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Chapter 14

Migration Control, Citizenship Regime, and the Spectrum of Exclusion in Turkey

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In November 19, 2016, 123 asylum seekers in Kumkapi Deportation Center in Istanbul set fire to their beds and escaped from the center as their legal insecurity became insurmountable.¹ The maltreatment in the Kumkapi Deportation Center had previously been sanctioned by both the European Court of Human Rights² and the Turkish Constitutional Court.³ Government chose to ignore the issues around legal uncertainty that impeded any kind of effective protection and instead responded to the overcapacity problems in Kumkapi by increasing the number of deportation centers. While the first recorded uprisings and hunger strikes in Kumkapi detention center go back to 2009,⁴ terrible living conditions and prevailing legal insecurity are not germane to the deportation center in Kumkapi. Recent NGO reports cover instances from 2017, such as the one concerning the Harmandali Deportation Center in Izmir, where passersby reported hearing screams for help and food and statements such as “this is Guantanamo.” There are also serious allegations that asylum seekers in these centers are subjected to maltreatment to coerce them to agree to a voluntary return, with their access to justice further curtailed.⁵ Interestingly, Harmandali Deportation Center rebutted some of these claims in an internet statement by not only denying the accusations of maltreatment, but also accusing those who engender such news of being supportive of terrorist groups that aim to defame Turkey.⁶ Their statement reveals how the discourse over terrorism and “enemies of the state” prevalent in Turkey, a country hosting the largest number of refugees worldwide for four consecutive years,⁷ could so readily be mobilized not only against migrants

but also against pro-migrant rights citizens by questioning their national loyalty and belonging.

Evidently, as this volume also showcases, the far-right populist discourse that targets and increasingly criminalizes migrants is globally on the rise. Studies on right-wing populist parties in Europe tend to see them as a divergence from the norm, but at the same time as agenda setters and a major challenge to liberal forms of politics.⁸ One of the major implications of the populist anti-immigrant rhetoric has been to bring state sovereignty back into center stage in an increasingly globalizing era and make migration control an independent site of governance in which, Bosworth and Guild's study of the UK case shows, citizenship and belonging are the primary considerations of government.⁹ Similarly, looking at the overlaps among the substance, procedures, and enforcement of criminal and immigration law in the U.S., Stumpf coined the term "crimmigration" and showed how at the heart of this "marriage" lies the sovereign power of the state to define its membership through punishment.¹⁰ With varying emphasis on the role of discourses, policies, and laws, scholars have underlined the state's expressiveness of sovereign power manifested in its desire to both govern mobility through crime and regulate its membership through migration control.¹¹ Bosworth and Guild further stress that contemporary political discourse is always ready to target the noncitizens as a source of potential risk and legitimate their confinement,¹² whereas Stumpf describes the continuity of exclusion both for migrants whose exclusion through deportability turns total and ex-felon citizens whose basic citizenship rights are retracted post-confinement.¹³

In the Turkish case, migration control, to the extent that it existed, has always been shaped explicitly in line with the state's definition of "insiders" and "outsiders" predetermined by the ethnoreligious bias of its citizenship regime. Immigrants with "Turkish descent" from Turkey's neighborhood have frequently received preferential treatment, and other noncitizens have routinely been criminalized and dehumanized. However, as we seek to show in this chapter, citizens also find themselves subjected to such exclusion because they happen to fall outside of the limits of ethnoreligious membership and the official ideology circumscribed by the Turkish state. Therefore, using Weber and McCulloch's terms, by addressing the *who* of the migration control, the Turkish case does not only unpack the category of noncitizens but also shows *how* it is intrinsically linked with the citizenship regime that prioritizes Sunni Turkish and the politically loyal majority.¹⁴

What is more, Turkey's border control measures and related cooperation with its neighbors also reveal that citizenship and foreign policy tools are heavily intertwined. The prime example of this is the

controversial EU-Turkey statement that, in return for Turkey's cooperation on migration control with the EU, led to the EU's total disregard of Turkey's suppression of its dissidents at home. Hence, Turkey's willingness for such a deal becomes clear only when its migration control is examined in relation to the changing power relations in its neighborhood, which have implications on state-society relations at home.

