach them properly. For six months, my children did not have any homework. So, we go and ask them what are you teaching

⁸⁵⁴ K Heyse 'On the Brink of A Lost Generation', (2016) Open Society Foundation, 28

⁸⁵⁵ The Representative of Maram Relief and Development Foundation, Interview with the Author, (No8) (16.12.2016, Gaziantep)

our boys? They said frankly that they are only giving informal education; it is not formal one. So, we could not argue with them. In Turkish schools, maybe it will be better. Yet, we have a problem, my other son has been going to a Turkish school for three years, but he has not learned Turkish yet.⁸⁵⁶

Following the Ministry's decision to transfer Syrian students to Turkish schools, the accreditation of the informal TEC certificates became crucial. The first country-wide examination for the accreditation of the primary and secondary education in TECs was held in June 2015.⁸⁵⁷ Those who had certificates from TECs but did not attend the accreditation examination had to wait one year to be able to attend the next examination. Those who failed the examination were given the opportunity to enrol in open education high schools to complete their education.⁸⁵⁸ Those who had not yet finished their education in the TECs were provided with two options: they might either continue their education in the TECs, or be transferred to Turkish public schools if they got accreditation from relevant authorities under the Ministry of National Education.⁸⁵⁹

The MONE acknowledges the lack of unity in practice in the education sector. In the 2015 Circular, which was sent to school managers, the Ministry called for unity in practice for school registrations and acceptance of accreditations.⁸⁶⁰ However, there are many problems. A mother from Aleppo reported how she was refused by several school managers when she was trying to enrol her child in first grade:

I took her to more than ten schools when I first arrived. But every time they refused me with different excuses. First, they told me this school is only for those who have siblings or others already enrolled in the school. The second time, they told me we are full, we don't have any capacity. I took her once again, they told me you need to wait two months for the school to open and register your child—there is still time. Another time they told me that I

⁸⁵⁶ Interview with the Author (No26), (11.07.2017, Gaziantep)

⁸⁵⁷ Republic of Turkey Ministry of National Education Circular No 67951427-215-E.12780440 (11.11.2016), para 2

⁸⁵⁸ *ibid* para 3

⁸⁵⁹ *ibid* para 6-7

⁸⁶⁰ Republic of Turkey Ministry of National Education Circular No 67951427-215.01-E.7112335

needed to pay 20-30 TL. I said I was willing to pay the money; then they said the capacity was full. I stopped then. I was fed up.⁸⁶¹

In this complicated bureaucratic system of governance, access to information and advocacy is crucial for those facing challenges in school registration. In this respect, the NGOs play a crucial role in disseminating information, supporting refugees, and following up their cases. During my observation of the NGO consultations with refugees, the NGO representative was keen to give information on access to education and school registration to each refugee. Unfortunately, while those who had problems in registration needed to get in touch with the NGOs to get the relevant support, not all the refugees had the information, time or means to get support from the NGOs.

In the absence of a regular income, most Syrians cannot send their children to school due to the lack of financial means. The primary and secondary education in public schools is free in Turkey—however, there are hidden costs of sending children to school. As the Human Rights Watch report indicates, costs for school supplies, activity fees, parent-teacher association fees and transport costs can be burdensome for refugees.⁸⁶² Also, there might be transportation costs if the school is not in the neighbourhood where families are living. According to the research conducted by the Open Society Foundation in 2016, education for one child costs a minimum of 108TL per month for Syrian families.⁸⁶³

In order to encourage the participation of children in education, the ‘Conditional Cash Transfer for Education’ project was launched in May 2017, with the collaboration of the EU, UNICEF and the Turkish Red Crescent. Since then, Syrian families whose children are attending public schools or TECs are being supported with bimonthly cash transfers. However, many children are still working in irregular sectors to earn bread for their families, instead of going to a school. A 45-year-old man explained that his son is not going to school because the whole family is dependent on the 16-year-old boy’s income:

⁸⁶¹ Interview with the Author (No07), (04.07.2017, Gaziantep)

⁸⁶² Human Rights Watch, ‘Preventing A Lost Generation: Turkey’ (2015), 32

⁸⁶³ Heyse (n 854) 17

It is not that I don't want to. But if I send all my children to school, they would need money, they need expenses, they need all kind of things to be able to go to school. And if I don't have any income and if I send all of them to school then what will happen? I will tell you; we will be short of money. Of course, if you don't have income, you can't send them to school. Don't blame me for this.⁸⁶⁴

A woman from Aleppo, whose two children were attending school at the time of the interview in July 2017, admits that sometimes she had to take them out of the school when the children have had to work, for the survival of the family:

It was three years ago, and my children were 13 and 11 years old. I had to take them out of school to work. At the time, there were no available jobs because nobody needs workers during Ramadan. So, nobody was working in the house. My children started to work. We were making shoes at home. When we finished a big box of shoes, they gave us 7.5 Turkish Liras.⁸⁶⁵

Families who can only afford to live in poor neighbourhoods face further challenges in accessing education. The lack of safety in the immediate environment influences parents' decisions to send their children to school, especially in the case of girls. One of the interviewees remarked that he does not send his 16-year-old daughter to school because of security issues. He describes their neighbourhood as insufficiently secure:

In our neighbourhood, when women fight, they take each other's pants off, rip off each other's clothes. All of my neighbours use and sell drugs and weed. If I was living in a secure neighbourhood, I would of course send my daughter to school. She is my girl; I am responsible for her.⁸⁶⁶

With regard to access to higher education, similar problems are highlighted by the refugees during the interviews. Many young refugees who need to work for survival cannot find the time and means to attend university education in Turkey; Syrian youth who have family members living in Syria also try to send money back there

⁸⁶⁴ Interview with the Author (No15), (07.07.2017, Gaziantep)

⁸⁶⁵ Interview with the Author (No23), (10.07.2017, Gaziantep)

⁸⁶⁶ Interview with the Author (No16), (07.07.2017, Gaziantep)

to support their families. A single man, who was a university student in Syria before he came to Turkey in 2015, explained that he did not even try to go to university in Turkey: ‘I am working, I need to support myself. It is not financially possible because I also have to send money to my family back in Syria’.⁸⁶⁷

Those who can afford higher education struggle to access information, navigate the complicated bureaucratic system, and overcome the inconsistencies of practice among service providers. The story of a 24-year-old single woman who attends a high-ranking Turkish university is illustrative:

When I was trying to complete my education here, I had no idea. I asked around Turkish people. I was explaining that I was a university student in Syria, and I want to continue my studies in Turkey and asking them what can I do? It took me four months to realise there was a transfer system called *Yatay Gecis* in Turkey. First of all, I registered in three different universities. The last one, it was very easy because I learned all the requirements. For the other two universities it was very complicated. I was not aware of anything and the treatment of employees from one city to another from one university to another, it differs, it varies... During the accreditation process for my previous studies in Syria, I knew that I had the right to do this *denlik* [accreditation] but the employee told me ‘no, just go away’... I found myself walking inside of the building again and screaming and shouting at the man saying, ‘this is my right’ and asking him to ask other people. They asked other employees and it turned out that I was right.⁸⁶⁸

The *ad hoc* policies to ‘fix the problems’ under temporary protection cannot effectively address the complexities and precarities created by the temporary protection framework. As the Syrian experiences reveal, the hardships of living under temporary protection are intertwined—this is seen in the problematic relationship between access to the job market and education. The piecemeal approach of circulars in dealing with particular problems does not have a meaningful impact on practice.

⁸⁶⁷ Interview with the Author (No9), (05.07.2017, Gaziantep)

⁸⁶⁸ Interview with the Author (No28), (11.07.2017, Gaziantep)

In contrast to the top-down approach of focusing on state perspectives, a bottom-up approach, prioritising the refugee perspectives, reveals that ‘fixing the problems’ in the education sector cannot overcome the inherent problem of temporary protection regimes—namely, the ambiguity surrounding the future. From the refugees’ point of view, a number of issues are challenging: should children have their education in TECs, which is seen as more appropriate if they will return to Syria? Or is education in Turkish public schools preferable, facilitating integration into Turkey? How should the language barrier be overcome? As a representative of a Turkish NGO indicated, if Syrian children were to be returned to Syria in the future, education in Turkish public schools would cause further problems, since the Turkish curriculum is totally different from the Syrian one.⁸⁶⁹

Syrian refugees’ dynamic process of homemaking spans the past, present and the future. Managing precarious and uncertain living conditions through homemaking includes ‘navigating the present towards an unknown future’⁸⁷⁰ through imagining and embarking upon possibilities of alternate futures. In other words, life choices in the present are related to perceptions of future opportunities. As Turner puts it, making choices in the present:

depends on the impossible art of predicting an unknown future and projecting this future back into the present in order to be able to affect the future in the best possible way. This precarious task of moving back and forth between the future and the present is an essential part of agency.⁸⁷¹

For instance, a widow with three children sent her fifth grade child to Turkish public school, making it possible for her family to make a home in Turkey: ‘Arabic is our mother tongue and the language of our religion’, she says, ‘yet we are currently here, and we try to live our normal lives. My children should have diplomas here. They should be able to work and have a home here.’⁸⁷² On the other hand, a 40-year-old man with two children explained that he sent his children to TECs, because his children do not know Turkish. Although both children are learning Turkish as

⁸⁶⁹ Interview with the Author, Gaziantep, (20.12.2016)

⁸⁷⁰ S Turner, ‘We Wait for Miracles’: Ideas of Hope and Future among Clandestine Burundian Refugees in Nairobi’ in Cooper E and Pratten D (eds), *Ethnographies of Uncertainty in Africa* (Palgrave MacMillan 2015) 173

⁸⁷¹ *ibid* 174

⁸⁷² Interview with the Author (No22), (10.07.2017, Gaziantep)

part of the TEC curriculum, he is not sure if he will transfer them to Turkish public schools, since he does not know what will happen in the future.⁸⁷³ Likewise, a 23-year-old single woman is not registered in a school in Turkey, despite her strong desire to finish high school. She is worried that even if she gets diploma from Turkey, it would not be accepted in Syria when she returns.⁸⁷⁴

As well as the difficulty it poses for younger children, the language barrier plays an important role in access to higher education, and demands particular attention, since it is closely related to issues of temporality and the uncertainties of the future. Learning Turkish has a practical advantage in being able to communicate and navigate within the local system. Both state institutions and humanitarian actors offer free language classes for Syrians. However, learning a language demands a huge investment of effort and time. If people feel that they are residing in a country only for a limited period of time, they will not prioritise language classes, especially if they are already dealing with precarious living conditions.

A 50-year-old man with three children clearly explained why his children do not go to language classes: ‘providing for your family is more important. If my children leave their work and go to Turkish classes, our situation will be devastating. Our living expenses are more important.’⁸⁷⁵ Many humanitarian workers, whose organisations offer Turkish language classes for Syrians, are concerned that Syrians who see their presence in Turkey as temporary do not learn Turkish. For example, a Syrian NGO worker asks, ‘Why should I learn the language of this country? Even if we stayed here six years, we would still see it as just a stop-over. That’s why most Syrians don’t learn Turkish because most of them feel like this is a stop-over.’⁸⁷⁶

4.7 Legality and Insecurity: Homes as Safe Spaces

As Griffiths argues, the lived lives of people reveals their circumstances: whether they have access to legal forums, who is inside and who is outside the law, and whether ‘they find themselves silenced or unable to negotiate with others in terms of daily life’.⁸⁷⁷ Although such discussion is generally missing in official narratives

⁸⁷³ Interview with the Author (No24), (10.07.2017, Gaziantep)

⁸⁷⁴ Interview with the Author (No8), (05.07.2017, Gaziantep)

⁸⁷⁵ Interview with the Author (No26), (11.07.2017, Gaziantep)

⁸⁷⁶ A Humanitarian Worker, Interview with the Author (No12), (20.12.2016, Gaziantep)

⁸⁷⁷ Griffiths (n 67) 115

of substantive and procedural aspects of the legal system, they reveal people's perception of the law.⁸⁷⁸ As subjects living at the edges of legality and illegality, Syrians do not regard the temporary protection status or the law as viable tools in providing security and safety in their lives.

Among the refugees in Gaziantep, it is quite common to hear some rumours about Syrians who have been sent back to Syria or to the refugee camps in Turkey against their will, if they cause any trouble or commit a crime in the country: 'I do not know a particular story. But what I hear is that Turkish authorities are sending back people who are making trouble here in Turkey. After a couple of months, they come back through smugglers'.⁸⁷⁹

I did not witness it myself, but people have told me. When there is a trouble in the neighbourhood, such as a fight between Syrians, the police come and take them into custody. If they continue to cause trouble, the authorities send them to Syria. The authorities kick them out of the door, but they come back via the window—I mean they come back to Turkey with the help of smugglers.⁸⁸⁰

I heard of one Syrian who was living in Istanbul was sent back to Syria because he was disturbing the peace of others.⁸⁸¹ Some refugees claim that they have witnessed the removals:

They sent my cousin's husband back to Syria. His TPID was stolen. Then, when he was in the bazaar, the police arrested him. Apparently, whoever had stolen his TPID went to Syria with his ID. Then, they accused my relative of going back to Syria without permission. They took him into custody, and then took him to the other side of the border.⁸⁸²

It is not possible to track the deportations since, as discussed in Chapter 3, the authorities apparently force Syrians who are deemed to be a 'threat public order and

⁸⁷⁸ *ibid* 115-116

⁸⁷⁹ Interview with the Author (No15), (07.07.2017, Gaziantep)

⁸⁸⁰ Interview with the Author (No22), (10.07.2017, Gaziantep)

⁸⁸¹ Interview with the Author (No25), (11.07.2017, Gaziantep)

⁸⁸² Interview with the Author (No13), (06.07.2017, Gaziantep)

security’ or who are begging on the street to sign voluntary repatriation forms.⁸⁸³ Yet, the threat of deportation is a real source of insecurity for those under temporary protection status. As one refugee puts it. ‘I have not personally heard of anyone sent back. But we think about it a lot. We get scared of the idea’.⁸⁸⁴

While the fear of deportation might be the most visible form of insecurity, Syrians’ lives are constructed upon several forms of ‘illegal’ strategies of rebuilding; the continuous evocation of their temporality in every aspect of life identifies them as subjects who can easily be silenced or punished.

These feelings of insecurity and instability crucially affect Syrians’ behaviour towards the Turkish people or authorities. It becomes harder to defend rights, ask for advocacy, or challenge discrimination. A Syrian woman who has lived in Turkey for more than four years indicated that she frequently hears insulting language from Turkish people. She felt that ‘Turkish people do not like us; they tell us to go back to Syria all the time. They accuse us of ruining everything in Turkey’.⁸⁸⁵ However, she explained that she took a cautious approach in responding to such instances: ‘I say “yes, you are right”. What can I do? If I cause trouble they will kick me out of country. It is safer to say yes and keep quiet.’ Turkmen Syrians point out that, since they speak Turkish, they are more disadvantaged than those who don’t speak the language in this particular aspect. For instance, a Turkmen man tells:

When I spend my time in public places such as gardens, I hear a lot of insulting and humiliating comments about Syrians. Of course, Turkish people can’t understand that I am Syrian. But I am Syrian as well. Whenever it happens, I just walk away. What can I do? At least I can’t hear them anymore.⁸⁸⁶

Engagement with authorities can be even more challenging due to the insecurity of legal status. At this point, it is important to underline that refugees who feel more

⁸⁸³ UNHCR, ‘Evaluation of UNHCR’s Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015’ (2016), ES/2016/03, 46

⁸⁸⁴ Interview with the Author (No4), (04.07.2017, Gaziantep)

⁸⁸⁵ Interview with the Author (No29), (12.07.2017, Gaziantep)

⁸⁸⁶ Interview with the Author (No20), (10.07.2017, Gaziantep)

included, thanks to their Turkish origins, express a more trusting approach towards the Turkish authorities. For instance, a Turkmen refugee argued that, since he is Turkmen, he perceives himself as part of the Turkish nation. He maintained that he goes and knocks on the door of the authorities whenever he faces a problem in Turkey. Yet, others emphasise that they take extra care not to get involved in any trouble. The *de facto* leader of the industrial building, discussed above, explained that ‘if we have arguments among ourselves, old people who are known in the community try to solve the problems between us... we try not to make any problems for the authorities, we don’t want to go to authorities, we don’t want them to know about us’.⁸⁸⁷

Defending one’s own rights with such insecurities becomes extremely difficult. A university student argued that it was a rare moment of empowerment when she asked for her rights and challenged the authorities during her struggle for registration into a Turkish university.⁸⁸⁸ Many others indicate that they do not feel that they can ask for any kinds of rights. The words of a Syrian man reflected Syrians’ experiences of insecurities in Turkey: ‘who am I to ask for my right? What can I ask for? I don’t have a right to ask for anything’.⁸⁸⁹ Another woman simply asked: ‘Do Syrians have rights in Turkey?’⁸⁹⁰

In view of the real and perceived insecurities of the outside environment, the notion of one’s home also emerges as a place of security/safety, wherein Syrians can be invisible from outsiders. Most Syrians avoid engaging with life in Turkey beyond their immediate environment. They tend to build their lives in close neighbourhoods or even seclude themselves within their homes. In the words of an old woman, who has lived in Turkey for more than four years: ‘I do not even leave the house. The farthest place that I can go is the hospital. We don’t go out a lot, we just know our neighbours. Outside of this neighbourhood we don’t know anything’.⁸⁹¹ A younger refugee agreed: ‘We have been living here for so many years, but even if we ever left the neighbourhood we would get lost, we don’t know how to come back’.⁸⁹²

⁸⁸⁷ Interview with the Author (No10), (05.07.2017, Gaziantep)

⁸⁸⁸ Interview with the Author (No28), (11.07.2017, Gaziantep)

⁸⁸⁹ Interview with the Author (No20), (10.07.2017, Gaziantep)

⁸⁹⁰ Interview with the Author (No17), (07.07.2017, Gaziantep)

⁸⁹¹ Interview with the Author (No6), (04.07.2017, Gaziantep)

⁸⁹² Interview with the Author (No10), (04.07.2017, Gaziantep)

Another woman reflected upon refugee tactics to overcome fear: ‘at first, we were very scared. We did not leave our homes. We even changed the way we cover our hair, we started to do it in a Turkish way so that nobody can recognise that we are Syrians.’⁸⁹³

The homemaking process in Turkey becomes important for Syrians in creating a space, a social network to rely on, in having a sense of security and safety. However, the feeling of insecurity in the broader environment necessitates a simultaneous search for a ‘home’, where the feeling of security, safety, dignity, and belonging can be felt. Return to Syria, onward migration within Turkey or to other countries, or obtaining Turkish citizenship is not regarded as an end itself, but as possible means to have ‘homes’. A 55-year-old woman from Aleppo argued that acquiring Turkish citizenship is ‘good’, since it is impossible for her family to go back to Syria. ‘Until I take Turkish citizenship’ she argued ‘Turkey cannot be my home’.⁸⁹⁴ Most of the time, obtaining Turkish citizenship is associated with having safety, stability, and security in Turkey. A 40-year-old man who escaped with his family from their village in Aleppo when ISIS took over the village put it this way: ‘everyone looks for safety, and citizenship would provide safety’.⁸⁹⁵

Importantly, for Syrian refugees, citizenship provides a legal security that temporary protection fails to provide. A Syrian woman, who has lived in Turkey with her husband and six children for more than four years, indicated she would feel more comfortable if she were able to obtain Turkish citizenship. She argues, ‘because then I cannot be sent back’.⁸⁹⁶

However, refugee accounts reflect mobile and fluid use of durable solutions as strategies to be able to re-establish homes. Many different factors shape Syrians’ hopes for their futures. Their relationship with Syria, the availability of economic opportunities for building meaningful lives, a social network and familiarity with the place and people play a role—all of which can be associated with Brun and Fábos’ understanding of ideal homes (Homes). For instance, a married man with

⁸⁹³ Interview with the Author (No22), (10.07.2017, Gaziantep)

⁸⁹⁴ Interview with the Author (No1) (04.07.2017, Gaziantep)

⁸⁹⁵ Interview with the Author (No24) (10.07.2017, Gaziantep)

⁸⁹⁶ Interview with the Author (No4) (04.07.2017, Gaziantep)

two children who has lived in Turkey for over four years explained his attempts to find a place where his family can live in ‘peace’:

Maybe I can go back [to Syria] and start a new life. But if things stay like this, I would prefer to go to Europe. I would go to a place where I know somebody there. I have some relatives who are staying in Germany, so I would like to go there. I would like to go to a peaceful, quiet place, maybe. I would try to work to provide for myself and my family.

