

CHAPTER II

TURKISH OPEN DOOR POLICY

This chapter will discuss the Turkish open door policy. Firstly, it will talk about Turkish past experienced in accepting refugees and its responses. Secondly is about history of open door policy from time to time. Then, continue with the form of a legal basis or legal framework that underlies the implementation of Turkish Open Door Policy. The last is current situation of refugee in Turkey.

A. Turkish Past Experiences in Accepting Refugee

Turkey has experienced another mass migration in the past century. Turkey's geographical location is in the intersection of Asia and Europe has long made it both a host country for refugees and asylum seekers and become the path to Europe, North America, and Australia. Refugees who came to Turkey were from several countries such as Iran, Iraq, Afghanistan, and Bosnia. The refugees sought temporary asylum protection in Turkey or from those who continued their journey to Palestine (Latif, 2002).

1. Iranian Refugees and Iraqi Kurdish Refugees (1980's)

The migration of asylum seekers to Turkey underwent a major shift in the 1980's, when refugees began to flee to Turkey en masse from Iran and Iraq. Previously, asylum seekers taking shelter in Turkey primarily came from Europe, particularly during World War II and the early years of the Cold War. Then, it changed following the Iranian Revolution, when 1.5 million Iranian refugees fled to Turkey in one of the largest waves of non-European migration that Turkey had ever experienced (Myers, 2017).

In the 1970's, there was revolution and declaration of Ayatollah Khomeini's of Iran as an Islamic republic. Due to persecution and the violence of the Khomeini regime, approximately 1.5 million Iranians obtained temporary refuge in Turkey between 1980 and 1991 (Afary, 2009). During that time, Turkey temporarily adopted a policy allowing Iranians to enter and stay in the country without a visa. Though the refugees were admitted temporarily, they were encouraged by the Turkish authorities to resettle in third countries in either Europe or North America (Myers, 2017).

The mass influx of Iranian asylum seekers was followed later in the 1980's by a wave of Iraqi Kurdish asylum seekers. On August 25, 1988, as part of the genocidal Al-Anfal war, the Iraqi government struck the Kurdish city of Halabja with chemical weapons. Survivors of the attack fled to the Turkish border. Turkey initially refused to admit the survivors due to security concerns surrounding possible PKK infiltration of the Kurdish refugees. Nevertheless, due to domestic and international pressure, Turkish Prime Minister Turgut Ozal ordered the border to be opened to the refugees on August 28 (Human Right Watch, 1993).

The Turkish government provided some facilitation for the Iraqi Kurdish refugees such as regular food rations, wood-burning stoves, television, and sports activities, but as with the Iranian refugees, Turkey only provided a temporary stay to the Iraqi Kurdish refugees (Haberman, 1991). A week after the refugees were permitted into Turkey, nearly 2,000 refugees were captured by Turkish authorities and transported mistakenly to Kurdish cities in Iran. Within six weeks of the initial influx after the chemical attack, at least 20,000 refugees left for Iran

either because of Turkish control or because of the mountainous region's cold climate (Kinsley, 1991).

In total, 60,000 refugees fled from Iraq to Turkey following the chemical attack in Halabja, with approximately 36,000 remaining in Turkey at the end of 1988. The remaining refugees resided in tent cities in Kiziltepe and Mus and in apartments in Diyarbakir. In 1991, there were still 27,000 Iraqi Kurdish refugees in Turkey. By that time, four thousand to five thousand had returned to Iraq and another four thousand to five thousand had moved to Greece. Following the Halabja attack, France took in 355 Iraqi Kurdish refugees for resettlement and aimed to resettle another 600. The U.S. decided to resettle 300 families and intended to resettle 2,000 refugees before the Persian Gulf War broke out (Kinsley, 1991).

2. Refugees of the Bosnian War and Kurdish Refugees from Iraq (1990's)

In the 1990's, Turkey experienced waves of refugees from the Balkans and Caucasus, including Muslim Bosnians, Albanians, Circassia, Pomaks, Tatars, and Kosovars. Of these groups, the largest number among Muslim Bosnians fled to Turkey. Ethnic conflicts and economic issues between 1991 and 1992 led to the collapse of Yugoslavia and eventually the declaration of independence by Bosnia and Herzegovina in 1992. Bosnia-Herzegovina's declaration led to further violence and prompted a three-year long war from 1992-1995 (History.com, 2009). There were three ethnic groups in Bosnia-Herzegovina: Serbian, Croatian and Muslim. About 20,000 Muslim Bosnians sought asylum in Turkey, where they were given temporary asylum, due to the war and ethnic conflict. There was also a large influx

of about 18,000 Kosovars in Turkey (İçduygu & Sert, 2015).