Moreover, Turkey's migration control, as both citizenship *and* foreign policy tool, and its particular populist tone, are distinguished from the populist anti-immigrant movement in Europe. It is a ruling party populism that is a major catalyst for the emergence of competitive authoritarianism, especially in the developing world in the post-Cold War period.¹⁵ It is widely agreed that contemporary Turkey has gone through such a regime transformation under Erdoğan's (uninterrupted) political leadership since 2002.¹⁶ Although neither populism nor authoritarianism are new phenomena for Modern Turkey, populism has recently gained in popularity as an explanatory force for the peculiarities of the incumbent Adalet ve Kalkınma Partisi (AKP).¹⁷ Among other things, AKP's populism feeds itself from the grievances born from the suppression of Islamic cultural references over the course of the twentieth century by the Kemalist secular nationalist state and its reformers sitting at the high ranks of military and civilian bureaucracy.¹⁸ With AKP's rise to power, virtues of conservative Islamic populism as "markers of an ummah-based political identity" came to the forefront. However, this did not imply that the idea of the "nation" was completely displaced.¹⁹ As the incumbent AKP's neo-Ottomanist vision of modern Turkey shows, the power of nationhood can be conceived in terms of its links to the Ottoman precursors of the contemporary state, which plays the game of world politics with the lens of a neoliberal state of the twenty-first century.²⁰ The notion of "neo-Ottoman" historical, cultural, and economic drive was in fact first introduced after 1989 to describe Turkey's involvement in the post-communist space. However, with the former foreign minister and prime minister Ahmet Davutoğlu's "zero-problems-with-neighbors" vision, it has become the core of AKP's citizenship and foreign policy. As we argue here, this neo-Ottomanist vision also has implications for the border regime. This is perhaps best exemplified in the then foreign minister Davutoğlu's following statement: "We do all these with a sense of high responsibility as we regard our Syrian neighbors as our brothers and sisters with whom we share [a] long history and often a common fate."²¹

Indeed, as of January 24, 2019, Turkey is hosting 3,636,617 Syrians under temporary protection, 143,068 of whom are staying in camps run by Turkish authorities.²² According to Türkstat data,²³ which covers the migration trends of 2016, 2017 and 2018, Syria, not surprisingly, is among

the five top countries of origin and maintains a steady flow in the range of 25,000 to 38,000 migrants each year. Yet it lags behind Iraq, which “sent” almost triple the amount, reaching into 90,000s, in 2017 and 110,000s in 2018. Migrants from Afghanistan are also more numerous than Syrians in all three years, even if marginally in 2016 and significantly more in 2017 and 2018 coming closer to 45,000. This could be explained by the fact that of the 368,230 individuals registered with the UNHCR Turkey, 46 percent are Afghans and 39 percent are Iraqis.²⁴

Ironically, while Turkey continues to be a source country for Europe, be it in terms of professional or family migration,²⁵ following the aforementioned coup attempt in 2016, asylum-seeking migration of Turkish citizens has also peaked. First-time applications from Turkey, which were around the 4,500 range between 2008 and 2015, more than doubled in 2016, reaching 10,105. It continues to remain at a higher level, with 14,655 applications in 2017 and 22,075 in 2018.²⁸ Moreover, very recent Turkish statistics provided by Türkstat shows that overall emigration shows a steady increase to 323,918 from 253,640 in 2017 and 177,960 in 2016.²⁹ Media reports support these statistics, often citing an increasingly oppressive political atmosphere, safety issues, and reduced job opportunities as push factors.³⁰

Our chapter tackles this intermingling of border and migration control with citizenship regime and foreign policy and the ways they manifest themselves in an increasingly authoritarian regime. While trying to consolidate its economic and political power abroad, especially in a very fragile post-communist space, the incumbent AKP has extensively capitalized on the old secular-religious cleavage, continued the moralistic depiction of politics as a struggle between “us” the people and the “enemies” of the Turkish state within and abroad, and consolidated its hegemony by winning consecutive elections since 2002.³¹ Moreover, we argue, in the Turkish context, that the (anti-)immigrant position and disenchantment with effects of globalization have been shaped through the same secular-religious cleavage that has its roots in Turkey’s modernization history. In its current form, the government-led populist discourse claims to represent the interests of the people to be protected against any domestic or foreign “threat” to Turkey’s unity in “one people, one flag, one homeland, one state”³² underlined in President Erdogan’s keynote toward the 2017 referendum, which consolidated change toward the presidential system. This imagery of the people sharing the four ideals of unity leads to a large outgroup in Turkey composed of seculars, Alevi, Kurds, Westerners, LGBTQs, feminists, and even anti-capitalist Muslims who, regardless of their nationality, are easily put in a suspect position, demonized, and criminalized for defying or challenging the unity of the “New Turkey.”

Therefore, what we witness in the last few years is the contradiction between the growing number of Turkish nationals fleeing from an increasingly authoritarian regime on the one hand and a humanitarian state welcoming as “guests” (Sunni) Syrians fleeing the Assad regime on the other.