The story of a 26-year-old married man is reflective of the constant struggle to make a home via mobile strategies—he came to Turkey from Aleppo legally with his passport, and did not register with TPID. At first, he continued his studies in a private Russian university by going back and forth between Turkey and Russia. When his financial situation could no longer sustain his trips to Russia, he migrated to Germany by crossing the Aegean Sea by boat, ‘illegally’. In Germany he obtained the status of ‘beneficiary of international protection’, but he could not reunite with his wife, since he could not ‘legally’ bring her to Germany. Also, he could not continue his undergraduate studies there: ‘I waited for one year and eight months and nothing happened. I lost hope’. He came back to Turkey, again ‘illegally’, one month before our conversation. He explained what he hopes and struggles for in his displacement:

[The] most important thing is the feeling of ‘normal’—living a normal life. I could not find it. In Turkey, I just want to have a normal life, live like other people, not like as a refugee or as a Syrian—just to have normal life. I have not stayed long enough in Turkey to know if I can have it here.⁸⁹⁷

His remarks are important in challenging the rigid understanding of durable solutions as an end to the refugee predicament—that temporary protection status awaits. The main restrictions of temporary protection status are related to states’ attempts to deter refugees from having homes in exile, since home itself is regarded as a permanent belonging, associated with homelands. Yet, refugee accounts reveal an understanding of homes as mobile, changing, or even temporary places, where one can live a decent, normal, and meaningful life. ‘Home’ does not necessarily

⁸⁹⁷ Interview with the Author (No11), (06.07.2019, Gaziantep)

mean permanent settlement. It is the safety, security and stability that refugees long for—not a vague ‘durable solution’ of having a homeland in the territorial nation-state system.

4.8 Conclusion

This chapter has considered the practice of temporary protection in the city of Gaziantep, with a focus on Syrian refugees’ perspectives, struggles, and agency. We have discussed a rarely-asked question in the literature—what refugees expect from protection—which goes to the heart of the question asked at the beginning of the chapter: ‘what if the protection they are afforded is not the kind of protection that they are looking for?’⁸⁹⁸

Building upon the empirical data, we have revealed that as displacement prolongs, the top-down association of displacement awaiting return meets neither refugee expectations, nor their strategies. Syrian expectations of safety/protection might be defined as the survival of human, physical lives in the context of conflict, violence, and hardships of Syrians’ journeys to Turkey. However, as the time passes in exile, their expectations transform into having a home where meaningful lives can be lived. Homemaking here is understood as an encompassing notion, referring to not only to physical safety, but livelihoods, belonging, and recognition. In this regard, this chapter concludes that temporary protection is not the kind of ‘protection’ that Syrian refugees are looking for.

Temporary protection does not provide legal pathways for the realisation of Syrian expectations of homemaking. Although Turkey officially pursues an open border policy, and the law on temporary protection provides a legal stay in Turkey, protection against *refoulement*, and access to basic services, Syrian subjects are situated within the grey zone of legality and illegality. They had to cross the border ‘illegally’, restrictions on access to registration hamper their access to legal documents, complexities of governance through ever changing circulars leave them without clear information to be able to navigate the system and access legal protection, and in the absence of vital rights and needs such as a viable income and

⁸⁹⁸ A humanitarian worker of a Syrian NGO, Interview with the Author (No4), (13.12.2016, Gaziantep)

accommodation they have to work ‘illegally’ and to live in ‘illegal’ homes. In the context of insecurities of temporary protection status, Syrians tend to pursue their everyday activities within the enclosed spaces of homes and neighbourhoods, in order to avoid potential threats from entering into interactions with Turkish authorities, or Turkish society at large.

Insecurities surrounding Syrians’ legality and difficulties of everyday lives couples with the uncertainty of future under temporary protection. One particular aspect that reflects how short-term and long-term uncertainties blend is education. On the one hand, access to education is constrained by the absence of economic means and legal documents. Nevertheless, the uncertainty of future also complicates Syrians’ strategies to invest in their own future through education: education in TECs, national education, or learning Turkish becomes part of a complex process of navigating uncertainties of future within the present.

Importantly though, this chapter reveals that, despite the structural barriers of temporary protection, Syrians’ homemaking in Turkey does not cease—this is clearly shown by their resistance to being ‘guests’, living in encampment, and their struggles to make ‘illegal’ homes. Syrian expectations, strategies, and homemaking in exile challenges the top-down formulation of home as homeland. In this regard, resettlement, repatriation, acquiring citizenship in Turkey or mobility becomes part of broader attempts by Syrians to establish homes. The fluidity of such attempts challenges the taken-for-granted understanding of durable solutions as the end goal of refugee protection. It enables us to deconstruct the ‘temporality’ of displacement as a process in which refugees wait to re-establish their homes in homelands. The dynamic, mobile and changing understanding of homemaking provides us with new vocabulary to think and understand ‘protection’ from a bottom-up approach.

CHAPTER 5: THE ROLE OF THE HUMANITARIAN SECTOR IN THE TEMPORARY PROTECTION OF SYRIAN REFUGEES IN TURKEY

5.1 Introduction

Having analysed the official state response of the Turkish government in appropriating temporary protection for Syrian ‘emergency’ in Chapter 3, and having discussed the refugee perspectives, struggles and strategies under temporary protection regime in Chapter 4; this chapter focuses on the role and perspectives of humanitarian organisations as distinct actors in the (re)construction of temporary protection in its practice. In other words, before finalising the discussion of the temporary protection category in Turkey, this chapter questions: how have humanitarian interventions and humanitarian actors played a role in the construction, interpretation, and practice of temporary protection?

The Syrian displacement has been characterised as the world’s largest contemporary ‘refugee crisis’ on several counts. It is frequently referred to as the biggest refugee crisis since the Second World War;⁸⁹⁹ one-third of world refugees are Syrians, finding refuge in 127 countries.⁹⁰⁰ It is considered to be a regional refugee crisis in the Middle East, particularly affecting the neighbouring countries of Lebanon, Jordan, Turkey and Iraq.⁹⁰¹ It has also been labelled a refugee crisis in Europe, especially since 2015, following the ongoing migration of Syrians to the European countries.⁹⁰² Thus, it is not surprising that the Syrian displacement triggered a whole range of international humanitarian interventions. Several international organisations, international NGOs, national NGOs, and Syrian NGOs are all engaged in protection activities on the ground. Hence, it requires us to consider the role of humanitarian organisations alongside with state policies and refugee agency, in order to have a comprehensive understanding of temporary protection of Syrian refugees in Turkey.

⁸⁹⁹ UNHCR ‘Syria Emergency’ <http://www.unhcr.org/uk/syria-emergency.html> accessed (01.10.2017), 2

⁹⁰⁰ UNHCR ‘Global Trends: Forced Displacement in 2018’ (2019) <https://www.unhcr.org/uk/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html> accessed (06.07.2019), 14

⁹⁰¹ UNHCR ‘Syria Emergency’, <http://www.unhcr.org/uk/syria-emergency.html> accessed (01.10.2017)

⁹⁰² European Commission, ‘The EU and the Refugee Crisis’ (July 2017) <http://publications.europa.eu/webpub/com/factsheets/refugee-crisis/en/> accessed (01.10.2017)

Importantly, the Syrian displacement has also revived discussions on the effectiveness of the current humanitarian system, leading to UN-led reforms for its transformation. This chapter first focuses on how international humanitarian actors developed policies for the protection of Syrian refugees in the Middle East. We will then move on to consider the global developments in the humanitarian sector: the adoption of a ‘resilience-based development approach’, the New York Declaration for Refugees and Migrants (2016), and the 2018 GCR. We question the so-called transformation of humanitarian involvement in the refugee ‘problem’, in the context of responses to Syrian displacement.

Secondly, we will link the discussion on humanitarian intervention at international level to an examination of the role of humanitarian actors in the temporary protection of Syrians in Turkey. The initial response to Syrian refugees was highly dependent on Turkish government initiatives. However, as the numbers of Syrian refugees increased, especially in urban settings, the Turkish government began to collaborate more with international and national humanitarian actors. Using Hillhorst and Jansen’s formulation of the ‘humanitarian arena’, we will unravel the complex relationship between states, donors, international and domestic humanitarian organisations, and refugees.⁹⁰³ Building on the empirical data, we will (i) discuss the humanitarian practices and roles of humanitarian actors; (ii) consider the refugee perspectives on humanitarian actors in the province of Gaziantep.

5.2 The International Humanitarian System and the Syrian Displacement: Resilience, Protection, and Temporality

At the outset of the Syrian displacement, and up to the end of 2014, the UNHCR coordinated the humanitarian responses within the RRP framework.⁹⁰⁴ For over two years, the RRP constituted the main international humanitarian intervention in Syria’s neighbouring countries, bringing together over 100 local and international partners.⁹⁰⁵ As the conflict in Syria became protracted, the RRP framework led to a new design in humanitarian response, paving the way for the development of the

⁹⁰³ D Hilhorst and BJ Jansen, ‘Humanitarian Space as Arena: A Perspective on the Everyday Politics of Aid’ (2010) 41 (6) *Development and Change* 1117

⁹⁰⁴ UNHCR ‘Syria Regional Response Plan (RRP1)’ (March 2012)

⁹⁰⁵ UNHCR ‘Syria Regional Response Plan (RRP5)’ (June 2013)

Regional Refugee and Response Plan (3RP) in December 2014.⁹⁰⁶ In order to grasp the transformation process, however, we need first to unpack the earlier RRP framework, and its relation to the existing humanitarian system in the Middle East region.

The main focus of the RRP was to provide humanitarian assistance to Syrian refugees in the neighbouring countries of Lebanon, Jordan, Turkey, and Iraq. The UNHCR defined three regional strategic objectives in the first four RRP as: ‘ensuring that refugees have access to neighbouring countries and receive protection, including protection from *refoulement*; ensuring that the basic needs of refugees are met; and undertaking contingency measures for a potential mass influx.’⁹⁰⁷ In specific country overviews, in addition to coordination and partnerships among stakeholders, protection, basic needs and services, and voluntary repatriation were determined as prominent sectors of response.⁹⁰⁸ The RRP framework was established within the paradigm of emergency response providing safety-as-survival, and as such, operated a narrow definition of protection, including access to territories, admission and registration of refugees, and protection of ‘vulnerable’ groups such as children or those who are facing sexual or gender-based violence.⁹⁰⁹

As the access to territories and humanitarian assistance to Syrian refugees constituted the bulk of the RRP framework’s protection activities, at the end of 2012, the UNHCR reflected that ‘most borders remain open and the protection space afforded to Syrians has not shrunk’.⁹¹⁰ However, the organisation also noted that increasing numbers of refugees in neighbouring countries put a strain on local resources.⁹¹¹ The prolongation of the displacement and increasing numbers led to a reconsideration of the response framework, and the inclusion of resilience, livelihood projects, community participation and outreach to host communities in

⁹⁰⁶ UNHCR ‘UN and Partners Launch Major Aid Plans for Syria and Region’ (December 2014) <https://www.unhcr.org/uk/news/press/2014/12/54929c676/un-partners-launch-major-aid-plans-syria-region.html> accessed (01.05.2019)

⁹⁰⁷ UNHCR ‘Syria Regional Response Plan (RRP1)’ (March 2012), 8-9

⁹⁰⁸ *ibid*

⁹⁰⁹ UNHCR ‘Syria Regional Response Plan (RRP1)’ (March 2012)

⁹¹⁰ UNHCR ‘Syria Regional Response Plan (RRP4)’ (December 2012), 8

⁹¹¹ *ibid*

RRP5 and RRP6 in 2013.⁹¹² However, despite an important shift in UNHCR's policy towards long-term planning,⁹¹³ the conceptualisation of protection meaning safety-as-survival was still apparent in the dominant discourse of RRP6, in 'long-term national *aid* programmes [emphasis added]',⁹¹⁴ and responding to 'immediate humanitarian needs'.⁹¹⁵

At the end of 2014, the then UN High Commissioner for Refugees, António Guterres, admitted the failure of the humanitarian system: 'Syria's war is still escalating and the humanitarian situation is becoming protracted. Refugees and internally displaced people have exhausted their savings and resources, and host countries are at breaking point'.⁹¹⁶ According to Guterres, the humanitarian community was in need of a 'new aid architecture', which would bring together support for refugees and the stabilisation of host communities.⁹¹⁷ The UN-led reforms formulated the 'new aid architecture', by adopting a 'resilience-based development approach' to refugee responses.

5.2.1 Resilience-Based Development Approach in the Context of Syrian Displacement

The launch of the 3RP process at the end of 2014 marks the most extensive implementation of the resilience-based development approach in the context of Syrian displacement. However, the discourse on resilience had already been gaining prominence in other disciplines. Since the 1970s and 1980s, the resilience of environmental spaces and the resilience of individuals has been debated in disciplines of ecology and psychology.⁹¹⁸ In the past two decades, the concept has been imported into the fields of development and humanitarian responses. State bodies, such as the UK Department for International Development (DFID) and US Agency for International Development (USAID), international organisations such

⁹¹² UNHCR 'Syria Regional Response Plan (RRP5)' (June 2013); UNHCR 'Syria Regional Response Plan: Regional Overview (RRP6)' (December 2013)

⁹¹³ *ibid*

⁹¹⁴ *ibid* 8

⁹¹⁵ *ibid* 10

⁹¹⁶ UNHCR 'UN and Partners Launch Major Aid Plans for Syria and Region' (December 2014), <http://www.unhcr.org/uk/news/press/2014/12/54929c676/un-partners-launch-major-aid-plans-syria-region.html>, accessed (01.10.2017)

⁹¹⁷ *ibid*

⁹¹⁸ J Brasset and N Vaughan-Williams, 'Security and the Performative Politics of Resilience: Critical Infrastructure Protection and Humanitarian Emergency Preparedness' (2015) 46 (1) Security Dialogue 32, 33

as the Organisation for Economic Cooperation and Development (OECD), and NGOs such as Christian Aid have all incorporated the aim of building resilience among individuals, communities or states in their development and humanitarian goals.⁹¹⁹ As Covelt, Kaufmann and Soby reveal, from 2003 to 2013, the publications on the concept of resilience rose from 500 to 3000.⁹²⁰

The incorporation of the resilience-based approach in diverse disciplines requires us to question what resilience-based development approach means in the context of the response to the Syrian displacement. In this regard, the UN Development Group (UNDP) Position Paper of 2013 sets the precedent, in defining resilience as the ‘ability of households, communities, and societies to withstand shocks and stresses, recover from such stresses, and work with national and local government institutions to achieve transformational change for sustainability’.⁹²¹ In this regard, the displacement which is associated with ‘shocks and stresses’ for host countries, host communities and refugees is presumed to be resolved by (i) building resilience of local institutions, infrastructures and basic services of host countries to meet demands; (ii) targeting resilience of refugees and host communities to recover from socio-economic impacts of displacement; and (iii) strengthening social and political institutions for long-term sustainability.⁹²²

The 3RPs outline the resilience-based development approach that would constitute the bulk of humanitarian interventions in the Middle East, with the collaboration of UNHCR and UNDP and participation of more than 200 partners.⁹²³ The overarching goal of the 3RPs are stated as ‘ensuring protection and humanitarian assistance for refugees while building resilience of individuals, families, communities and institutions.’⁹²⁴ In bringing together humanitarian and development interventions, the former UN High Commissioner for Refugees, Guterres, reflected that the resilience-based development approach ‘goes beyond