Temporary asylum was given to the 20,000 Muslim Bosnians in Turkey, with 2,819 housed near the Bulgarian border in refugee facilities and others living with relatives in the larger cities of Istanbul and Bursa. Between 1989- 2012, 320 Bosnian refugees, mostly through marriage, gained citizenship (İçduygu & Sert, 2015).

While conflict near Turkey's European border led to the influx of Balkan refugees, continued conflict across its southeastern border with Iraq led to a new wave of Iraqi Kurdish asylum seekers. In 1991, there was the repression and aggression against the Kurdish minority in northern Iraq by Iraqi. On March 2, 1991, the Iraqi army killed 50,000 Kurds and Shi'ite Muslims, causing an uprising that resulted in almost half a million Kurds fleeing to neighboring countries (Global Connection the Middle East, 2002).

On April, around 500,000 Kurdish refugees had settled along the snowy mountains bordering Iraq and Turkey. Most of the refugees were housed in eight mountain-scattered camps, with about 100,000 outside the camps. On early June, thousands had returned to Iraq, leaving about 13,400 refugees in Turkey. In September 1991, there remained in Turkey only 5,000 Iraqi Kurdish refugees, with about 100 refugees repatriating every day (UNHCR, 2003).

The refugee flows from the Balkans and Iraq highlighted the complexity of Turkey's two-tiered asylum policy. The refugees from the Balkans, coming from Europe, were eligible for temporary asylum and potential official refugee status. However, because of Turkey's two-tiered policy, Iraqi Kurdish refugees

were not eligible for the same status—and therefore the same services (İçduygu & Sert, 2015).

3. Refugees from Iraq, Iran, and Afghanistan (2000's)

Throughout the 2000's, regional instability caused by the U.S. invasion of Afghanistan and Iraq led thousands of asylum seekers to flee to Turkey. During this time, many asylum seekers in their home countries have been targets of ethnic and religious persecution. One minority example is the Hazaras, the largest ethnic and religious minority in Afghanistan. While Sunni Muslims are the majority of Afghans, Hazaras are primarily Shia Muslims (Hucal, 2016). Due to their practice of Islam's Shia branch, the Taliban targeted the Hazara people throughout the 2000s. One such massacre was from January 8 to 11, 2001, when the Taliban executed 170 Hazara people in the Yakawlang district (Zabriskie, 2008).

The U.S. Committee for Refugees and Immigrants provides a record of how many refugees were residing in Turkey between 2000 and 2010 and where they were resettled. In 2001, there were 2,650 "recognized" refugees from Iran and 565 from Iraq, along with 2,800 Iranian and 400 Iraqi asylum seekers with pending refugee recognition cases. In 2002, there were 2,000 refugees from Iran and 300 from Iraq, 2,800 from Iran and 400 from Iraq. By 2003, Turkey also began to see an increase in Afghan refugees, beginning with 130 refugees and increasing to over 900 by 2007. There was also an increase in the number of Iraqis and Iranians from 6,500 Iranians and 1,500 Iraqi refugees and asylum seekers in 2003 to 4,000 Iranians and 10,000 Iraqi refugees and asylum seekers in 2007. In 2008, Turkey welcomed 8,300 Iraqis, 4,400 Iranians, and 3,200 Afghans (United States Committee for Refugees and Immigrants, 2002).

Efforts were made during the 2000s to resettle refugees to third countries in Turkey. In 2001, 2,747 refugees were resettled in third countries, including 2,203 Iranians, 447 Iraqis, and 67 other nationalities. The majority went to the United States (869), Canada (636), Norway (606), and Sweden (200). In 2002, 2,200 refugees were resettled to third countries in Turkey, including 1,800 Iranians; 960 went to the U.S., 630 to Canada, and 610 to Norway. In 2003, nearly 3,000 refugees were resettled in Turkey, primarily Iranians (2,560) and Iraqis (236), mostly in the United States, Canada, Norway and Australia (United States Committee for Refugees and Immigrants, 2002).

Turkey's response to refugees has changed greatly from its past experiences, and the government's approach in the 2010's contrasts sharply with its approach in the 1980's and 90's. For example, Iraqi Kurdish children who had fled to Turkey were not allowed to have access to education in the 1980s and 90s, although international aid organizations were denied access to camps housing Iraqi Kurdish asylum seekers in some instances.

Forty years and millions of refugees later, Turkey has become a more flexible host for refugees and asylum seekers by adapting its refugee and migrant laws to accommodate circumstances such as the Syrian refugee crisis where there is a massive influx. The Temporary Protection Regulation explicitly states that governments must provide Syrian refugees with basic needs, passports, travel documents, and translation services. Access to primary and secondary education for refugee children has also become a requirement (Myers, 2017).