As the three following episodes depict, this contradiction is not a completely new phenomenon in Turkey’s political history. Even though the republican ideal in theory promotes a civic identity, Turkish republican practice has been quite exclusionary of any ethnoreligious diversity.³³ Hence both minorities and migrants that are not considered part of “Turkish descent and culture” have rarely found a place for themselves in the public imagination and are easily othered and put in a suspect position. However, in the face of the ongoing Syrian conflict and the changing position of Turkey in both the regional and global political economy, rising authoritarianism and deteriorating fundamental rights have been veiled with and legitimized through the aforementioned ruling party populism, which expanded the scope of the “outsiders.” The failed coup attempt, in July 2016, has reinforced this even further, as it legitimized a two-year-long state of emergency around a so-called anti-imperialist rhetoric that has allowed the incumbent AKP to maintain electoral power by framing any political demand as collaboration with enemies of the state from within or outside. Islamic populist discourse has also marked humanitarian aid—again by and for a selected group—as the only legitimate form of solidarity with migrants and asylum seekers by distinguishing between deserving (read obedient) and undeserving migrants and criminalizing the latter.

In other words, while populist anti-immigrant discourses have by now become very usual in politics in Europe, in Turkey, as we show in detail elsewhere,³⁴ it is embedded in long-standing societal divisions that continuously polarize and dominate Turkish politics, which in turn facilitate the categorization of *some* migrants as deserving of protection and basic rights according to the ethnoreligious cracks in Turkey’s *Kulturkampf*s, in Kalaycioglu’s words.³⁵ These differences in legal inclusion and exclusion therefore represent three distinct episodes of migration governance, rights’ claims, and legal struggles that run parallel to each other. In the remainder of this chapter, we unpack the legal and political conditions that set these three episodes.

Episode I: Inclusive Exclusion through Ministerial Decrees

Turkey has been a country of emigration and immigration for decades. Non-Muslim populations who were forced to leave their hometowns since the foundation of modern Turkey, guest workers and their families who went to and eventually settled mainly in European countries since 1960s, and political asylum seekers who fled from the 1980 military coup to different destinations formed the majority of Turkey's emigrant population abroad.³⁶ There have also been various waves of immigration to Turkey, mainly of people of "Turkish ethnic descent and culture" moving from former Ottoman territories to the "Turkish homeland" who were able to acquire residency with a pathway to citizenship by appealing to clauses privileging ethnic descent in citizenship and settlement laws.³⁷

From the 1980s onward and especially since the demise of the USSR and the regional political and economic restructuring in the 1990s, Turkey has progressively evolved into both an immigration and a transit country.³⁸ The nationality of migrants and patterns of migration have become much more diversified as Turkey attracted circular migration from neighboring countries as well as migrants with international protection needs from African and Asian countries, all of whom were accommodated in various sectors of its informal economy.³⁹ This partly explains why in the Türkstat data, the fourth and fifth places for migration flows are occupied by Azerbaijan and Turkmenistan in 2017 (around the 20,000 range) and by Iran and Azerbaijan in 2016 (around the 15,000 range).

Despite the growing diversification of mobility to Turkey, its migration and minority policies have continued to be shaped through a nationalist approach that aims to maintain the "people" as the Sunni-Muslim majority and selectively includes the newcomers as they fit into this ethnoreligious frame. Both the latest 2009 Citizenship Law and the 2006 Settlement Law maintain the distinction between "foreigner" and "*göçmen*" (denoting Turkish ethnicity) as well as the discretionary power of the Ministry of Interior, with the Cabinet as the sole authority deciding who would be awarded "*göçmen*" status. In line with this legal framework, the ruling political elite continued favoring migrants of Turkish descent (*göçmen*) such as Turks of Western Thrace, Iraq, Eastern Turkmenistan, Afghanistan, and Bulgaria through special regulations, such as the confidential addendum to the Cabinet decision 2009/14699 on February 23, which granted them a work permit waiver.⁴⁰

This high level of discretion has not always worked to the advantage of even the most privileged migrant groups. The changing position of Turkish-Muslim immigrants from Bulgaria in the last three decades is a good case in point for such capricious ethnoreligious bias. Migration of the co-ethnics from Bulgaria have continued throughout the 1990s, the aftermath of the democratic transition, because no substantive change was foreseen in the economic and political position of the co-ethnic minority. Yet, unlike in the previous decades, and despite the existence of aforementioned exceptional clauses, Turkey no longer automatically granted residence permits through ethnic kinship with a pathway to citizenship.⁴² However, in the first decade of the 2000s, the Turkish state offered temporary legalization to this specific group just before elections in Bulgaria, with the latent expectation that they would vote in the elections in Bulgaria, mostly likely for the Movement for Rights and Freedoms (MRF), the party that by and large represents the Turkish minority in Bulgaria. By providing temporary Turkish residence permits, the co-ethnic Bulgarian citizens would be allowed to visit their hometowns in Bulgaria without having to pay the fine for the days/years they overstayed in Turkey. Hence, just like pre-1990s co-ethnic immigrants, political elites have continued to maintain special ties with post-1990s co-ethnic immigrants and, through the “inclusive exclusion” of the latter, in Agamben’s terms,⁴³ instrumentalized its migration policies so as to extend its sovereign power beyond Turkey’s territorial borders.⁴⁴ This signaled a new level of populist strategy that was used first in 2001, right before the AKP came to power, and was repeatedly used in the following Bulgarian elections over the course of the 2000s.