⁹¹⁹ W Wagner and R Anholt, ‘Resilience as the EU Global Strategy’s New Leitmotif: Pragmatic, Problematic or Promising?’ (2016) 37 (3) Contemporary Security Policy 414, 417

⁹²⁰ M Dunn Covelt, M Kaufmann and K Soby Kristensen, ‘Resilience and (In)Security: Practices, Subjects, Temporalities’ (2015) 46 (1) Security Dialogue 3, 4

⁹²¹ Regional UN Development Group, ‘Position Paper: A Resilience-Based Development Response to the Syria Crisis’ (December 2013), 2

⁹²² *ibid* 9

⁹²³ ‘Regional Refugee and Resilience Plan 2015/2016: Regional Overview’ (December 2014), 7

⁹²⁴ *ibid*

the traditional concept of ‘bridging the gap’’.⁹²⁵ Parallel to his remarks, the 3RP framework suggested two inter-related components, namely, a refugee protection and humanitarian component, and a resilience-based development component for the response in Lebanon, Jordan, Turkey, Iraq and Egypt.⁹²⁶

The definition of protection in the 3RP documents moves beyond providing humanitarian assistance, describing it as ‘the ability of Syrian refugees to access their rights according to international standards in order to safeguard their wellbeing.’⁹²⁷ However, the ‘international standards’ in the definition creates confusion, considering that none of the neighbouring host countries are party to the Refugee Convention/Protocol, while Turkey maintains its geographical limitation. A closer look at the protection objectives reveals that, once more, protection activities are narrowly defined as access to safety and *non-refoulement*, registration, identification of ‘vulnerable’ refugees and their special protection.⁹²⁸ For ‘extremely vulnerable refugees’, the resettlement and admission to third countries also framed as a protection solution.⁹²⁹

The novelty of the 3RPs is the introduction of a resilience-based development component which addresses capacity building in host states, the resilience of impacted communities, and advancing national responses.⁹³⁰ The documents adopts a two-tier strategy: strengthening national capacities with the motto of ‘reinforce, don’t replace local capacities’,⁹³¹ and building the self-sufficiency of host communities and refugees.⁹³² The 3RP partners have committed to strengthening service-delivery mechanisms in neighbouring host states, expanding livelihood projects, and increasing economic opportunities for refugees and affected communities.⁹³³

⁹²⁵ UNHCR ‘UN High Commissioner for Refugees Antonia Guterres’ Statement at the UNGA’ (03.11.2015) <http://www.unhcr.org/uk/admin/hcspeeches/563a17566/third-committee-general-assembly-70th-session-new-york-november-3-united.html> accessed (01.10.2017)

⁹²⁶ *ibid* 8

⁹²⁷ ‘Regional Refugee and Resilience Plan 2016/2017: Annual Report’, 5

⁹²⁸ ‘Regional Refugee and Resilience Plan 2017/2018: Regional Overview’, 13

⁹²⁹ *ibid*

⁹³⁰ *ibid* 8

⁹³¹ UNDP, ‘The Dead Sea Resilience Agenda’ (November 2015) http://www.undp.org/content/dam/rbas/doc/SyriaResponse/RDF/DeadSeaResilience%20Agenda_05Nov2015.pdf accessed (01.10.2017), 2

⁹³² ‘Regional Refugee and Resilience Plan 2015/2016: Regional Overview’, 18

⁹³³ *ibid* 8

In pursuing an overarching neo-liberal project of sustaining the development of host countries to sustain the resilience of refugees and host communities, the investments and funding from development and private sector is promoted.⁹³⁴ During the London Conference, held in 2016, private sector actors and development actors (such as the World Bank, the European Investment Bank and the Islamic Development Bank) made commitments to increase their financial support to host countries. In return for financial aid, host countries such as Jordan and Turkey pledged to open up their job markets for Syrian refugees.⁹³⁵ Once more in 2017, European countries, Qatar and the UN convened a conference in Brussels ('Supporting the future of Syria and the region') to increase funding; this was followed by the Brussels Conference II in 2018 and Brussels Conference III in 2019.⁹³⁶ The success of these initiatives is questionable; for example, the numbers of work permits provided for Syrians has remained extremely low: 122,224 in Jordan and 43,285 in Turkey.⁹³⁷

As part of the overall aim of sustaining resilience in the region, not only host state capacities but also the capacities of local NGOs and humanitarian actors aimed to be strengthened. The localisation of aid was one of the major themes addressed during the UN-led World Humanitarian Summit (WHS) of May 2016, which brought together humanitarian organisations, governments, development actors and the private sector to 'reshape the global agenda for humanitarian action.'⁹³⁸ The Agenda for Humanity, adopted at the end of WHS, reiterated the importance of the resilience-based approach and support for national leadership in refugee

⁹³⁴ UNDP, 'The Dead Sea Resilience Agenda' (November 2015) http://www.undp.org/content/dam/rbas/doc/SyriaResponse/RDF/DeadSeaResilience%20Agenda_05Nov2015.pdf accessed (01.10.2017); Regional UN Development Group, 'Position Paper: A Resilience-Based Development Response to the Syria Crisis' (December 2013) 12;

⁹³⁵ 'Co-hosts declaration from the Supporting Syria and the Region Conference' (2016) <https://www.supportingsyria2016.com/news/co-hosts-declaration-of-the-supporting-syria-and-the-region-conference-london-2016/> accessed (10.10.2017), para 10; 'Regional Refugee and Resilience Plan 2016/2017: Mid-Year Report, 11

⁹³⁶ See Brussels Conference I: <https://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2017/04/04-05/>, Brussels Conference II: <https://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2018/04/24-25/>, Brussels Conference III: <https://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2019/03/12-14/> accessed (07.07.2019)

⁹³⁷ 'Regional Refugee and Resilience Plan 2019/2020: Regional Overview', 6

⁹³⁸ <http://agendaforhumanity.org>, accessed (01.07.2017)

responses,⁹³⁹ while the Charter4Change initiative foresaw that 20 per cent of global humanitarian funding should go directly to local NGOs by the end of 2018.⁹⁴⁰

Yet again, successful impacts arising from these efforts are in doubt. First of all, non-Western NGOs and donors are not represented in the Inter-Agency Standing Committee (IASC), the supreme body for the coordination of humanitarian assistance.⁹⁴¹ Secondly, examining the trends in WHS Commitments and the 3RP together reveals that the main targets of localisation are the capacities of national systems and state institutions, rather than local NGOs. Thirdly, grass-root organisations and ad hoc civil society groups which have been emerging in response to the Syrian movement are excluded from the humanitarian reforms of WHS.⁹⁴² A follow-up report revealed that in 2017, only 0.4 per cent of all assistance reported to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) was directly allocated to local and national NGOs, a rise of just 0.1 per cent from the previous year.⁹⁴³

The ongoing reform process culminated in the adoption of the New York Declaration for Refugees and Migrants by the UNGA in 2016.⁹⁴⁴ In the process, Syrian and other refugees' onward movement to European countries played a triggering role. In 2015, more than one million asylum-seekers embarked on a deadly journey, crossing the Mediterranean Sea by boat to reach European shores.⁹⁴⁵ Syrians were the largest group, constituting 26 per cent of all the asylum-seekers attempting to cross the Aegean Sea with the help of smugglers.⁹⁴⁶ As Aleinikoff explains, 'European states wanted *something done* at the international

⁹³⁹ *ibid*

⁹⁴⁰ *ibid* 28

⁹⁴¹ H Aly and I Wall, 'Humanitarian Reform: What's on and off the Table' (11.02.2016) *IRIN News* <http://www.irinnews.org/analysis/2016/02/11/humanitarian-reform-whats-and-table> accessed (02.09.2017)

⁹⁴² *ibid*

⁹⁴³ UN Office for The Coordination of Humanitarian Affairs (OCHA) 'Staying the Course: Delivering on the Ambition of the World Humanitarian Summit' (December 2018) 60

⁹⁴⁴ The New York Declaration for Refugees and Migrants' (adopted 03.10.2016) UNGA Res 71 (1)

⁹⁴⁵ 3771 people died or were reported missing during their journey in 2015, while this number amounted to 4655 in 2016: UNHCR 'Regional Overview: Mediterranean Crisis' (2016) <http://data.unhcr.org/mediterranean/regional.php>, accessed (01.10.2017); for a detailed discussion see: V Squire and others, 'Crossing the Mediterranean Sea by Boat: Mapping and Documenting Migratory Journeys and Experiences' (2017)

⁹⁴⁶ UNHCR 'Regional Overview: Mediterranean Crisis' (2016) <http://data.unhcr.org/mediterranean/regional.php> accessed (01.10.2017)

level’.⁹⁴⁷ The UNGA’s response, by coordinating a high-level plenary meeting on addressing large movements of refugees and migrants, resulted in the adoption of the New York Declaration, addressing issues on refugee protection, in fact, more broadly than the Mediterranean crossings.⁹⁴⁸

The New York Declaration is important, as Goodwin-Gill underscores, since it finally acknowledged that no single state can manage large-scale movements on its own.⁹⁴⁹ The Refugee Convention/Protocol have been frequently criticised for their failure to provide binding responsibility-sharing norms. Nevertheless, the discussion of responsibility sharing in the New York Declaration maintains this non-binding framework.⁹⁵⁰ As reflected in the Declaration, the global phenomena of large-scale movements led to ‘political, economic, social, developmental, humanitarian and human rights ramifications across borders’, which necessitate global solutions.⁹⁵¹ The global approach that was framed in the Declaration reaffirms the 1951 Convention and the 1967 Protocol as the ‘foundation of the international refugee protection regime’.⁹⁵² Yet, it also acknowledges the situation on the ground: ‘States not party to the international refugee instruments have shown a generous approach to hosting refugees’;⁹⁵³ and ‘especially in the case of developing countries, large movements of refugees place burdens on national resources’.⁹⁵⁴ The Declaration called for a greater cooperation among states to ‘commit to a more equitable sharing of the burden and responsibility for hosting and supporting the world’s refugees.’⁹⁵⁵

The annexed Comprehensive Refugee Response Framework (CRRF) of the New York Declaration outlined a comprehensive approach to large-scale movements and protracted displacement. Moreover, it called upon the UNHCR to draft a Global

⁹⁴⁷ TA Aleinikoff, ‘The Unfinished Work of the Global Compact on Refugees (2018) XX(XX) International Journal of Refugee Law 1, 1

⁹⁴⁸ *ibid*

⁹⁴⁹ Guy S. Goodwin-Gill, ‘International Refugee Law – Yesterday, Today, but Tomorrow?’ (2016) *Refugee Law Initiative Working Paper Series* (No 16), 13

⁹⁵⁰ Terje Einarsen and Marthe Engedahl, ‘The Universal Asylum System and the 2016 New York Declaration: Towards an Improved ‘Global Compact’ on Refugees?’ (2016) *Refugee Law Initiative Working Paper Series* (No17), 32

⁹⁵¹ The New York Declaration for Refugees and Migrants’ (adopted 03.10.2016) UNGA Res 71 (1), para 7

⁹⁵² *ibid* para 65

⁹⁵³ *ibid* para 65

⁹⁵⁴ *ibid* para 68

⁹⁵⁵ *ibid* para 68

Compact on Refugees.⁹⁵⁶ The GCR, incorporating the exact wording of the CRRF in Part B, was adopted by the UNGA in December 2018.⁹⁵⁷

The main objectives of the GCR are to: ‘(i) ease pressures on host countries; (ii) enhance refugee self-reliance; (iii) expand access to third country solutions; and (iv) support conditions in countries of origin for return in safety and dignity.’⁹⁵⁸ To these ends, GCR reiterated the calls for link between humanitarian and development interventions, for strengthening national policies and institutions that would sustain the resilience of refugees and host communities.⁹⁵⁹ Particular areas that required support were listed as: ‘education; jobs and livelihoods; health; women and girls; children, adolescent and youth; accommodation, energy and natural resource management; food security and nutrition; civil registries; statelessness; fostering good relations and peaceful coexistence’.⁹⁶⁰

The premise of the resilience-based development approach reflects the fact that the overwhelming majority of Syrian refugees are residing in states of the Global South, who have a precarious position compared to prosperous states of the Global North. Yet, the formulation of a response by a neo-liberal project (i.e. to develop regional host countries to sustain resilience of refugees and host communities) perpetuates the problem on the ground: containing refugees in regional host countries in the long-term. At this point, it is important to note that GCR clearly states that ‘efforts to support refugees and host communities in no way diminish, and are in fact complementary to, the need to facilitate future arrangements for durable solutions’.⁹⁶¹ Considering that the host countries in the region apply different temporary protection frameworks, repatriation and resettlement are not possible for the majority of Syrian refugees. Therefore, the shift to a resilience-based model prompts a crucial question: how is it possible to bring together a

⁹⁵⁶ The New York Declaration for Refugees and Migrants’ (adopted 03.10.2016) UNGA Res 71 (1), Annex I, para 19

⁹⁵⁷ ‘Global Compact on Refugees’ UNGA Resolution A/73/12 (Part II) (adopted 17.12.2018)

⁹⁵⁸ ‘Global Compact on Refugees’ UNGA Resolution A/73/12 (Part II) (adopted 17.12.2018), para 7

⁹⁵⁹ *ibid* para 64-65

⁹⁶⁰ *ibid* Part B (2.1-2.10)

⁹⁶¹ Global Compact on Refugees’ UNGA Resolution A/73/12 (Part II) (adopted 17.12.2018), para 64

resilience-based development approach with a temporary protection framework, and with what consequences?

5.2.2 Resilience and Temporality: Towards an Upgraded form of Temporary Protection?

Goodwin-Gill argues that ‘the idea that refugee situations are ‘temporary’ has a certain seductive appeal, despite the multiple lessons of history’.⁹⁶² None of the developments discussed above address the structural uncertainties of temporary protection frameworks. Considering the case of the Syrian displacement, it has already been discussed that none of the regional host countries advocate the permanent integration of Syrian refugees. During the official consultations on the GCR, Lebanon’s statements make it quite clear that, ‘nothing in the GCR should be interpreted in a way to force on major host countries the integration of refugees, or their indefinite stay’, and ‘the GCR should in no case run counter the incentives for refugees to return their countries of origin’.⁹⁶³ The resettlement and other forms of admission to third countries, on the other hand, serve as a protection solution only for a very limited number of extremely vulnerable refugees.⁹⁶⁴ The pledges made by over 30 countries for Syrian refugees under various admission pathways (including resettlement, humanitarian admission or other complementary pathways) covered only 242,000 persons out of more than five million refugees between 2013-2018, while 28,000 more refugees were submitted for resettlement in 2018.⁹⁶⁵

The GCR underlines that one of the primary objectives is to facilitate access to durable solutions.⁹⁶⁶ The Compact refers to three main durable solutions—repatriation, resettlement and integration—but these are also supplemented by complementary ones, i.e., ‘complementary pathways for admission’ and ‘other local solutions’ in the host states.⁹⁶⁷ Beyond the pledges for more resettlement

⁹⁶² GS Goodwin-Gill, ‘International Refugee Law—Yesterday, Today, but Tomorrow?’ (2016) *Refugee Law Initiative Working Paper Series* (No 16), 13

⁹⁶³ UNHCR ‘Sixth Round of Formal Consultations on the Final Draft of the Global Compact on Refugees: Statement of Lebanon’ (3-4.07.2018)

⁹⁶⁴ ‘Regional Refugee and Resilience Plan 2017/2018: Regional Overview’, 13

⁹⁶⁵ *ibid*, ‘Regional Refugee and Resilience Plan 2018/2019: Regional Overview’, 6

⁹⁶⁶ ‘Global Compact on Refugees’ UNGA Resolution A/73/12 (Part II) (adopted 17.12.2018), para 85

⁹⁶⁷ *ibid* para 86

places and the encouragement of other pathways for admission, neither the New York Declaration nor GCR make efforts to prevent non-entrée policies in the Global North.⁹⁶⁸ Rather, the ‘other local solutions’ are promoted in the GCR under the heading of ‘durable solutions’. Oddly, this implies ‘a durable temporary solution’, as the 3RP documents state that repatriation of Syrian refugees is not acceptable, due to the ongoing conflict and insecurity in the country.⁹⁶⁹

It is in this context that the overarching goals of resilience-based frameworks operate: a multi-stake approach and greater cooperation in terms of greater assistance to host countries.⁹⁷⁰ First of all, as Aleinikoff asks, is there anything new in the calls for greater assistance?⁹⁷¹ The RRP and 3RP have already been calling for greater cooperation in financial terms. Neither the launch of the 3RP process, the London Conference, nor the Brussels Conferences have led to an effective increase in the funding opportunities. The amount of funding covered since 2014 remains around 60 per cent.⁹⁷² Secondly, the inclusion of development actors and the private sector, in order to strengthen resilience in host countries and the prospects of a neo-liberal development programme for strengthening national capacities is questionable. As Finch argues, ‘even if tens of billions of dollars are pumped into places like Turkey, Pakistan or Kenya, their economies are not going to grow quickly enough to absorb the forcibly displaced populations within their borders.’⁹⁷³ Most importantly, it implies a ‘responsibility to develop and protect refugees’ for the host countries. Hyndman rightly asks, ‘why should host states have to pay twice? Once for hosting refugees on their territory and then again for a loan to make them self-reliant?’⁹⁷⁴

⁹⁶⁸ Aleinikoff (n 947) 1; BS Chimni, ‘Global Compact on Refugees: One Step Forward, Two Steps Back’ (2019) XX(XX) *International Journal of Refugee Law* 1, 2

⁹⁶⁹ UNHCR ‘Update: Durable Solutions for Syrians’ (August 2017), <http://data.unhcr.org/syrianrefugees/download.php?id=13878> accessed (01.10.2017)

⁹⁷⁰ Aleinikoff (n 947) 1

⁹⁷¹ *ibid*

⁹⁷² 61 per cent in 2015; 62 per cent in 2015; 63 per cent in 2016; 61 per cent in 2017; 62 per cent in 2018: ‘Regional Refugee and Resilience Plan 2019/2020’, 5

⁹⁷³ T Finch, ‘Improve Refugee Protection by Managing it Better’ (March 2016) *Open Democracy* <https://www.opendemocracy.net/en/openglobalrights-openpage/improve-refugee-protection-by-managing-it-better/> accessed (05.05.2019)

⁹⁷⁴ J Hyndman, ‘Security in Mobility: A Response to Arc of Protection: Addressing Protracted Displacement’ (09.08.2018) *Public Seminar*, <http://www.publicseminar.org/2018/08/security-in-mobility-a-response-to-arc-of-protection/> accessed (06.03.2019)

As already discussed, any development framework requires national leadership in its implementation, which means strengthening the national leaderships that embark on strategies of temporality. Turkey's Statement during the Formal Consultations of the GCR reflects this:

Although we are aware of the benefits of multi-stakeholder approach... we very much agree that national ownership and leadership must definitely be keys for the successful implementation. In this vein, we have tried to incorporate wordings reflecting this fact in the relevant sections of the text to ensure that national policies and priorities of host states are respected by those actors providing support.⁹⁷⁵

As Chapter 3 revealed, the national policies and priorities of Turkey are deliberately governing refugees through structural uncertainties. Humanitarian-development funding might be helpful in some crucial aspects, such as enhancing service deliveries, yet the extent to which it might affect such structural uncertainties is questionable.