Even though there are still areas of improvement, such as the continued exploitation of refugees in Turkey for cheap and unsafe labor, many of the services provided

to Syrian refugees are not fully available to other asylum seekers who are not from Europe. Over the past four decades, however, Turkey has learned how to better manage its changing position as a refugee host country and as a route to Europe and North America for refugees from the Middle East. Its efforts to support the more than 3 million refugees shows how much Turkey's refugee policies and laws have evolved since its two-tiered asylum policy emerged in the 1980's.

B. History of Turkish Open Door Policy

Turkey openly accepts the arrival of Syrian refugees to Turkey on the sense of humanitarian. Open door policy does not merely emerge as such a policy, but this policy is a form of Turkish response that goes through a long process of implementation. This means that the open door policy has a long journey since the previous decade.

In the years 1299-1923 where Turkey was still in the form of the Ottoman Empire, it had experienced emigration, immigration and migration. At that time the population that entered the Ottoman territories came from the Jewish Ashkenazim (Jewish group originating from Germany). Then in 1497, it continued with the arrival of around 200,000 Sephardim Jews who had fled from the Spanish Inquisition (Kirisci, 2003). At the end of the 19th century the Ottoman Empire accepted refugees from the Habsburg Empire, especially the Hungarians and the Poles. In addition, about one million Muslim refugees headed to the Ottoman territories due to the defeat of Russia from Circassia in the northern Caucasus (Holocaust, 2009).

The change in the form of the Ottoman Empire to the Republic of Turkey was initiated by Mustafa Kemal Pasha, and was caused by the end of the first world war,

mainly related to conflicts between the Ottoman Empire and allied countries. Besides, the thing that underlies the formation of the Turkish state is the Lausanne Agreement. The agreement is a declaration of Turkey as a sovereign State, regulation of territorial territory, as well as regarding the new Turkish diplomatic relations with the Middle Eastern and Western countries. In addition, the Lausanne agreement also consists of migration policies between Turkey, Greece and Bulgaria. Therefore, Turkey must implement a population exchange policy (accepting and sending minorities of Turks in Greece to Turkey, and vice versa) (International Relation.org, 2016).

Population exchange policy is a form of policy in the effort to follow up to build and make the Turkish republic a state that has a uniform identity. Thus, the Lausanne Agreement is a form of legal framework for refugee acceptance policies in the modern Turkish era (International Relation.org, 2016). Population exchange has implemented an incomplete open door policy, based on efforts to accept migrants who are allowed to enter Turkish territory.

In the 1970's there was a policy of sending and receiving labor to and from Europe, especially Germany. The explanation was related to the agreement between Turkey and the European Union, especially with Germany, which was signed in 1961. So it requires Turkey to send labor to European countries due to lack of European workers, and Turkey lacked skilled workers. Workers from Turkey would return to Turkey and were expected to implement their work experiences in Turkey. Therefore, it would have an economic impact for Turkey (Latif, 2002).

The labor transfer agreement ended in 1973 because of the oil crisis. In the following year, Turkey

became a receiving country where the arrival of various refugees and migrants was caused by several events, namely the Iranian revolution, the Iraq-Iran war, and the Soviet Union's invasion of Afghanistan in 1979-1989 (İçduygu, 2003). The implementation of the open door policy was seen in the 1980's and thereafter because Turkey became a transit point for migrants, foreign workers, and a place for asylum seekers and refugees. Additionally, Turkey is a transit country between the Middle East and European regions (Latif, 2002).

In 1991, there was a second gulf war which involved American troops in an attempt to invade Iraq. In those years it was considered as a refugee crisis that befell Kurds (Malanczuk, 1991). The exodus of Kurdish refugees had become a threat to neighboring countries including Turkey. Turkey as a neighboring country was forced by the International Community to start implementing refugee reception policies. In accepting refugees from Iraq which are categorized as ethnic Kurds, Turkey is not obliged to accept refugees from the Middle East. This is based on the agreement signed in 1951 which refers to the Geneva Convention regarding refugee status. Therefore, Turkey only recognizes ethnic Kurds who go to Turkish territory as guests or migrants (Latif, 2002). Turkey does not give certain privileges to ethnic Kurds except only the provision of camp facilities for these migrants. In the period 1988-1991 and onwards, Turkey had received around 700,000 to 800,000 refugees from ethnic Turkish in Iraq and Iran (Malanczuk, 1991). The open door policy at that time was a coercion of the International Community. This was evidenced by the safe zone and camp set up in Turkey outside the borders of the Turkish region.

In 2011, the open door policy was implemented to coincide with the civil war between the opposition and the government of Bashar Al Assad in Syria. In the period

of 2011 to date, there were differences in attitudes exhibited by Turkey in dealing with refugees in the implementation of the open door policy. In the previous period Turkey did not recognize refugees from the Middle East, except from Europe, but the period of the application of the Open Door Policy this time Turkey fully recognized refugees from Syria as ‘guest’ who were allowed to live in Turkey without any specific time limit. Refugees from Syria also get privileges from Turkey such as easy to access and rent a place to live in all regions of Turkey, provide food allowance every month, even the freedom for refugees from Syria to find workplaces in Turkey. In addition, Turkey provided camps for refugees with very decent conditions (Latif, 2002).

C. Legal Basics for Implementing Turkish Open Door Policy

Turkey applies an open door policy because it is based on several legal frameworks. The basic law is used as a reference and is used as a guideline by Turkey in implementing the open door policy, both domestic and international legal basis.

1. Geneva Convention 1951 and Their Additional Protocol 1967

The Geneva Convention 1951 or the Protocol 1967 is an agreement and determination of international legal bases on refugee status and international legal regulations regarding the handling of refugee reception by states ratifying the 1951 Geneva agreement. The Geneva Conventions and their Additional Protocols are at the core of international humanitarian law, the body of international law that regulates the conduct of armed conflict and seeks to limit its effects. They specifically protect people who are not taking part in the hostilities (civilians, health

workers and aid workers) and those who are no longer participating in the hostilities, such as wounded, sick and shipwrecked soldiers and prisoners of war (International Committee of The Red Cross, 2014).

The first Geneva Convention protects wounded and sick soldiers on land during war. The second Geneva Convention protects wounded, sick and shipwrecked military personnel at sea during war. The third Geneva Convention applies to prisoners of war. The Fourth Geneva Convention protects civilians, including those in occupied territory (International Committee of The Red Cross, 2014).

The protocol 1967 is the result of the first amendment of the Geneva Convention 1951 agreement on refugee status. Some things have been changed and affirmation from the previous convention. Among them such as refugee status where the Protocol 1967 erased the information of people who became refugees before 1 January 1951 became refugee status only after 1951. Then the Geneva Convention 1951 only recognized refugees who came from the European region only and the 1967 protocol changed it to become more universal by removing geographical limitation against anyone who becomes a refugee (Ismail, 2103).

In 1951 and 1967 Turkey signed the Geneva Convention initiated by the United Nations regarding refugee status. As one of the countries that signed and ratified the Geneva Convention 1951 or the Protocol 1967, until now Turkey has remained committed to the international treaty. Proof of that commitment was marked by the adoption of refugee acceptance policies since after the Geneva Convention until now. Countries that have ratified the treaty must accept refugees with prescribed regulations, both from

UNHCR or countries that have received commitments to the Geneva Convention as well as Turkey's commitment to concern for human rights (UNHCR, 2010). This in turn made Turkey a country that complies with the basics of International Law by accepting and not expelling refugees from its territory through the open door policy.

2. Law on Foreigner and International Protection (LFIP)

Turkey implemented an open door policy and temporary protection for Syrian refugees in October 2011. Afterward, in 2013 to strengthen and clarify the policy, Turkey made basic rules relating to refugees. The legal basis is called Law on Foreigners and International Protection (LFIP). The institution that compiles and is responsible for LFIP is The General Directorate of Migration Management (GDMM), which is one of the institutions within the Ministry of Internal Affairs. The main purpose of this law is focused on the rights of the refugees and asylum seekers (Expat Guide Turkey, 2013). The first article in LFIP explains the purpose of making this law is as a regulation of the principles and procedures for dealing with foreigners (in this case relating to refugees) who seek protection in Turkey, the explanation is explicitly spelled out as follows:

The purpose of this Law is to regulate the principles and procedures with regard to foreigners' entry into, stay in and exit from Turkey, and the scope and implementation of the protection to be provided for foreigners who seek protection from Turkey, and the establishment, duties, mandate and responsibilities of the Directorate General of Migration Management under the Ministry of Interior (UNHCR, 2013).

Generally, LFIP regulates the presence of foreigners, especially refugee who are in Turkish territory. In addition, it is also related to the presence of foreigners in Turkey, such as the period of stay in Turkey, also regarding stateless persons, and so forth. On the other hand, this law is also considered an approach to humanitarian rules in responding to refugee issues (Expat Guide Turkey, 2013).