Türk argues that, 'for refugees, this [Global Compact on the Refugees] means less dependence on aid, being better equipped to return home when conditions allow, and in the meantime, contributing to the communities that are hosting them.'⁹⁷⁶ Harilds makes a similar argument, in his suggestion of a 'temporary longer-term economic integration' model.⁹⁷⁷ According to his model, until repatriation becomes feasible, displaced people should be allowed to be self-sufficient, in order to reduce the need for humanitarian assistance and to lessen economic and service-delivery stress on host countries.⁹⁷⁸ The displaced would then be better prepared, since they would retain skills and accumulate savings necessary for a successful return to their home countries.⁹⁷⁹ Such arguments reveal that although the term 'resilience' has been added to the vast lexicon of policy-driven terminology regarding self-

⁹⁷⁵ UNHCR 'Sixth Round of Formal Consultations on the Final Draft of the Global Compact on Refugees: Statement of Turkey' (3-4.07.2018)

⁹⁷⁶ V Türk, 'The Promise and Potential of the Global Compact on Refugees' (2019) XX(XX) *International Journal of Refugee Law* 1, 4

⁹⁷⁷ N Harild, 'Forced Displacement: A New Development Issue with Humanitarian Elements' (2016) 52 *Forced Migration Review* 4, 6

⁹⁷⁸ *ibid*

⁹⁷⁹ *ibid*

sufficiency, self-reliance and livelihoods, the main concern is not on refugees' independence, but on fostering their return, and making their protracted stay manageable for host countries. Hathaway puts it thus: 'we should be clear that we do not need a compact on refugees, in which refugees are simply the object, not the subject of the agreement'.⁹⁸⁰

Chapter 1 revealed that following the implementation of temporary protection for ex-Yugoslavian refugees in Europe in the 1990s, temporary protection has been fiercely debated among experts. Several scholars made proposals for the improvement of standards under temporary protection frameworks, by according fundamental human rights, especially socio-economic rights, to temporary protection beneficiaries.⁹⁸¹ The UNHCR, too, emphasised the need for a progressive improvement of standards in the case of a prolonged stay, especially in regard to economic and social rights of refugees.⁹⁸² In this regard, bringing together temporary protection and a resilience-based approach implies an upgraded form of temporary protection for refugees. Brun and Fábos argue that although 'the pendulum swung towards livelihoods, self-reliance and social economic rights', what has actually emerged is a sort of 'integration lite, where people may be able to survive, but their refugee status is not ended and their refugee predicament is no closer to being addressed'.⁹⁸³

In this picture, to what extent the resilience-based development approach supports refugees within host countries and alleviates their precariousness remains a prominent question. The next section turns to the examination of the Turkish case study, in order to discuss the role of the humanitarian system in the protection of Syrian refugees, and explore how a resilience-based development approach is realised on the ground.

⁹⁸⁰ JC Hathaway, 'The Global Cop-Out on Refugees' (2019) XX(XX) *International Journal of Refugee Law* 1, 9

⁹⁸¹ Fitzpatrick (n 12) 281; Crépeau and Holland (n 55) 259; Morten Kjaerum, 'Opinion: Temporary Protection in Europe in the 1990s' (1994) 6 (3) *International Journal of Refugee Law* 444; Gibney (n 55) 704-705

⁹⁸² UNHCR 'The Note on International Protection' (1994) UN Doc. A/AC.96/830, para 49; UNHCR 'Protection of Refugees in Mass Influx Situations: Overall Protection Framework' (19.12.2001) EC/GC/01/4, para 15

⁹⁸³ Brun and Fábos (n 35) 179

5.3 Humanitarian Space or ‘Humanitarian Arena’?

Humanitarian actors frequently use the term ‘humanitarian space’ in order to refer to the environment in which humanitarian work can be carried out, independent of the restrictions of governments or non-state actors.⁹⁸⁴ In his pioneering characterisation in the early 1990s, Rony Baumann, then President of Médecins Sans Frontières, described humanitarian space as a ‘space of humanitarian action where we are free to evaluate needs, free to monitor the distribution and use of relief goods, and free to have a dialogue with the people’.⁹⁸⁵ Following Baumann, the ICRC definition of humanitarian space focused on the permissibility of ‘humanitarian and impartial relief action’.⁹⁸⁶ According to the UNHCR, ‘humanitarian space’ refers to the environment that allows a population of concern to have access to protection and assistance.⁹⁸⁷ To this end, the humanitarian space should essentially ‘facilitate the exercise of UNHCR’s non-political and humanitarian protection mandate’.⁹⁸⁸ In assessing protection space in a particular country, not only the refugees’ ability to access their rights, but also the ability of the UNHCR and its humanitarian partners to work plays an important role.⁹⁸⁹

The dominant approach thus perceives humanitarian/protection space as a ‘given context’ that potentially sets limits to humanitarian work.⁹⁹⁰ That is, humanitarian organisations present themselves as impartial and non-political providers of assistance, while their work is restricted by the limits of the humanitarian space.⁹⁹¹ However, as Fassin reminds us, contemporary humanitarianism cannot be characterised as a ‘non-political’ life-saving activity, neither at the level of state policy nor in international affairs. On the contrary, humanitarian governance not only mobilises emotions and moral sentiments, such as the duty to save strangers, but also serves to define and justify the discourses and practices of the governance

⁹⁸⁴ Ferris (n 123) 176

⁹⁸⁵ J Grombach Wagner, ‘An IHL/ICRC Perspective on Humanitarian Space (2006) <http://odihpn.org/magazine/an-ihlicrc-perspective-on-%C2%91humanitarian-space%C2%92/> accessed (02.09.2017)

⁹⁸⁶ *ibid*

⁹⁸⁷ V Tennant, B Doyle and R Mazou, ‘Safeguarding Humanitarian Space: A Review of Key Challenges for UNHCR’ (2010) UNHCR Policy Development and Evaluation Service (PDES)/2010/01, para 23

⁹⁸⁸ *ibid*

⁹⁸⁹ UNHCR ‘UNHCR Policy on Refugee Protection and Solutions in Urban Areas’ (2009), para 22

⁹⁹⁰ Ferris (n 123) 178

⁹⁹¹ *ibid*

of human beings.⁹⁹² Considering the political character of humanitarian work, Hillhorst and Jansen argue that the discourse of humanitarian space has a dual purpose: ‘to be able to access people in need’ and to legitimise the processes of humanitarian actors.⁹⁹³

In their work examining the role of humanitarian actors, Hillhorst and Jansen formulate the ‘humanitarian arena’ as a socially negotiated arena, where aid is shaped through the interactions and negotiations of power among multiple actors.⁹⁹⁴ They recognise that humanitarian action is based on a range of driving forces besides the humanitarian desire to alleviate life-threatening suffering. These can be political motivations,⁹⁹⁵ a desire to continue operations, or show the public that an agency is doing good work.⁹⁹⁶ In the humanitarian arena, the constant negotiations of power include multiple actors, such as humanitarian organisations, governments, donors, populations, and aid beneficiaries.⁹⁹⁷ The outcome of humanitarian aid in this context is dependent on several actors’ interpretation of the context, the needs, their own roles and each other.⁹⁹⁸ The conceptualisation of the humanitarian arena, in contrast to humanitarian space, offers a fresh understanding to examine the complex dynamics of humanitarian aid in the Turkish context, negotiations of powers among multiple actors, and their varied strategies.

5.4 The ‘Humanitarian Arena’ in Turkey

At the outset of the Syrian displacement, the Turkish government pursued a policy of self-management of the temporary protection of Syrian refugees in camp-settings. In contrast to the other neighbouring host countries, the government of Turkey was not involved in the RRP process, and rejected any contribution from

⁹⁹² D Fassin, *Humanitarian Reason: A Moral History of the Present* (Transl. by Rachel Gomme, University of California Press 2012) 1-7

⁹⁹³ D Hillhorst and BJ Jansen, ‘Humanitarian Space as Arena: A Perspective on the Everyday Politics of Aid’ (2010) 41 (6) *Development and Change* 1117, 1119

⁹⁹⁴ *ibid* 1126

⁹⁹⁵ *ibid* 1121

⁹⁹⁶ *ibid* 1122

⁹⁹⁷ *ibid* 1122

⁹⁹⁸ Dorothea Hillhorst and Maliana Serrana, ‘The Humanitarian Arena in Angola: 1975-2008’ (2010) 34(2) *Disasters* 183, 184

the international community arguing that Turkey had sufficient capacity to deal with the influx.⁹⁹⁹

As a humanitarian worker explains, from the beginning of the Syrian displacement, the Turkish government made it clear that the government would be in full control of the registration, sheltering, and protection of Syrian refugees. It only asked for the support of the UNHCR in providing technical assistance to state institutions.¹⁰⁰⁰ The protection strategy of the UNHCR in Turkey has been confined to improving legislation and building the government's and partners' capacities in Turkey.¹⁰⁰¹ The UNHCR Policy Development Unit provided policy advice and technical assistance to government;¹⁰⁰² it had regular consultations with the government officials, and provided direct support for the drafting of the Law on Foreigners and International Protection and the Regulation on Temporary Protection.¹⁰⁰³ Furthermore, the UNHCR has provided material assistance, and has engaged in resettlement and humanitarian admission of the most vulnerable Syrian refugees in third countries, in collaboration with the Turkish authorities.¹⁰⁰⁴

However, as the number of urban Syrian refugees has increased enormously since 2013, the Turkish government has gradually started to collaborate with other humanitarian actors as well. In order to increase the humanitarian support, in April 2013, the Turkish government confirmed that humanitarian agencies could plan to provide assistance to refugees in urban settings.¹⁰⁰⁵ By 2019, there were 133 INGOs in Turkey, nearly half of them conducting protection activities for Syrian

⁹⁹⁹ UNHCR, 'Syria Regional Response Plan (RRP1)' (March 2012), 64. It was only in April 2012 that the Turkish government decided to make a limited request for material support, which is confined to distribution of relief items in camps: UNHCR, 'Revised Syria Regional Response Plan (RRP2)' (June 2012), 71

¹⁰⁰⁰ UNHCR Ankara Office, Interview with the Author (No18), (06.01.2017, Ankara)

¹⁰⁰¹ UNHCR 'Evaluation of UNHCR's Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015' (2016) ES/2016/03, 44

¹⁰⁰² UNHCR, 'Evaluation of UNHCR's Emergency Response to the Influx of Syrian Refugees into Turkey: January 2014-June 2015' (2016) ES/2016/03, 35

¹⁰⁰³ Resettlement Associate, the UNHCR Ankara Office, Interview with the Author (No1) (10.12.2016, Ankara)

¹⁰⁰⁴ UNHCR 'Syrian Refugees in Turkey: Frequently Asked Questions' (2015) http://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/02/frequently_asked_questions.pdf accessed (01.09.2017), 8

¹⁰⁰⁵ UNHCR 'Syria Regional Response Plan (RRP5)' (June 2013), 212

refugees,¹⁰⁰⁶ alongside hundreds of national and Syrian NGOs. The wide range of NGO activities includes advocacy, education, language classes, vocational training, legal support, community centres, cash-based transfers or e-voucher cards, distribution of food and relief items, individual case-management and intervention, child protection, psycho-social support, livelihood, development, and health. In order to pursue such activities, organisations mainly obtain funding from European governments and EU institutions, the UN agencies, and the US government. In the case of national NGOs, private donations are also an important source of funding.¹⁰⁰⁷

Humanitarian work is shaped by the complex web of relations among the multiple actors in the humanitarian arena. First of all, the Turkish government attempts to control and restrict the involvement of humanitarian actors, especially on ideological grounds. Both international and local NGOs have to secure their accreditation via Turkish authorities,¹⁰⁰⁸ which can take a very long time.¹⁰⁰⁹ Any critical reports previously published by INGOs could lead to accreditation rejection.¹⁰¹⁰ Even after obtaining accreditation, some INGO operations, like Medical Corps or Mercy Corps, have been closed down without any public explanation.¹⁰¹¹

Likewise, local NGOs have been kept under strict government control with regard to their political and ideological stances. Hundreds of national civil society organisations, including prominent organisations working in refugee protection¹⁰¹² were closed by statutory decrees during the period of state of emergency, which was declared in response to the attempted *coup d'état* in the country in July

¹⁰⁰⁶ Republic of Turkey Ministry of Interior, Directorate General for Relations with Civil Society, https://www.siviltoplum.gov.tr/kurumlar/siviltoplum.gov.tr/istatistikler/YabanciSTK/izin_verilen_listesi_tr.pdf accessed (01.05.2019)

¹⁰⁰⁷ Observations in the field and data obtained from several interviews.

¹⁰⁰⁸ The Ministry of Interior is responsible for accreditations, upon receiving the opinions of Ministry of Foreign Affairs and several relevant state institutions: Republic of Turkey 'The Regulations on Associations', the Official Gazzete No25772 (31.03.2005), Article 26

¹⁰⁰⁹ International Crisis Group 'The Rising Costs of Turkey's Syrian Quagmire' Report No230 (2014), 16

¹⁰¹⁰ Research Centre on Asylum and Migration, 'Report on the Activities of Non-Governmental Organisations for Syrian Refugees in Turkey' (2013), 19

¹⁰¹¹ Didem Danış and Dilara Nazlı, 'A Faithful Alliance between the Civil Society and the State: Actors and Mechanisms of Accommodating Syrian Refugees in Istanbul' (2019) 57 (2) International Migration 143, 154

¹⁰¹² Examples are Gündem Çocuk, IHD, IMPR and Mazlum-Der

2016.¹⁰¹³ NGOs with a close relationship to the government in ideological and political terms are in an advantageous position. Those organisations which are considered to be faithful to the state and its institutions assume some functions of refugee reception.¹⁰¹⁴ Faith-based humanitarian organisations have been especially favoured by the government in providing and distributing humanitarian assistance on the ground.¹⁰¹⁵

Humanitarian work is limited to urban settings by the government; according to the TPR, organisations can only visit camps by obtaining an official permission.¹⁰¹⁶ The UNHCR, the UN World Food Programme (WFP) and the Turkish Red Crescent (TRC) have regular access to camps, thanks to their material and financial contributions to camp-based protection activities. Since 2012, the UNHCR have provided material support to camps; the WFP and TRC provide food assistance,¹⁰¹⁷ while the TRC also distributes humanitarian aid, conducts child protection activities and supports refugees with psycho-social support.¹⁰¹⁸ Even for the UNHCR, access to camps is ‘problematic’.¹⁰¹⁹ UNHCR workers visit camps on a daily basis to monitor the government’s management of the camps, yet they do not have any protection mandates within the camps.¹⁰²⁰

Nevertheless, international humanitarian organisations have experiences of work in camp-based settings, where governments delegate their protection activity administration responsibilities to international actors. These organisations face hardships in adapting to work in urban settings, especially under a strong national leadership. Despite the aim of strengthening national leadership through a

¹⁰¹³ Republic of Turkey Statutory Decree No: 677 the Official Gazzete 29896 (22.11.2016); Republic of Turkey Statutory Decree No689 the Official Gazzete No 30052 (29.04.2017)

¹⁰¹⁴ D Danış and D Nazlı, ‘A Faithful Alliance between the Civil Society and the State: Actors and Mechanisms of Accomodating Syrian Refugees in Istanbul’ (2019) 57 (2) International Migration 143, 154

¹⁰¹⁵ A Çağlar Deniz, Y Ekinci and A Banu Hülür, ‘Bizim Müstakbel Hep Harap Oldu’: Suriyeli Mültecilerin Gündelik Hayatı Antep-Kilis Çevresi (İstanbul Bilgi Üniversitesi Yayınları 2011) 75

¹⁰¹⁶ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 39 (1)

¹⁰¹⁷ UN World Food Programme (UNWFP) ‘What the World Food Programme is Doing in Turkey’ (2016) <http://www1.wfp.org/countries/turkey> accessed (27.02.2016)

¹⁰¹⁸ Immigration and Refugee Services Manager, the Turkish Red Crescent, Interview with the Author (No16), (26.12.2016, Ankara)

¹⁰¹⁹ Resettlement Associate, the UNHCR Ankara Office, Interview with the Author (No1), (10.12.2016, Ankara)

¹⁰²⁰ Resettlement Associate, the UNHCR Ankara Office, Interview with the Author (No1), (10.12.2016, Ankara)

resilience-based development approach, international humanitarian organisations are not accustomed to work under these heavy political constraints. An anonymous humanitarian worker in Turkey admits that ‘it is not easy to adapt the normal humanitarian system to working in Turkey, especially since the Turkish style of governance is quite fixed... the style of government is quite top-down.’¹⁰²¹ Even the UNHCR, which is the most prominent supporter of the resilience-based development approach, is described as ‘in the learning process in terms of how to do it differently.’¹⁰²²

In order to be able to work under the government’s leadership and control, many humanitarian organisations adopt the strategy of aligning themselves with government policies. The following statement reflects the mood among humanitarian workers in Turkey: ‘those who planned to shape government policies in Turkey are kind of kidding themselves, because obviously the government policies are made in a central manner.’¹⁰²³ An important example is the government’s policy to restrict humanitarian organisations’ support for unregistered Syrian refugees, in order to force Syrians to get registered as soon as possible. The unregistered refugees are potentially in a more precarious situation than the registered refugees, since they do not have access to public services in Turkey. Yet, on the government’s insistence, humanitarian organisations refrain from extending their assistance or support to unregistered Syrians. A humanitarian worker for the WFP characterises their strategy of alignment with the government policies in Machiavellian terms, where the priority is maintaining their standing in Turkey.¹⁰²⁴

Secondly, both the level and allocation of funding for different types of humanitarian interventions are shaped by power relations among donors and humanitarian organisations. The donor’s attention to humanitarian interventions in the Turkish context heavily increased in 2014 and 2015, following the large-scale migration of Syrians from Turkey to European countries. The response of European countries to ‘the Mediterranean Crisis’ reflects how the resilience-based

¹⁰²¹ A humanitarian worker, Interview with the Author (No10), (19.12.2016, Skype)

¹⁰²² A humanitarian worker, Interview with the Author (No10), (19.12.2016, Gaziantep)

¹⁰²³ A humanitarian worker, Interview with the Author (No10), (19.12.2016, Skype)

¹⁰²⁴ A humanitarian worker of an International Organisation, Interview with the Author (No3), (13.12.2016, Gaziantep)

development approach, in terms of allocating more funding to host states, serves to contain refugees within the regional countries. EU responses comprised strengthening barriers against irregular migration to Europe, and an increasing investment in host countries' infrastructures, in order to address the root causes of onward migration.¹⁰²⁵ The EU-Turkey cooperation to halting migration to Europe is particularly instructive. By November 2015, Turkey had agreed with the EU that it would receive €3 billion and political concessions, in return for controlling its borders and keeping refugees inside Turkey.¹⁰²⁶ In March 2016, the EU and Turkey had reached a new 'deal', known as the EU-Turkey Statement.¹⁰²⁷ Accordingly, Turkey agreed to admit returned irregular migrants from all nationalities. For every Syrian refugee to be returned to Turkey, the EU agreed to resettle one Syrian from Turkey—the 'one-to one initiative'.¹⁰²⁸ As part of the EU-Turkey Statement, EU member states agreed to transfer an additional €3 billion, to fund the humanitarian response in Turkey.¹⁰²⁹ The increasing EU funding for the WFP-led multi-purpose cash assistance system, namely the Emergency and Safety Social Net (ESSN),¹⁰³⁰ constituted the bulk of funding to Turkey. It also led to a decrease in funding for other humanitarian actors, since donors prefer to invest in the centralised system of ESSN.¹⁰³¹

Thirdly, the allocation of funding is further subject to contestation between international NGOs and local organisations. Despite the calls for local NGO support during the 2016 WHS, big INGOs continue to have a dominant position in terms of receiving international funding. The President of a Turkish NGO criticised the main donors, particularly European Civil Protection and Humanitarian Aid Operations (ECHO), for disregarding the potential contribution of local NGOs which engage actively with the situation on the ground.¹⁰³² He exemplified the flexible approaches

¹⁰²⁵ For a detailed analysis, see Squire and others (n 945) 17-20

¹⁰²⁶ European Commission, 'EU-Turkey Cooperation: A €3 billion Refugee Facility for Turkey' (November 2015) http://europa.eu/rapid/press-release_IP-15-6162_en.htm accessed (01.10.2017)

¹⁰²⁷ European Council, 'EU-Turkey Statement' (18.03.2016) <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/> accessed (01.10.2017)

¹⁰²⁸ *ibid*

¹⁰²⁹ European Commission, 'The EU Facility for Refugees in Turkey' https://ec.europa.eu/neighbourhood-enlargement/news_corner/migration_en accessed (01.10.2017)

¹⁰³⁰ *ibid*

¹⁰³¹ A humanitarian worker of an International NGO, Interview with the Author (No14), (21.12.2016, Gaziantep)

¹⁰³² President of a Turkish NGO, Interview with the Author (No17) (03.01.2017, Ankara)

of local organisations in designing and implementing humanitarian projects thanks to their familiarity with the environment in which they are working:

We were trying to conduct needs assessment on the field in collaboration with our INGO partners. They were trying to decide on the methodology and considering whether we should apply radial surveying. However, such approaches do not correspond to the reality on the ground. Half of the neighbourhoods in which we would conduct surveys went through urban transformation. There are huge buildings and rents rocketed to 700 TL. The other half, which is full of shanty houses, is the major area where most of the Syrian refugees are residing. If I follow your [INGO's] methodology I would lose my four days in surveying in the area where there are no refugees. What I would do is, I would talk to *mukhtar* [local governor], local NGOs, local shops, figure out where the refugees are living, and directly begin to conduct surveys in such areas.¹⁰³³

Although many INGOs establish partnerships with national NGOs in the implementation of particular projects, the donors and INGOs maintain their dominant position in decision making and project design, while national NGOs play a role in implementing the humanitarian projects.¹⁰³⁴

Although the examination of access-to-work-permits and the allocation of funding defines who does what and where in terms of humanitarian work, in order to grasp the role of humanitarian sector, we need to consider its practice on the ground. As Hilhorst and Jansen argue, in shaping the humanitarian arena, not only do states, donors, or humanitarian organisations play a role, but the beneficiaries of humanitarian work have a central place.¹⁰³⁵ In the next section we turn to the discussion of the humanitarian arena in Gaziantep in particular, by taking into account the different perspectives and practices of humanitarian actors and refugees.

¹⁰³³ President of a Turkish NGO, Interview with the author (No17), (03.01.2017, Ankara)

¹⁰³⁴ Interviews and Observations in the Field

¹⁰³⁵ Hilhorst and Jansen (n 993) 1122

5.5 Humanitarian Interventions and Temporality: A View from Gaziantep

Brun points out that, in the midst of a conflict, it may be straightforward to prevent people from dying—and yet, when a humanitarian crisis becomes protracted, there is a need to start thinking beyond biology.¹⁰³⁶ In this regard, most of the humanitarian workers in Gaziantep criticise short-term perspectives on refugee responses and the temporary framework of protection.¹⁰³⁷ The country director of an International NGO, argued ‘all the refugees we work with are constantly worrying because they don’t know what the future holds for them.’¹⁰³⁸ Another Syrian humanitarian worker reflected on her hopelessness: ‘I would never think that one day you [Turkey] will have a community of Syrians where they are very well established and settled in the country because I do not think it will happen. Maybe I am mistaken...’¹⁰³⁹

Many humanitarians also accept that the Syrians’ stay in Turkey will eventually turn into a permanent settlement. They indicate that even if the war in Syria comes to end, not all the Syrians will be able to return to their countries. As a humanitarian worker of a Turkish NGO predicted, ‘whether they [Syrians] would be granted citizenship or not, they will be integrated in Turkey and will live here with us’.¹⁰⁴⁰ Hence, according to the many humanitarian workers on the ground in 2017, the time to work towards the local integration of Syrians has already arrived. A resettlement associate of the UNHCR explained,

Turkey has started the process of verification. It has two purposes: to identify who would be resettled in third countries, and to determine who would be granted citizenship...However, we [Turkey] cannot resettle or grant citizenship to three million Syrians... The most urgent thing is to work

¹⁰³⁶ Brun (n1049) 393, 400

¹⁰³⁷ A Humanitarian Worker of a Syrian NGO, Interviews with Author (No4), (13.12.2016, Gaziantep)

¹⁰³⁸ The Country Director of an International NGO, Interview with the Author (No20), (26.01.2017, Skype)

¹⁰³⁹ A Humanitarian Worker of a Syrian NGO, Interviews with Author (No4), (13.12.2016, Gaziantep)

¹⁰⁴⁰ Humanitarian Workers of a Turkish NGO, Interview with the Author (No11), (20.12.2016, Gaziantep)

on local integration. In the absence of local integration, I expect dark days for the Syrians in Turkey.¹⁰⁴¹

The transformation of the humanitarian system towards long-term planning with a resilience-based development approach attempts to bring a long-term perspective to humanitarian responses to the Syrian displacement. Yet, to what extent the humanitarian sector's role has been transformed in practice is questionable. First of all, a closer look at the situations of large-scale movements of refugees reveals that such displacements are more complex in nature, in contrast to the linear understanding of a shift from an emergency to the normalisation phase of displacement. In the literature, large-scale movements of refugees and mass influx are considered as the instances of migration of huge numbers of refugees from a specific country to another. They are commonly referred to as 'mass influx of Syrian refugees', 'large-scale movement of former-Yugoslavian refugees', 'mass influx of South Sudanese' and so forth. On the contrary, as Zetter highlights, recurrent large-scale movements occur during severe and episodic conflicts.¹⁰⁴² In other words, there are several 'large-scale movements' in a particular case.

The Syrian migration is a pertinent example. More than 3.5 million Syrian refugees currently living in Turkey did not arrive at the same time. They arrived following particular events in Syria. Humanitarian workers on the ground commonly speak of particular emergencies such as the 'Kobane influx of 2014' or the 'Aleppo influx of 2016' in referring to specific Syrian refugee movements.¹⁰⁴³ Each movement mobilises a new set of 'emergency responses', which keeps the emergency/crisis approach to protection as the dominant paradigm. The president of a Turkish NGO described their response to each particular large-scale arrival of Syrian refugees as such:

When ten thousand people arrive to the border, we need to respond quite quickly. The first thing that we consider is to distribute water and biscuits to children... in winter for instance, we need to take into account the

¹⁰⁴¹ Resettlement Associate, the UNHCR Ankara Office, Interview with the Author (No1), (10.12.2016, Ankara)

¹⁰⁴² Roger Zetter, 'Unlocking the Protracted Displacement of Refugees and Internally Displaced Persons: An Overview' (2011) 30 (4) Refugee Survey Quarterly 1, 1

¹⁰⁴³ After the writing up of the thesis, the ongoing personal contacts with humanitarian workers reveal that they are preparing for another emergency response in the potential 'Idlib influx' in 2019.

challenges of tough weather conditions, even freezing... It takes three to four months for the preparations of reception of a mass group of people... There are immediate needs of people, shelter, food water. You cannot even plan the next three days, you just think about how to save the day.¹⁰⁴⁴

Secondly, the international humanitarian sector is inherently designed to operate on a temporary mode of working. The funding of humanitarian responses is dependent on the temporary interests of the donors, and the popularity of the particular crisis among international community. A humanitarian worker summarised the general concerns of humanitarian workers over the sustainability of long-term funding for their humanitarian projects:

We had our funding problems in 2014... Things change in terms of the fears of many refugees going to Europe and the reactions of certain European countries to turn back movement of people. And also Syria continues to be in the limelight, it is overshadowing every other crisis that is going in the world. It is absorbing a lot of money. But whether this money continues to come, we will see.¹⁰⁴⁵

Moreover, the presence of humanitarian workers on the ground is itself temporary. They move from crisis to crisis, and represent a very mobile part of the humanitarian system.¹⁰⁴⁶ Most of the humanitarian workers started work in Gaziantep, following the large-scale arrivals of Syrian refugees from Kobane province in northern Syria.¹⁰⁴⁷ Many international NGO workers admit that they are not familiar with the Turkish asylum system. They had a very limited appreciation of the local dynamics and everyday life in urban centres—an appreciation necessary to create innovative and appropriate policies in urban settings.

¹⁰⁴⁴The President of a Turkish NGO, Interview with the Author (No17), (03.01.2017, Ankara)

¹⁰⁴⁵ A Humanitarian worker, Interview with the Author (No7), (16.12.2016, Gaziantep)

¹⁰⁴⁶ C Brun, 'There is no Future in Humanitarianism: Emergency, Temporality and Protracted Displacement' (2016) 27 (4) *History and Anthropology* 393, 398

¹⁰⁴⁷ A humanitarian worker, Interview with the Author (No13), (20.12.2016, Gaziantep)

As Dubois rightly argues, one has to recognise the limits of humanitarianism, without belittling the work done by the humanitarian workers.¹⁰⁴⁸ Humanitarianism necessitates a contract between the government and the humanitarian organisations, in order to sustain the latter's presence in the country.¹⁰⁴⁹ Therefore, humanitarian organisations cannot shape their responses contrary to the government policies. Hence, in the Turkish context—in which *temporariness* is the main pillar of the protection framework—humanitarian organisations cannot pursue potentially long-term protection activities.¹⁰⁵⁰ For instance, the WFP in Turkey gave up the idea of food security projects, seeing short-term cash assistance programmes as more suitable for individuals with temporary protection status.¹⁰⁵¹ Likewise, a humanitarian worker indicated that ‘although we have enough funding for long-term projects, we pursue projects for six-month or eight-month periods, because we do not know how the government's policy will change in a year.’¹⁰⁵²

Hence, the short-term relief response to Syrian displacement continues to dominate the humanitarian system in Turkey. The largest humanitarian intervention, namely the ESSN, reflects such domination. The ESSN system was announced in September 2016 as a ‘ground-breaking’ intervention;¹⁰⁵³ it is the largest humanitarian aid programme in Turkey, coordinated by the WFP and the TRC, and funded by EU institutions following the EU-Turkey deal. It seeks to provide cash assistance to one million of the most vulnerable refugees in Turkey, through distributions of e-cards with a monthly amount of 100 TL (approximately \$27) per family member.¹⁰⁵⁴ As of January 2017, 121,100 people had received their e-cards.¹⁰⁵⁵ The Immigration and Refugee Services manager of the TRC highlighted the influential role of the ESSN project arguing that, ‘with the launch of our e-card

¹⁰⁴⁸ Marc Dubois, ‘Protection: The Humanitarian Fig-Leaf’ (2009) <https://www.rsc.ox.ac.uk/files/files-1/dp-protection-fig-leaf-2009.pdf> accessed (01.10.2017), 4

¹⁰⁴⁹ Brun (n 1046) 393

¹⁰⁵⁰ For a similar argument in the context of Jordan, see Brun (n 1046) 393

¹⁰⁵¹ A humanitarian worker of an International Organisation, Interview with the Author (No3), (13.12.2016, Gaziantep)

¹⁰⁵² A humanitarian worker, Interview with the Author (No13), (20.12.2016, Gaziantep))

¹⁰⁵³ European Commission, ‘Fact Sheet: Questions and Answers: Support for refugees in Turkey through the Emergency Social Safety Net (ESSN)’ http://europa.eu/rapid/press-release_MEMO-16-2989_en.htm accessed (27.02.2017)

¹⁰⁵⁴ *ibid*

¹⁰⁵⁵ UNWFP, ‘Emergency Safety Net Dashboard’ (07.02.2017) <http://reliefweb.int/sites/reliefweb.int/files/resources/wfp290345.pdf> accessed (27.02.2017)

project, there will be no need for other kinds of support and there will be no need for NGOs. We will overcome the refugees' vulnerability and dependency.'¹⁰⁵⁶

The launch of the ESSN programme transformed humanitarian aid policies in Turkey, with a new focus on cash-based assistance through a centralised national system. As the largest programme, it had a crucial effect on the humanitarian sector. Many organisations had closed their cash-transfer or material assistance projects, either because of donor preference (to allocate funds to the ESSN programme instead) or out of the organisations' presumption that there would be no need for other aid after the establishment of the ESSN programme. A humanitarian worker explained that his organisation could not continue to distribute financial aid to Syrian refugees, because the main funding body of their projects (ECHO) decided to transfer the funds to the ESSN programme. He revealed the reasons behind the ECHO's preference for funding the ESSN:

First, the Turkish government insists that it has to be done in this way; second, the current humanitarian refugee response system basically does not work. The experience of ECHO in Jordan and Lebanon, where each UN agency and NGO designed separate cash or voucher programmes according to different sectors or needs, was an inefficient mess.¹⁰⁵⁷

Centralised cash-based assistance has its advantages for refugees, in comparison to other forms of material aid, and it is widely supported in the resilience-based development framework. It provides a relative freedom for refugees to allocate their money according to their needs. In other words, while material aid can only be used to meet needs such as food, hygiene kits, white appliances etc., cash-based aid can be used to cover other forms of need, such as rent, bills, or education costs. A widowed Syrian woman pointed out that 'the cash-based aid is beneficial for all Syrians. It is like a salary; you can pay your rent and bills'. Furthermore, since it is centrally organised, refugees do not have to navigate the humanitarian system to figure out who provides what. As one interviewee made clear, 'it is organised and it is good.'

¹⁰⁵⁶ Immigration and Refugee Services Manager, the Turkish Red Crescent, Interview with the Author (No16), (26.12.2016, Ankara)

¹⁰⁵⁷ A humanitarian worker, Interview with the author (No10), (19.12.2016, Skype)

However, the cash-based assistance programmes cannot meet the demands of more than 3.5 million Syrians. As an anonymous WFP worker explained, ‘for the ESSN, we focus specifically on demographic criteria, so we look at dependency ratios. Single-headed households, and households with more than four dependents, and families with disabled individuals with more than 40 per cent disability are prioritised’. As such, the ESSN criteria create an ‘ideal’ refugee identity—one which can be considered as sufficiently vulnerable to obtain financial aid. The homogenisation of refugee identity creates frustration among Syrians. The case of a 45-year-old single woman, who came to Turkey with her two disabled siblings and elderly mother in 2013, is illustrative. Her application for the ESSN programme has been rejected several times, since they do not have enough family members to be eligible. She angrily asked: ‘They keep telling me that we don’t have enough family members; what should I do, should I go to streets and find more siblings?!’