In Article 62 it is explained that someone from outside Europe who experienced persecution in his country, caused by persecution in matters of race, religion, differences in political direction, causing fear and cannot get protection in his country. Then those people are considered as conditional refugees. These conditional refugees are allowed to live in Turkey (UNHCR, 2013). Syrian people who come to Turkey can clearly be categorized as refugees. Therefore, Turkey gives permission for these people to stay within Turkey domestic territory (Directorate General of Migration Management, 2013).

LFIP provides a legal grounding to the Temporary Protection (TP) status, but it is the Temporary Protection Regulation of October 2014 that will clarify the content of the TP status for Syrians the Turkish TP status provides the following rights and services: respect of non-refoulement principle, access to health and welfare services, access to education, access to the labor market, and access to services for people with special needs (Expat Guide Turkey, 2013).

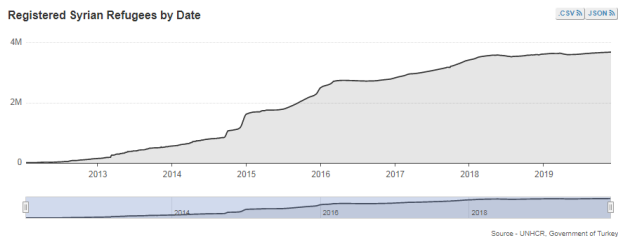
Over the past ten years, Turkey has transformed from being a transit country to a main country for immigrants. There has been an explosion in the number of asylum seekers not only from Syria, but also from other countries such as Iraq, Afghanistan,

Somalia, and Myanmar (Kanat & Ustun, 2015). Turkey makes Law on Foreigner and International Protection as detailed as possible. This is so that Turkey can regulate and control foreigners in the Turkish region, especially refugees. Making LFIP is one of Turkey's steps in handling and responding to refugees.

D. Current Refugee from Syria in Turkey

Turkey hosts a largest number of refugees from Syrian in the world. As of 27 November 2019, there are 3,691,333 refugees from Syria enrolled. Until 2019, the number of refugees coming and registered in Turkey continues to increase from year to year. Although among 2018-2019 the number of refugees did not increase too significantly. On 25 January 2018 around 3,466,263 refugees were registered. So the number had only increased by around 200,000 refugees. This shows that Turkey is still a favorite destination for refugees (UNCHR, 2019).

Table 1. Registered Refugee From Syria in Turkey



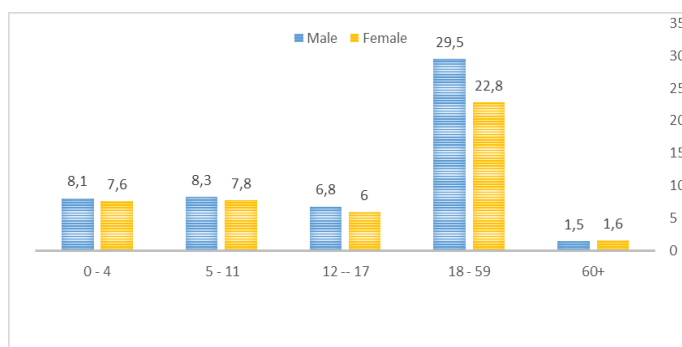
Source: UNCHR. (2019, November 27). *Syria Regional Refugee Response*. Retrieved December 04, 2019, from Operational Portal Refugee Situations:

<https://data2.unhcr.org/en/situations/syria/location/113>

The chart above is the number of refugees from Syria registered in Turkey from 2013 to November 2019.

The number at the end of 2019 reached almost four billion refugees. It is possible to continue to increase because the State of Syria is still in conflict and there is no sign of the conflict yet to be resolved in the near future. According to the report, Almost 50 percent of all refugees in Turkey are registered in four key provinces: Gaziantep, Hatay, Istanbul and Sanliurfa (UNHCR, 2019).

Table 2. Registered Refugee from Syria Based on Sex and Age



Source: UNCHR. (2019, November 27). *Syria Regional Refugee Response*. Retrieved December 04, 2019, from Operational Portal Refugee Situations:

<https://data2.unhcr.org/en/situations/syria/location/113>

In addition to the refugee charts based on time, there are also refugee data based on sex and age. Boys aged 0-4 years old are registered at around 8.1% where the figure is not much different from girls aged 0-4 years which is around 7.6%. Then boys aged 5-11 years accounted for around 8.3% while around 7.8% recorded girls aged 5-11 years. Teenage boys 12-17 years old are about 6.8% and girls 5-11 years old are only registered around 6.0%. After that, adult males aged 18-59 years accounted for around 29.5%. Not more than men, adult women aged 18-59 years around 22.8%. Lastly, men 60