When it comes to material and financial support, most Syrian refugees resent the humanitarian sector. Interviewees highlight their disappointment with the ‘injustices’ and ‘inequality’ in the distribution of aid. A married man in his 30s, who came to Turkey to be able to treat his sick son, reports that he became highly indebted to cover the expenses of his sons’ medical treatment. He was frustrated with the humanitarian sector because he was not supported by any of the organisations, while other Syrians in better condition were receiving aid:

They do not know how to help in the first place. They give material help to families who are not in need. We are in need. Even though my children would die because of hunger, they won’t help us... If they want to evaluate the situation of people in the right way, they should visit their houses and see their situation, to decide whether they deserve help or not.¹⁰⁵⁸

Although he is working (irregularly) whenever possible, he states that his earnings are not enough to satisfy the needs of his family. His anger is mainly channelled towards humanitarian organisations:

I was going to do something because these NGOs do not do anything and they don’t understand. I was going to take my children and burn them in

¹⁰⁵⁸ Interview with the Author (No18), (07.07.2017, Gaziantep)

front of those NGOs. I was going to burn them so that NGOs might understand. I have a debt of 8000TL to see my son get better. I borrowed money from relatives. If I don't have relatives here, I wouldn't even be able to do that.¹⁰⁵⁹

Another refugee, who lives in the abandoned industrial complex where 170 Syrian families are living in poor conditions, simply stated that, 'in respect to the NGOs, I will tell you one thing: God curse them all. I have contact numbers of 30 NGOs; nobody is helping, all ignored us'.¹⁰⁶⁰

The frustration against the humanitarian organisations signals that refugees perceive humanitarian actors as responsible for the support of refugees. This perceived responsibility stems from the NGOs' role as intermediary between the refugees and donors. During an interview with three Syrian women, who are living with their families in Gaziantep, all agreed that NGOs are corrupt, because 'they are taking more than they are giving'.¹⁰⁶¹ Another interviewee argues that he regrets having asked several times for help from humanitarian actors, having received no help. He thinks that 'NGOs are getting paid for each one of us, as we are their beneficiaries. But they don't come and help us once or twice'.¹⁰⁶² Likewise, a young woman who previously worked for the NGOs in Turkey argued:

For obtaining this Kizilay card, there are all these different kind of criteria. And I am sure there is enough funding for every single Syrian person to get 100 TL every month. I am very positive of that, because of the last agreement of three billion that was sent to help Syrian people. So I just think that they are finding ways to keep Syrian people busy, knocking at the door of every single organisation. It is very humiliating.¹⁰⁶³

Refugees perceive themselves as legitimate subjects in terms of obtaining satisfactory support from the humanitarian sector, in the absence of meaningful alternatives to sustain their lives. Unemployment or poverty can be regarded as general challenges for both Turkish citizens and Syrians. However, Syrians also

¹⁰⁵⁹ Interview with the Author (No18), (07.07.2017, Gaziantep)

¹⁰⁶⁰ Interview with the Author (No10), (05.07.2017, Gaziantep)

¹⁰⁶¹ Interview with the Author (No1,2,3), (04.07.2017, Gaziantep)

¹⁰⁶² Interview with the Author (No16), (07.07.2017, Gaziantep)

¹⁰⁶³ Interview with the Author (No28), (11.07.2017, Gaziantep)

have to overcome the destruction of war, the exploitation they face in Turkey, and the absence of social network there. Many Syrians compare their conditions in Turkey with the relatively lower-class Turkish citizens, and legitimise why they are in need of further support from authorities. A woman who runs a hairdressing business, in a neighbourhood where lower-class Turkish citizens and Syrians live side by side, argued:

Turkish people, at least they have their homes here, nobody tries to get rid of them. Turkey is their homeland; they have their relatives, friends here who would support them when they have problems. Okay, Turkish people also try to compete in the job market and earn their living, but Syrians, they are exploited, can't defend their rights here. We have to say 'yes' to everything that our bosses demand of us here.¹⁰⁶⁴

During the war, many Syrian families lost family members who were the main income providers. For instance, an older woman who lost her husband and two sons in the war, and who migrated to Turkey with her three remaining children, explains that nobody is working in the family, since two of her children are disabled and her daughter has to stay at home to take care of her siblings. In the absence of a social network in Turkey to support them, they became dependent on the humanitarian aid to sustain their lives:

There are caravans or tents here where charity organisations distribute hot food for Syrians every day. We receive food from there. For rent, my daughter makes sandals at home. Sometimes charities also distribute some food items like oil, sugar, and pasta. We also got registered for bread. We receive three or four loaves of bread every day.¹⁰⁶⁵

The temporary protection regime in Turkey does not provide any official social or financial support for Syrians, except for access to the Social Assistance and Solidarity Foundation, which provides benefits to anyone living on Turkish territory without the requirement of having a particular legal status. However, the already limited funds of the Foundation fall short of being able to fully meet the

¹⁰⁶⁴ Interview with the Author (No22), (10.07.2017, Gaziantep)

¹⁰⁶⁵ Interview with the Author (No6), (04.07.2017, Gaziantep)

demands of Turkish and Syrian people in need. Syrian refugees approach NGOs, IOs, and charities to meet their material and financial needs. A young woman who came to Turkey in 2015 argued that Syrians make every effort to rebuild their lives: ‘It is the same for men and women. They both try to provide for families. Women work as well. Or they beg for food for their families from restaurants, they go to organisations to ask for help’.¹⁰⁶⁶

In contrast, the humanitarian system characterises refugees as vulnerable and passive subjects—such homogenisation of refugee identity leads to humiliation among refugees. At the time of my observations at their office, a local NGO was distributing fridges and pyjamas that donors had provided. Each refugee coming into the office was asked whether they have a fridge at their home, or whether they would like to take a pack of pyjamas. As an observer present there, it was disturbing to see that the consultation with the refugees regarding their particular requests was always followed by the same question: ‘Would you like to have a pack of pyjamas?’ Many refugees I interviewed also admitted that the offer of pyjamas was disappointing. A Syrian man in his 40s, who came to the NGO to ask for help in finding a job, reflected this frustration:

There is no good help or real help for Syrian people in this NGO. For instance you register with an organisation and after one year they knock on your door and give you one bag of presents. So this is not real help, when you wait one year and you get this thing [he shows me the pyjamas he got from the NGO]. But we still register with the NGOs, because we thought—we are living here and not going anywhere, so if anything about our conditions changes we would be updated.¹⁰⁶⁷

A 47-year-old man from Aleppo explained why he refrains from asking for support from the humanitarian organisations:

I don’t want to go. For example, if an organisation declares that they are distributing something or providing help, all Syrians would go there. They

¹⁰⁶⁶ Interview with the Author (No21), (10.07.2017, Gaziantep)

¹⁰⁶⁷ Interview with the Author (No14), (06.07.2017, Gaziantep)

should not do that. Then, our Syrian people are portrayed as people who like benefits; they are seen as opportunists.¹⁰⁶⁸

Another refugee stated that he feels offended whenever he visits an organisation: ‘the other day, an organisation with which I registered called me, and asked me to visit their office. When I went there, they offered me a pack of detergent. Brother, I am telling you, I have detergent in my home!’¹⁰⁶⁹

Despite the inherent structural shortcomings of the humanitarian sector in providing long-term stability to Syrian refugees in Turkey, humanitarian actors play an important role in facilitating Syrians access to information, rights and services provided under temporary protection status. They facilitate Syrian refugees’ access to public services through providing translating services and legal assistance for refugees. During my observations, several Syrians came to the NGO office in order to get information on the registration process for TPID cards or the ESNN cards; some asked for help in finding employment, support for registration to universities; or information on access to health. In every consultation, the NGO worker gave information and support on the particular issues that refugees raised. He was also proactive in providing information about Syrian rights in Turkey, which was quite beneficial, since many refugees admitted that they did not know their rights or how to handle their situation before coming into the office. Some issues were beyond the capacity of the NGO, such as registration for TPIDs, the ESSN cards or resettlement in third countries. Nevertheless, refugees were referred to relevant authorities or institutions that could help.

Furthermore, the humanitarian sector provides an opportunity for Syrians to access legal employment, especially in the South-east region. It is estimated that more than 80 international NGOs work closely with non-camp Syrian refugees in border regions. There are also hundreds of Turkish and Syrian NGOs either operating in Turkey or extending their operations across the border into Syria. Those NGOs are under the strict control of state authorities, and frequently audited by officials. They

¹⁰⁶⁸ Interview with the Author (No26), (11.07.2017, Gaziantep)

¹⁰⁶⁹ Interview with the Author (No13), (06.07.2017, Gaziantep)

can only hire Syrians with work permits; the country director of a Syrian NGO explained:

For Syrians who are working with the humanitarian NGOs it is better, because these NGOs provide them work permits, help them in obtaining legal documents. But for Syrians who are working in other sectors [without work permits], the conditions are quite problematic: they work more than 10 hours per day with less than the minimum wage—even children who are under 18 are working in such conditions. [So], Syrians who are working in other sectors [without work permits] have real problems in Turkey.¹⁰⁷⁰

The empirical findings suggest that the humanitarian sector plays an important role in information dissemination and advocacy, including, as a growing sector, providing an employment opportunity for a limited number of Syrians. However, in the complex relationship between donors, various humanitarian organisations, and state policies of temporary protection, short-term projects, especially on material and financial assistance, dominate the main bulk of humanitarian interventions in Turkey.

The adoption of the resilience-based development approach at the international level is not likely to transform the system of distributing of humanitarian aid and assistance. As discussed in Chapter 3, the Turkish government's formulation of temporality of Syrians' stay is not necessarily or solely related to the 'underdevelopment' of state institutions or national capacities. Yet, the temporary protection regime of Syrians has placed impediments in formulating long-term projects for the humanitarian sector. Moreover, the sector (particularly the international actors) inherently works in a temporary mode in host countries. While main donors transfer funding for humanitarian interventions with an aim of keeping Syrian refugees in regional countries, the material and financial aid may sustain basic needs and survival of refugees. Yet, importantly, this not only creates dependency and resentment among Syrian refugees, but also reinforces the containment of Syrian refugees in Turkey. The resilience of the host country becomes necessary to sustain the temporary protection regime while the resilience

¹⁰⁷⁰Country Director of a Syrian NGO, Interview with the Author (No15), (21.12.2016, Gaziantep)

of refugees translates into being able to survive the never-ending temporary wait for return.

5.6 Conclusion

Following the earlier discussions of the state and refugee perspectives in previous chapters, this chapter has two broad aims in unraveling the role and perspectives of humanitarian actors: (i) a discussion of global developments triggered by the Syrian displacement to transform the humanitarian involvement in addressing large-scale refugee movements; (ii) to question the role of the humanitarian sector in shaping the practice of the temporary protection of Syrians in the city of Gaziantep.

The Syrian displacement triggered two parallel developments in the international refugee regime—namely, the transformation of humanitarian involvement to include a resilience-based development approach, and the reconsideration of refugee response during large-scale displacements, by the adoption of the New York Declaration and Global Compact on Refugees. In questioning the significance of global developments, we need to analyse them within the broader context of the conditions of refugees in contemporary international politics.

International calls for a resilience-based development approach, the strengthening of national capacities in refugee-hosting states, and increasing funding for refugee-hosting states do not provide a panacea for the prevalence of protracted refugee situations in the South. On the contrary, these measures potentially reinforce prolonged uncertainty and temporality. As reflected in the case of the Syrian displacement, host countries apply temporary protection in different forms—neither strengthening national capacities nor additional funding would bring an end to the structural uncertainties and insecurities refugees face in their protracted exile. The complex issue of structural inadequacies in refugee-hosting states is unlikely to be solved by merely providing more financial aid. Even if there were more satisfactory reception capacities in host states, it is not clear whether strong host-country leadership would provide meaningful long-term solutions. The discourse on resilience implies that both host countries in the South, and refugees themselves must *be* resilient—placing responsibility not only on governments, but also to an extent, upon refugees.

The practice of humanitarian interventions in the Turkish humanitarian arena in general, and in the city of Gaziantep in particular, is pertinent. The role of the humanitarian sector in supporting refugees with regard to access to information, access to services, advocacy, training, or income-generating jobs is valuable, in a system which governs refugees through complexity. Yet, overwhelmingly, the international humanitarian sector's inherently temporary mode of working couples with the temporary protection regime in Turkey—and leads to the management of the refugee response through material aid. The prevailing role of the ESSN system in humanitarian interventions, and Syrian refugees' discontent both reveal how the politics of aid fail to address refugees' predicaments under temporary protection. It is only because of the restrictions of the temporary protection status on socio-economic rights that Syrian refugees consider themselves to be legitimate subjects of support. In their struggles for rebuilding their lives in exile, Syrian refugees challenge their label as aid-dependent—or beggars.

CONCLUSION

Certain spatial aspects of forced migration are obvious, as refugees and IDPs are defined by their movement from one place to another. Such a movement is a challenge to the current international system, in which one acquires a right to place through attachment to territorially defined nation-states. The traditional model of durable solutions to the refugee ‘problem’ relies on permanent replacement of refugees into the territorially-bounded state system, through repatriation, resettlement or local integration. Importantly, though, the spatial aspect of displacement is closely linked its temporal dimensions. When we look at the current state of affairs in international refugee protection, a crucial aspect of the refugee condition is apparent: the majority of the world’s refugees is experiencing never-ending temporariness in their places of exile—which is the broader concern of this research.

This thesis explores the practice of prolonged temporary protection of Syrians in Turkey since 2011, and engages with the following research questions:

- What is the significance of the category of beneficiary of temporary protection in the international refugee regime?
- How is this category conceived, interpreted, and shaped in Turkey by different actors (state, humanitarian organisations, and Syrian refugees)?
- What are the consequences of temporary protection for the lives of refugees and refugee protection?

In this thesis, we have seen that temporary protection is a complex category shaped by the intersection of its (re)construction in international, national, and local contexts by various actors (states, refugees, and humanitarian actors). The notions of legality, uncertainty, and homemaking practices are crucial to unpacking the dynamics of temporary protection, through empirically-grounded research conducted in the border city of Gaziantep. In this conclusion, we will discuss: (i) rethinking the temporary protection regime by bringing together different levels of analysis and roles of different actors (state, refugees, humanitarian organisations) and research findings; (ii) the contributions and wider applicability of the research; and (iii) suggestions for further research.

This thesis has explored the category of temporary protection with regard to both its conceptualisation in the international refugee regime, and its latest and most comprehensive application in Turkey for Syrian refugees since 2011. We have shown that, at international and national levels, the temporary protection category acquired a significance for states as a refugee management tool, by governing large-scale refugee movements through uncertainty. In other words, uncertainty has been identified as a key notion to understand: (i) the conceptualisation of temporary protection in the international refugee regime, (ii) its (re)construction in the Turkish context, and (iii) Syrian refugees' lived experiences of temporary protection.

In understanding uncertainty in its temporal and spatial senses, Horst and Grabska's analysis of 'protracted uncertainty' in the context of conflict-induced displacement has constituted the conceptual framework of the thesis.¹⁰⁷¹ As such, uncertainty has been, on the one hand, associated with the conditions of forced displacement stemming from refugees' imperfect knowledge during the situations of conflict about their conditions, about possible destinations, and extreme unpredictability about the future.¹⁰⁷² Importantly, though, 'protracted uncertainty' during temporary protection has been related to state actions which maintain and heighten uncertainty as a refugee management strategy.¹⁰⁷³ In this regard, in this thesis—and as Horst and Grabska argue—we have understood protracted uncertainty as a 'deliberate governance strategy that aims to discourage mobility and/or settlement in places of exile'.¹⁰⁷⁴

In analysing how temporary protection creates and maintains uncertainty as a refugee management strategy, temporary protection's intrinsic relationship with the failure of the international refugee regime and its traditional durable solutions framework is found to be crucial. In this sense, the development of temporary protection at the international level can be directly linked to the failure of the international refugee regime in providing protection to refugees during large-scale displacements. This failure has been framed as 'gaps in international protection' in the soft-law instruments and policy documents on temporary protection,

¹⁰⁷¹ Horst & Grabska (n 73)

¹⁰⁷² *ibid* 4-5

¹⁰⁷³ *ibid* 1, 10

¹⁰⁷⁴ *ibid* 1, 6

particularly in the UNHCR ExCom Conclusions, Notes and Guidelines.¹⁰⁷⁵ Temporary protection, then, has been formulated to address these ‘gaps’ by securing admission and protection against *refoulement* for a broader range of beneficiaries, including Convention refugees and non-Convention refugees, both in states party to the Refugee Convention/Protocol and in non-signatory states.¹⁰⁷⁶

Crucially, the temporary protection status has been constructed upon tempo-spatial uncertainty. It is conditioned upon the realisation of a durable solution elsewhere other than the place of exile—through either repatriation or resettlement after an indefinite period of time. The temporal and spatial uncertainties of temporary protection have important implications. First, they legitimise the ‘minimalist interpretation of refugee protection’¹⁰⁷⁷—that is, admission into state territories, protection against *refoulement*, and the basic survival of temporary protection beneficiaries, since their stay in host countries has been considered a liminal situation awaiting relocation elsewhere. As such, the duration of temporary protection, state responsibilities, beneficiaries’ rights, freedoms, and their access to more secure or permanent legal status in host countries has not been clarified in the various soft-law instruments.

Second, despite the discourse on temporary protection as an ‘emergency’ protection, implying its short duration, the pervasiveness of protracted displacements indicate that ‘temporality’ turns into permanence of temporality for the majority of refugees. In this case, uncertainties of temporary protection and a minimalist interpretation of protection both function as refugee-management tools, in deterring refugees from rebuilding their lives in the places of refuge. The continuous (re)construction of temporary protection in Turkey for Syrian refugees since 2011 clearly presents a case in which to unpack the dynamics of indefinite temporality and uncertainty.

Turkey constructed its initial *de facto* temporary protection regime for Syrian refugees in 2011, amidst the uncertainties of the Syrian conflict and displacement. The historical analysis of Turkish responses to displacements has shown that the

¹⁰⁷⁵ See Chapter 1

¹⁰⁷⁶ See Chapter 1

¹⁰⁷⁷ Hyndman and Giles (n 9) 3

categorisation of refugees and their treatment have been determined by their ethno-religious identities, and pre-determined durable solutions in line with Turkish domestic and foreign policy concerns.¹⁰⁷⁸ In line with the broader foreign policy interests of the Turkish government, which had supported the Syrian opposition against the Assad regime, Syrian refugees have been identified as legitimate subjects of protection (representing the Assad regime's illegitimacy) until their eventual return to Syria, following the expected downfall of that regime.¹⁰⁷⁹

As a short-term emergency response awaiting repatriation of Syrian refugees, *de facto* temporary protection did not have any legal basis in Turkey, until the entry into force of the LFIP and the adoption of the TPR in 2014. Rather, depending on the discourse of Turkish 'hospitality', humanitarian assistance was delivered to Syrian 'guests' in newly established refugee camps. This thesis has shown that acute uncertainties of the initial *de facto* temporary protection regime transformed into structural uncertainties in the management of the Syrian refugee movement, as Syrian displacement became increasingly protracted.

The prolonged displacement of Syrians has been governed since 2014 by a *de jure* temporary protection regime, mainly in urban centres. This thesis has shown that the law on temporary protection (LFIP and TPR) has played a key role in creating and maintaining structural uncertainties for Syrian beneficiaries of *de jure* temporary protection. The analysis of the government's discourse, the examination of legal arrangements, and the empirical findings on the lived experiences of Syrian refugees have revealed that the structural uncertainties of *de jure* temporary protection have been related to the Syrians' insecure legal status, their imperfect knowledge about the temporary protection status and its content, and the unpredictability of the future during the never-ending temporality of their stay in Turkey.

First, the TPR has provided a right to temporary stay for Syrians, but the legality of temporary protection status has been loosely defined. The LFIP clearly differentiated international protection statuses (refugee status, conditional refugee status and subsidiary protection status) and temporary protection status—the

¹⁰⁷⁸ See Chapter 2

¹⁰⁷⁹ See Chapter 3

latter's governance was left to the discretionary executive powers of the Council of Ministers.¹⁰⁸⁰ The TPR stated that temporary protection status does not provide legal residence permits for Syrians,¹⁰⁸¹ and access to international protection status has been suspended as long as temporary protection continues.¹⁰⁸² Neither the duration of temporary protection nor the conditions of its termination by the Council of Ministers have been clarified. The consequences of the termination of temporary protection has been left to the decision of the Council of Ministers (whose options are defined as repatriation of all Syrians, individuals' access to RSD for international protection, and permission to remain in Turkey).¹⁰⁸³

One of the empirical findings in this thesis reveals that the construction of the Syrians' legality in Turkey, within the grey zone between legality and illegality, has a crucial governing impact in identifying Syrians as insecure legal subjects in Turkey. Acquiring temporary protection status does not lead to feelings of security for Syrians, either in their present lives or for their future. In the context of the constant threat of the termination of temporary protection, and the absence of access to other forms of legal statuses, many Syrian refugees do not regard themselves as rightful legal subjects—but as easily punishable, deportable, silenced, and disempowered individuals. Such insecurities result in their disengagement from public life, and their 'invisibility' in Turkey.¹⁰⁸⁴

Secondly, it has revealed that the insecurities of legal status couples with the *ad hoc* and complicated administration of temporary protection, together maintaining uncertainty in Syrian lives. As an emergency response, temporary protection status does not clarify the rights, freedoms and responsibilities of its beneficiaries. Access to vital services such as health, education, employment, or social benefits have not been determined by the law; rather, relevant Ministries have been tasked to regulate such matters through circulars.¹⁰⁸⁵ The empirical findings demonstrate that Syrians

¹⁰⁸⁰ LFIP Article 91

¹⁰⁸¹ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 25

¹⁰⁸² Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153, Article 16

¹⁰⁸³ *ibid* Article 11 (2)

¹⁰⁸⁴ See Chapter 4

¹⁰⁸⁵ Republic of Turkey, Temporary Protection Regulation No2014/6883 (22.10.2014), the Official Gazzete No29153 Article 26

face hardships in accessing viable information about the implications of temporary protection status, hence, navigating the complex bureaucratic system becomes troublesome. As a result of imperfect knowledge and ever-changing circulars, Syrian refugees' feel that their conditions are extremely unstable and uncertain.¹⁰⁸⁶

Thirdly, this thesis has supported the well-established argument in the literature that restrictions on access to legal employment, housing, citizenship rights and property rights are part of state strategies to encourage refugees' desire to return.¹⁰⁸⁷ However, it has also underscored a broader governing impact of such restrictions during temporary protection. Since Syrians do not have legal access to viable income sources and housing, they easily slip into 'illegality'. They have to work 'illegally', live in 'illegal' homes, set up 'illegal' businesses, beg on the streets 'illegally', attempt to move to other countries 'illegally', or undertake various other 'illegal' strategies to sustain their lives.¹⁰⁸⁸ In Chapters 3 and 4, we saw that the transformation of camps into sites of imprisonment and punishment, and the use of forced 'voluntary repatriation' of 'illegal' Syrians reflect the complex relationship between restrictions on socio-economic rights and the insecurities of legality. Hence, not only socio-economic precarity but also the insecurities of pursuing an 'illegal' life heighten feelings of uncertainty for Syrians, as easily punishable subjects.

Fourthly, the tempo-spatial uncertainty of the prolonged or never-ending temporality of Syrian life in Turkey has been perpetuated by the failure of the durable solutions framework. The Turkish authorities' constant discourse around the temporality of Syrian 'guests', and the government's foreign policy considerations (the establishment of so-called 'safe havens' inside Syria, where Syrian 'guests' would be returned) both continue to construct return as the only solution for Syrian displacement.¹⁰⁸⁹ In the construction of temporary protection upon an indefinite temporality awaiting return, the long-term uncertainties of the future blend into the structural uncertainties of everyday lives.

¹⁰⁸⁶ See Chapter 4

¹⁰⁸⁷ See Chapter 1

¹⁰⁸⁸ See Chapter 4

¹⁰⁸⁹ See Chapter 3

This thesis has shown that while the structural uncertainties and insecurities of temporary protection status restrict the Syrians' ability to rebuild their lives in exile, the fluidity of temporary protection has led to selective and discriminatory inclusion of 'desirable' refugees. In this regard, the *de facto* integration of refugees is partly regarded as an inevitable consequence of the prolonged stay of Syrian refugees, and is reflective of their agency in rebuilding their lives in Turkey. However, I argue that *de facto* integration should also be understood as a selective and discriminatory governing process. As shown in preceding chapters, the 'desirable' qualifications of refugees (such as being a university graduate, or having qualifications in premium professions), their ethno-religious identities, and their socio-economic status have determined their selective inclusion, through exceptional citizenship, integration into the legal employment market, easy access to public services, housing, and property rights.

We have seen that the hallmark of temporary protection that appeals to state interests in various regions (Southeast Asia, Europe, and Middle East) is its inherent ambiguity—functioning as a refugee-management and governance strategy. Hence, the failure of defining the meaning, content, and scope of temporary protection in various soft-law instruments should not be understood to be a coincidence. In this sense, the non-activation of the EU Council Directive on Temporary Protection—which is the only successful attempt so far to formalise temporary protection at a regional level—supports the argument that temporary protection loses its allure for states when it is standardised. Furthermore, the references in UNGA's New York Declaration (2016) and the GCR (2018) to 'local solutions' has been interpreted in Chapter 5 as a reflection of the appeal of governing refugees through uncertainties at the international level.

In this thesis, I have also argued that the discourse on the effectiveness of temporary protection (or its potential as a viable solution to the refugee 'problem' awaiting standardisation) among policy and academic circles¹⁰⁹⁰ has important implications in shaping the geopolitics of refugee protection in the contemporary era. The concerns raised in the literature about temporary protection—in particular

¹⁰⁹⁰ See Chapter 1

Hathaway and Neve's theoretical model¹⁰⁹¹—with regard to its potential role in legitimising the containment and commodification of refugees¹⁰⁹² were discussed in Chapter 1, and we saw that such concerns are justified in the context of the temporary protection of Syrians in Turkey.

Temporary protection has been constructed upon the eventual return of refugees, within the broader context of the transformation of preferred durable solutions in international refugee regime since the late 1980s/early 1990s.¹⁰⁹³ The presumed function of temporary protection in facilitating the eventual return of refugees legitimises refugee containment within the region of origin, and reinforces their immobility. Considering that the overwhelming majority of refugees are already living in the host countries of the Global South, the close links between temporality, containment, and return justify the Global North's restrictive admission policies in preventing the arrival of refugees at their borders. Equally important, in such a formulation, resettlement becomes 'unnecessary' while the international responsibility-sharing takes the form of the Global North's financial assistance for the host countries of the Global South as an incentive to keep refugees within their borders.

The implications of the containment and commodification of Syrian refugees in Turkey have been examined in Chapter 5, which scrutinises the role of humanitarian actors, through the case study of the EU-funded ESSN programme of cash-based assistance. The increasing EU funding for Syrian refugee humanitarian assistance followed the rising numbers of refugees embarking on an onward migration from Turkey to Europe, by irregularly crossing the Aegean and Mediterranean Seas. The increasing financial assistance to Turkey's temporary protection regime reflected the European states' interests in investing in the Turkish temporary protection regime, in order to prevent Syrian refugees' from reaching European borders. The analysis of the ESSN programme has revealed that, in the context of the restrictions and insecurities of temporary protection, the cash-based assistance not only maintained but heightened the condition of uncertainty for Syrian refugees. It reinforced the identification of Syrians as dependent and disempowered subjects,

¹⁰⁹¹ Hathaway & Neve (n 56) 115

¹⁰⁹² Anker, Fitzpatrick Shacknove, n (286); Chimni (n 180); Noll, (n 286)

¹⁰⁹³ See Chapter 1

and created new forms of insecurities/uncertainties with regard to access to financial assistance. Importantly, the ESSN system has justified the restrictions on socio-economic rights and freedoms of Syrian refugees, who are already supported by cash-based assistance for survival.

Chapter 5 also explored the introduction of the resilience-based development approach in the international humanitarian system in responding to Syrian displacements, and how it has been adjusted to a temporary protection framework. There, we concluded that the convergence of the discourse on resilience and indefinite temporality has led to *an upgraded form of temporary protection*. In this upgraded form, the resilience of host communities and host state institutions served to sustain temporary protection in Turkey in harbouring refugees within its borders—while the encouragement of resilience of the refugees was aimed at ensuring their survival in the host country, until their return.

However, this is not to say that humanitarian actors are the main apparatus in the perpetuation of indefinite temporality, or the containment and commodification of refugees. One important empirical finding of this research is humanitarian organisations' positive role in supporting Syrian refugees in their struggles in navigating the complex bureaucratic system. NGOs in Gaziantep not only disseminate information for Syrian refugees, which is vital to enable their access to public services, but also challenge reluctant local authorities to implement government circulars (such as the registration of Syrian children in public schools, or the provision of a free health service in public hospitals). On another positive note, the presence of the humanitarian sector in the country has provided reliable employment opportunities for Syrian refugees who work in that sector.¹⁰⁹⁴ Nevertheless, within the context of the complex relationship in the humanitarian arena, short-term humanitarian or financial aid (such as the ESSN programme) provided by big international organisations and NGOs dominate the humanitarian interventions in the country—serving state interests.

Through different levels of analysis of the (re)construction of temporary protection, in this thesis I have argued that temporary protection functions as a refugee-

¹⁰⁹⁴ See Chapter 5

management tool, rather than a viable protection framework in which refugees can find security and safety. Therefore, we need to step away from the search for a top-down formulation of the doctrine of temporary protection. The analysis of international law and policy and Turkish national law in this thesis reveal that the law on temporary protection falls short of apprehending and addressing both the protection needs and the refugees' aspirations. In re-envisioning the role of law in providing alternative and viable pathways, we first need to construct a bottom-up knowledge of refugees' aspirations, by adopting 'people-centred perspectives'¹⁰⁹⁵, regarding refugees as social actors, investing in their own solutions and strategies.¹⁰⁹⁶ The bottom-up approach to knowledge-construction on refugee protection in this thesis has revealed how Syrian refugees invest in their own strategies and solutions under temporary protection. It has contributed to the literature by: (i) reconsidering home and homemaking as an analytical framework for understanding refugee agency in temporary protection; and (ii) challenging/reconsidering accepted discourses on displacement/temporary protection.

Through the empirical study conducted in the city of Gaziantep, this thesis has explored the rarely-asked question of what refugees expect from protection. The findings of the research have demonstrated that there is a strong tension between the state policy of temporary protection, and Syrian refugees' expectations and strategies in remaking their lives in exile. Chapter 4 revealed that the minimalist interpretation of protection under temporary protection status (admission/*non-refoulement*/meeting basic needs) has met particular Syrian demands of physical safety only at the very early stages of their displacement—in the context of extreme precarities of conflict and migration journeys. However, Syrian refugees' struggles and strategies have focused on homemaking during their temporary protection in Turkey—in line with their expectations framed as 'having a home', 'having stability', and 'living normal/decent lives'. This is a dimension that is rarely taken into account in the formulation of state policy on temporary protection.

¹⁰⁹⁵ G Doná, 'Making Homes in Limbo: Embodied Virtual "Homes" in Prolonged Conditions of Displacement (2015) 31 (1) Refuge 67, 69

¹⁰⁹⁶ Long (n 59) 3

In understanding and unpacking the tension between temporary protection and Syrian refugees' homemaking desires/practices, Brun and Fábos' conceptualisation of 'constellations of home' (*home/Home/HOME*) provided a crucial lens through which we can analyse homemaking as a multi-scalar and dynamic process. Their triadic framework distinguishes several meanings of home for displaced people: *HOME* refers to the institutionalised notion of home, as defined in the contemporary nation-state system. As it is constituted in the historical and political contexts, *Home* represents the idealised home for refugees, constructed/imagined not only through references/longing for past homes from which they were removed, but also through their dreams for future homes. Finally, *home* is used for everyday practices and material aspects of homes that refugees inhabit in their place of exile.¹⁰⁹⁷ This thesis adopted and contributed to the conceptual and empirical analysis of *home-Home-HOME*, in the context of Syrian refugees' homemaking.

The traditional durable solutions framework is based on the understanding of a territorial solution that refugees would find their homes (*HOMES*) by their reattachment to the contemporary state system through integration, resettlement or repatriation. As discussed above, in the case of temporary protection, repatriation has been perceived as the permanent solution for refugees to reach their homes (*HOMES*). In other words, temporal and spatial uncertainties of temporary protection are inherently related to the top-down formulation that Syrians would only be able to establish their homes in their homelands.

In this thesis, due to its empirical limitations, we could not discuss whether Syrian returnees feel at home, or feel that they have reached a permanent solution for their displacement when they are repatriated to Syria. However, empirical evidence was provided for Syrian refugees' changing expectations of 'having a home' in exile, after the realisation (upon visiting Syria or following the situation inside Syria through various channels) that return would not necessarily mean returning back to homes that they had left, due to the changing political, economic, social conditions inside Syria throughout the conflict.

¹⁰⁹⁷ Brun & Fábos (n 78) 12-13

The restricted understanding of home-as-homelands in the context of the durable solution of repatriation means Syrian refugees can have a shelter in Turkey—but not a home. The discourse on Turkish ‘hospitality’ towards Syrian ‘guests’ reflects that Syrian refugees are expected to take shelter in Turkey through humanitarian assistance, but are also expected to rebuild their homes in Syria, at some later point in the indefinite future. Hence, the insecurities of legal status, the limitations on socio-economic rights, and tempo-spatial uncertainties all aim to deter Syrian refugees’ homemaking in Turkey. Nevertheless, in this thesis we have seen that Syrians’ homemaking practices in exile have continued in various ways.

Syrian refugees resist the notion of being sheltered, throughout their struggles of transforming shelters into homes (*homes*). Part of this resistance is related to the Syrian refugees’ refusal to be sheltered as ‘guests’ by their relatives, friends or social networks in the city of Gaziantep, or being taken care of with regard to their basic needs in refugee camps. Rather, many Syrians strategised in creating their homes (*homes*) in urban centres through their everyday practices. However, for many, these homes (*homes*) did not represent the idealised homes (*Homes*) for which they long. Chapter 4 provided empirical evidence on the Syrian refugees’ discontent about their current living conditions, compared to their past lives before displacement. In this sense, not only the insufficient material conditions of their homes in Turkey, but also their feelings of instability, unsafety and loss of normalcy and belonging has been associated with their expectations of protection— that is ‘having a home’ (*Home*).

The case study of more than one hundred Syrian families living ‘illegally’ in an abandoned industrial complex contributed to the analysis of the complex relationship between shelter-home-idealised home (*Home*) in which normal lives can be lived. Resisting the option of being sheltered in camps, those Syrian families have remade their homes in Turkey by producing a dwelling where they can struggle to take control of their lives, investing in their living spaces, and establishing a social network with other families on which they can rely. However, we saw that in the absence of alternate legal pathways, together with the structural uncertainties of temporary protection status, their ‘illegal’ homemaking has put

them under precarious, unstable, insecure and uncertain conditions, in which their homes (*homes*) cannot be regarded as their ideal homes (*Homes*).

This thesis has argued that Syrian refugees' search for ideal homes (*Homes*), hence homemaking practices, challenges temporary protection's (and durable solutions') restrictive understanding of home (HOME) as homeland. Empirical findings in this thesis have provided that none of the territorial durable solutions (return, resettlement, permanent status in Turkey) can be regarded as an end in itself, or as a permanent solution for refugees. They are seen by Syrian refugees as tools that they can utilise to an extent, in their continuous homemaking and quest to re-establish normalcy and meaningful lives. We have revealed that the past, future and present intermingle in Syrian refugees' homemaking. In contrast to the rigid understanding of durable solutions, Syrian refugees continue to remake their homes in Turkey, evaluate alternate futures in Turkey or elsewhere, and plan their futures within the present.

This thesis has contributed to conceptualisation of refugees' homemaking practices in exile. In this regard it advanced our understanding of the concept of homemaking by introducing and interpreting refugees' strategies on education as a homemaking practice in exile. It has been argued that the preferences and strategies of Syrian refugees concerning education present an essential part of their agency in homemaking that spans time and space,¹⁰⁹⁸ by 'moving back and forth between the future and the present',¹⁰⁹⁹ and navigating the future through their investments in the present. Chapter 4 provided empirical findings on the following three elements of how education becomes part of various homemaking practices: (1) with regard to Syrian refugees' strategies of TEC education (both by Syrian teachers' participation in establishing TECs and by Syrian students' attendance) as a way of investing in their alternate futures in Syria through the present, (2) choosing not to engage with education in Turkey as a way of managing the allocation of restricted resources (financial resources, human effort and time) in rebuilding their lives in the present and/or imagining a future elsewhere simultaneously, and (3)

¹⁰⁹⁸ Brun & Fábos (n 35) 181

¹⁰⁹⁹ Turner (n 870) 174

incorporating themselves into the Turkish national education system as a way of homemaking in Turkey both in the present and the future.

In this discussion, I presented a comprehensive analysis of the category of temporary protection, by bringing together different levels of analysis (international, national, local) and considering roles of different actors (state, refugees, humanitarian organisations); hence contributed to an important gap in the literature. The findings of this research on the development of temporary protection at the international level, its re(construction) in Turkey by various actors, and refugee experiences, struggles, and agency allow for a deeper appraisal of tempo-spatial aspects of displacement, refugee protection, and solutions in the contemporary era.

Through the exploration of the development of the temporary protection category in the international refugee regime and its implementation in Turkey, in this thesis we can conclude that formulating a temporary protection doctrine—which would clarify its ambiguities—is not conceivable. Temporary protection has been shaped by its uncertainties, and in this way it appeals to states as a governing strategy awaiting durable solutions to be realised elsewhere. Yet, we have seen that the immobilised temporariness or containment of refugees within their regions, and the restricted international responsibility-sharing or humanitarian interventions in the form of financial assistance only perpetuate the indefinite temporary protection of refugees, and defer the admission that existing frameworks are failing. Hence, in this thesis I argue that the rigid understanding of the durable solutions framework is not working for host state interests; nor does it reflect the meanings that refugees ascribe to protection, home, stability or normalcy in the contemporary era.

Furthermore, by providing an analytical approach in unpacking the dynamics of the category of temporary protection, through Horst and Grabska's theorisation of uncertainty and Brun and Fábos' conceptualisation of homemaking, and advancing these in the analysis of the Turkish model of temporary protection; this thesis has made a conceptual, substantive and methodological contribution to the unpacking of the temporary protection category in practice. In addition, the application of the conceptual framework into the Turkish context has made contributions to the recently growing literature on refugee protection in Turkey. It not only contributes

by providing empirical evidence on the practice of temporary protection in Gaziantep, but also by providing and advancing a conceptual framework for the appraisal of the role of law, state policies and refugee agency.

In this thesis, I did not aim to prescribe policymaking solutions for the improvement of temporary protection regimes, nor undertake an attempt to formulate an ‘ideal’ refugee protection framework. However, the conceptual and empirical analysis has revealed the need for further attention to homemaking as an alternative pathway for rethinking refugee protection. Its potential to deconstruct the rigid binary between permanency (the territorial construction through return) and temporality (the place of exile) opens up new ways for us to think about ‘temporary homes’ which can provide safety, security, and stability for the displaced in exile. I conclude that it is only through a holistic understanding of the many dimensions of temporary protection—and its many impacts on the refugee—that a truly workable framework will emerge, that focuses on *protection* rather than *temporality*.

As such, this research highlights the necessity of further extensive empirical and bottom-up research in deconstructing permanency and temporality in refugee response. The analytical concept homemaking used in this research has potential to further our understanding of refugee protection, solutions to displacement, and refugee agency in exile. This research has advanced the conceptualisation of homemaking through the study of homemaking practices of Syrian refugees in Turkey. Yet, considering the potential hardships of adopting homemaking in different contexts—such as sedantary and non-sedantary communities; displaced people living in urban centres and camp-based settings; for western and non-western geographies—further research on homemaking practices of refugees in various tempo-spatial contexts is necessary to contribute to our understanding of homemaking for offering new criticisms and/or interpretations of it.

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APPENDICES

Appendix I: List of Interviews with Humanitarian Organisations

Interview No.	Job Title	Organisation	Date of Interview	Place of Interview
1	Resettlement Associate	UNHCR Ankara Office	10.12.2016	Ankara
2	Chair	Turkish NGO	13.12.2016	Gaziantep
3	Anonymous humanitarian worker	International Organisation	13.12.2016	Gaziantep
4	Anonymous humanitarian worker	Syrian NGO	13.12.2016	Gaziantep
5	Anonymous humanitarian worker	Turkish NGO	15.12.2016	Gaziantep
6	Anonymous humanitarian worker	International NGO	16.12.2016	Skype
7	Anonymous humanitarian worker	International organisation	16.12.2016	Gaziantep
8	Anonymous humanitarian worker	Syrian NGO	16.12.2016	Gaziantep
9	Anonymous humanitarian worker	Anonymous	19.12.2016	Gaziantep
10	Anonymous humanitarian worker	Anonymous	19.12.2016	Skype
11	Two anonymous humanitarian workers	Turkish NGO	20.12.2016	Gaziantep
12	Anonymous humanitarian worker	International NGO	20.12.2016	Gaziantep
13	Anonymous humanitarian worker	Anonymous	20.12.2016	Gaziantep
14	Anonymous humanitarian worker	International NGO	21.12.2016	Gaziantep
15	Country Director	Syrian NGO	21.12.2016	Gaziantep
16	Immigration and Refugee Services Manager	Turkish Red Crescent	26.12.2016	Ankara
17	President	Turkish NGO	03.01.2017	Ankara
18	Anonymous humanitarian worker	UNHCR Ankara Office	06.01.2017	Ankara
19	Anonymous humanitarian worker	International Organisation	19.01.2017	Skype
20	Country Director	International NGO	26.01.2017	Skype

Appendix II: Interview Guidelines for Humanitarian Organisations

INTRODUCTION

1. Since when has your organisation had a presence in Turkey? How long have you been working in that organisation? What is your position and what are your responsibilities?
2. How big is the organisation? How many staff?
3. Who funds the organisation?
4. Do you/your organisation specialise in refugee protection? Does your organisation specifically work with Syrians or do your responsibilities extend to other asylum seekers/refugees/Turkish citizens as well?

REFUGEE PROTECTION IN GENERAL

5. Who is a refugee for you?
6. What do you understand is meant by the term ‘protection of refugees’?
7. What do you understand by large-scale movements? Do you think the approach to refugee protection should be different in cases of large-scale movements? Why?
8. What do you think about the current international framework for refugee protection? Is it fit for purpose? What about large-scale movements and protracted displacement?

TURKISH ASYLUM SYSTEM

9. What do you think of the Turkish asylum system?
 - The new law on foreigners and international protection?
 - Geographical limitation? Do you think it should be lifted?
10. Does your organisation play a role in the shaping of the refugee protection system in Turkey? Does your organisation try to influence law-making, policymaking processes? If so, how do you do it and with what results?
11. How has asylum/refugee protection changed during your time in Turkey?
12. What does the temporariness of protection in Turkey mean for you?

PROTECTION OF SYRIANS

13. What do you think about the status of Syrians and what should it be? (Guests? Refugees? Beneficiaries of temporary protection?)
14. What views do you have about Temporary Protection? Is it an effective way of providing protection? What are the major protection challenges for Syrians under Temporary Protection in Turkey? What about:
 - Protection from *refoulement*/removal

- Shelter
- Health care
- Education
- Access to labour market
- Family unification
- Protection of vulnerable groups
- Access to legal advice/aid/remedies
- Resettlement
- Advise on detention
- Access to information (what are their rights/responsibilities)
- Camps

15. What is the most challenging part for you?

16. In addressing those challenges, how has the content and practice of Temporary Protection evolved over time?

17. What do you think about the role of law?

- Has the adoption of temporary protection in legal documents (the Directive on Temporary Protection in 2014) affected the protection of Syrians? Has it made any difference compared to the pre-2014 period?
- Do you see any gaps between the legal arrangements and their implementation on the ground?

18. What does your organisation do in regard to the protection of Syrians in Turkey?

- How many people benefit from your activities?
- Where do you work? Do you have access to camps or conduct any protection activities in the camps?
- How do Syrians (or other beneficiaries) receive information about your work?
- How does the temporary protection regime affect your protection activities?
- Do you work with other actors (state institutions, UNHCR, other NGOs, EU)? What is the nature of these contacts/interactions? How do these relations evolve over time?
- Are Syrians involved in the formulation and evaluation of your projects? If so, how?
- What do you see as the key problems and dilemmas or strengths in the working environment for NGOs in Turkey?

19. How do you see the future of Syrians in Turkey?

(Repatriation/Resettlement/Integration/Citizenship)

20. What views do you have about the EU/Turkey Deal?

- How has it affected the circumstances of Syrians in Turkey, if at all?

- How has it affected your work as an NGO?
21. Is there anything you would like to add to the discussion? Is there any other important issue that I did not ask you about?

Additional Interview Guidelines for UNHCR

What is the role of the UNHCR in protection of Syrians in Turkey?

- Do Syrians have access to UNHCR?
- Did the UNHCR play a role in the introduction of the temporary protection framework for Syrians in Turkey?
- What about implementing UNHCR guidelines or Ex.Com Conclusions on TP?
- Are Syrians involved in formulation and evaluation of your projects? If so, how?
- What is the role of UNHCR in promoting or supporting durable solutions? Resettlement? How effective has this been in Turkey?
- Do you have access to camps or conduct any protection activities in the camps?
- Do you work with other actors (state institutions, NGOs, EU)? What is the nature of these contacts/interactions? How do these relations evolve over time?
- What do you see as the key problems & dilemmas or strengths in the working environment for UNHCR in Turkey?

Appendix III: List of Interviews with Syrian Refugees

No. 1100	Age	Gender	Legal Status in Turkey	Duration of Stay in Turkey	Date of Interview	Place of Interview	Language of Interview
1	55	F	TPID	4 yrs	04.07.2017	Gaziantep	Arabic
2	40	F	TPID	2 yrs	04.07.2017	Gaziantep	Arabic
3	35	F	TPID	4 yrs	04.07.2017	Gaziantep	Arabic
4	32	F	TPID	4.5 yrs	04.07.2017	Gaziantep	Arabic
5	45	F	TPID	4 yrs	04.07.2017	Gaziantep	Arabic
6	80s	F	TPID	4 yrs	04.07.2017	Gaziantep	Arabic
7	43	F	TPID	2 yrs	04.07.2017	Gaziantep	Arabic
8	23	F	No Reg'n	3 yrs	05.07.2017	Gaziantep	Arabic
9	22	M	TPID Reg'd in another city	2 yrs	05.07.2017	Gaziantep	Arabic
10	30	M	TPID	5 yrs	05.07.2017	Gaziantep	Arabic
11	26	M	No Reg'n	1 mos	06.07.2017	Gaziantep	Arabic
12	20	F	No Reg'n	10 mos	06.07.2017	Gaziantep	Arabic
13	50s	M	TPID	5 yrs	06.07.2017	Gaziantep	Turkish
14	40s	M	TPID	4 yrs	06.07.2017	Gaziantep	Arabic
15	45	M	TPID	4.5 yrs	07.07.2017	Gaziantep	Arabic
16	60	M	TPID	4 yrs	07.07.2017	Gaziantep	Arabic
17	27	F	TPID	3 yrs	07.07.2017	Gaziantep	Arabic & Turkish
18	30s	M	TPID	2.5 yrs	07.07.2017	Gaziantep	Arabic
19	32	F	TPID	5 yrs	07.07.2017	Gaziantep	Arabic & Kurdish
20	64	M	TPID	5 yrs	10.07.2017	Gaziantep	Turkish
21	19	F	TPID	2 yrs	10.07.2017	Gaziantep	Arabic
22	42	F	TPID	5 yrs	10.07.2017	Gaziantep	Turkish
23	39	F	TPID	3 yrs	10.07.2017	Gaziantep	Arabic
24	40	M	TPID	1 yr	10.07.2017	Gaziantep	Arabic
25	50	M	TPID	4 yrs	11.07.2017	Gaziantep	Turkish
26	47	M	TPID	3 yrs	11.07.2017	Gaziantep	Arabic
27	25	F	TPID	3.5 yrs	11.07.2017	Gaziantep	Arabic
28	24	F	Student Residency	4 yrs	11.07.2017	Gaziantep	English
29	31	F	TPID	4.5 yrs	12.07.2017	Gaziantep	Arabic
30	27	F	TPID Reg'd in another city	2 yrs	12.07.2017	Gaziantep	Arabic

¹¹⁰⁰ Each number corresponds to refugee interviewees. The interview with No 1, 2, and 3 was done together. The interview with No 5 and 6 was done together.

Appendix IV: Interview Guidelines for Refugees

PERSONAL INFORMATION

1. Can I please ask a few questions about you?
 - a. Gender:
 - b. Marital Status:
 - c. Number and Ages of Dependents:
 - d. Age:
 - e. Language Spoken:
 - f. Religious/Ethnic Background:
 - g. Any health issues/ disabilities:
 - h. Level of Education:
 - i. Employment Status in Country of Origin/ Information about your work:
 - j. Citizenship status:
 - k. Country of Departure:
 - l. Arrival Location in Turkey:
 - m. Arrival Date in Turkey:
 - n. Returned to Syria since leaving?

MIGRATION AND ARRIVAL IN TURKEY

2. When and why did you leave Syria? What were the conditions when you left?
3. Did you leave Syria alone or with others, i.e., family members, friends etc.? Are they still with you? Size of family?
4. Where did you enter Turkey?
5. Did you come to Turkey with or without passport or any other ID?
6. Are you registered in Turkey?
 - a. How did you get registered? Did the authorities take your fingerprints, copies of passports or other IDs?
 - b. Did you experience any difficulty in registration process?
 - c. If yes, which status do you have? TP? Residence permit? Work permit? Any other?
 - d. If yes, when did you get registered? At the time of arrival or later?
 - e. If yes, where did you get registered? Have you ever changed your place of living after you get registered?
 - f. If no, why don't you get registered?

7. Did you plan to remain in Turkey or where you planning to travel on to another country, for example in the European Union?

8. If Yes, why have you not left Turkey?

REFUGEES & PROTECTION

9. May I ask who is a refugee for you, and what do you understand by protection?

RECEPTION CONDITIONS IN TURKEY:

10. Did you have information/expectations about reception conditions/asylum system/temporary protection in Turkey before you arrived?

11. What happened when you first arrived? Were you given any information on arrival? If yes, from whom? (ex. State officials, AFAD, international organisations, NGOs?)

12. How did you find shelter/accommodation when you arrived in Turkey? Did you get any assistance from any institution, organisation, your social network?

13. Have you lived in a refugee camp? If yes, in which one and for how long? How did you experience life in the camp? If not, what have you heard about camps and what do you think about living in camps?

14. Where do you live currently? What are the living conditions in your current accommodation?

15. Why do you prefer to live in Gaziantep?

16. How have your experiences compared to your expectations?

ACCESS TO RIGHTS / SERVICES IN TURKEY:

17. What do you understand from protection? What do you think about temporariness of protection?

18. What views/experiences do you have regarding access to services/rights in Turkey?

a. Health care

- i. Have you ever been to hospital?
- ii. Did you experience any hardship in accessing health services?

- b. Education
 - i. Do you have kids at school age? If yes, are they attending school? If yes, what kind of education do they get? Temporary Education Centres? Turkish Schools? Others?
- c. Access to labour market
 - i. Do you have a work permit?
 - ii. Are you working in Turkey? If yes, in which sector?
 - iii. How many people in your family are working and in which sectors?
- d. Protection of vulnerable groups such as disabled, children, elderly people etc.?
- e. Access to information (what are your rights and responsibilities)
 - i. Are you aware of the legal regulations in regard to Syrians in Turkey?
 - ii. If yes, how did you get information?
 - iii. What do you think about the role of law? Did you experience any changes after 2014 when Temporary Protection Regulation was issued?
 - iv. Do you see any gaps between the legal arrangements and their implementation on the ground?
- f. Access to legal advice/aid/remedies
- g. Family reunification
- h. Advice on Detention

19. What is the most challenging part for you? What would you change if you could?

20. What do you do in order to overcome those challenges? Do you get any assistance? If yes, from whom?

21. In terms of those challenges, how have the conditions in Turkey evolved over time since you first arrived?

22. Looking back at your actions throughout your stay in Turkey, is there anything you would do differently, should you have the same information as you have today?

23. Have you heard about anyone being sent back to Syria without their voluntary consent?

24. In terms of those challenges, do you think the conditions of Syrians are different (in a positive or negative way) than other asylum-seeker and refugee groups in Turkey? (Such as Iraqis, Iranians, Afghanis, Somalis etc.)

THE ROLE OF HUMANITARIAN ACTORS

25. Do you get any kind of support/assistance from any institution or organisation?
- a. If yes, what kind of assistance do you get?
 - b. Are you satisfied with the kind of support you get?
26. Do you attend any language/vocational training? If yes, who is the service provider? Is it beneficial for you?
27. What kind of experiences/views do you have on the NGO and international organisations work?
28. How do you receive information about institutions/organisations' works?
29. Are you registered or plan to register for the ESSN/Kizilay Card?
- a. What do you think about it?
 - b. Do you think it would have an important effect on the living conditions of Syrians?

FUTURE PLANS

30. How do you see your situation today; what are your next plans in life? Where do you see yourself in five- and ten-years' time?
31. What do you think about obtaining citizenship in Turkey?
32. Did you/do you plan to apply for resettlement in a third country?
33. What views do you have about the EU/Turkey deal?
34. How is your relationship with the locals?
35. Have you ever been treated differently because of being a foreigner, a refugee, a Syrian?
36. Is there anything you would like to add to the discussion? Any other important issue that I did not ask you about?