Despite the fact that previous policies of immediate inclusion of co-ethnic immigrants have changed with the end of Cold War politics, people of “Turkish descent and culture” have maintained a privileged position compared with other migrants with irregular legal status. This has been achieved through ministerial decrees, utilized by the ruling political elite as both a citizenship and foreign policy tool.⁴⁵ Their relative privilege also reveals that migration governance, even when pursued by populist governments, does not frame *all* noncitizens as potential risks or threats to the nation and certainly not *all* the time. Even more, exclusive inclusion may also be an asset to bring political influence abroad.

Episode II: Absolute Exclusion with Impunity

As immigrants of “Turkish ethnic descent and culture” have begun to hold an ambiguous insider/outsider position, an increasing number of other migrants with irregular legal status have gotten stuck in a cycle of precarity in Turkey.⁴⁶ Since Turkey signed the 1951 Refugee Convention with a geographical limitation, asylum seekers arriving from anywhere but west of Turkey, which constitutes the majority of new arrivals, are not considered “convention refugees.” Instead they have to process their asylum application through the UNHCR and wait for resettlement in a third country.

From the perspective of the EU’s expanding “remote” control of migration beyond its external borders since the 1990s,⁴⁷ Turkey has increasingly played an important role as a “transit” country, obtaining a label that was also internalized by Turkish governmental actors and bureaucrats.⁴⁸ For instance, the Turkish Foreigners and International Law of 2013 was drafted in line with the 2001 and 2003 EU Accession Partnership documents and related national action plans for legal and institutional transformation.⁴⁹ Yet, as noted earlier, Turkey’s migration policy has been shaped not only in relation to Turkey’s EU membership but in Turkey’s changing geopolitical and economic position regionally and globally.⁵⁰ As part of its goal to intensify economic relations, visa restrictions were lifted for nationals of various African countries in 2005, while a mutual visa exemption agreement was signed with Syria in 2009 with the aim to create “Şamgen,” a Schengen-type joint visa policy with Iran and Iraq.⁵¹

Moreover, migration control has again been used as both a citizenship and foreign policy tool despite legal changes toward a relatively more liberal visa regime. Migrants with irregular legal status have become pawns in international and domestic policy. Against the EU’s requirement to abolish the geographical limitation clause of the Refugee Convention, Turkey has insisted on keeping it until full membership is granted and did not easily agree to the EU-Turkey readmission agreement, for which negotiations started in 2002 and became finalized in 2013.⁵² Readmission talks were portrayed in Turkish mainstream media solely with reference to a visa exemption proposal for Turkish citizens, hence as an improvement in their right to mobility.⁵³ There was no mention of how the readmission to Turkey would affect non-European asylum seekers, whose only option is to become undocumented, in the presence of the non-refoulement principle and with no access to asylum or residency in Turkey. However, the

“deportability” threat did not apply to *all* noncitizens and not *all* the time. It was dependent on the whim of the regime, which selectively activated deportability, rendering it a political rather than a legal decision. For example, in 2010, as a response to discussions concerning the recognition of Armenian Genocide in various European parliaments, the then PM Erdoğan declared that 100,000 noncitizen Armenians living and working in Turkey are “managed,” meaning their irregular presence is tolerated, but they could be deported if relations get tense.⁵⁵

The Turkish Foreigners and International Law of 2013 was a step forward from the existing fragmented system, which contained secondary regulations, bylaws, and circulars, which were repeatedly criticized by migrant rights advocates and solidarity groups.⁵⁶ Based on the 2013 law, the Directorate General of Migration Management (DGMM) was established in April 2014 under the Ministry of Interior to replace the police as the main authority and become the primary and centralized civilian institution responsible for the whole process of registration, protection, detention, and deportation of all migrants. Human rights NGOs expected that having such a comprehensive law would help redress problems in access to international protection, ensure basic rights of asylum seekers in the application process, and overcome the security-driven mentality of the police. To the contrary, this law aimed primarily at categorizing regular and irregular migration movements with the national interest to better “manage” them through a centralized bureaucracy.⁵⁷ In the initial years of institutionalization and centralization, great variations were observed in how irregular and/or “transit” migration and asylum processes have been managed and experienced in different cities and borders of Turkey,⁵⁸ at times creating local conflicts.⁵⁹

Importantly in this episode, irregular migrants have been overtly criminalized and subjected to police violence with a prevalent impunity. The harsh conditions in custody and detention accompanied by unknown detention periods and lack of legal assistance led to uprisings and hunger strikes as the vignette in the introduction portrayed.⁶⁰ We will introduce here one nationwide known case of police violence—the murder of Festus Okey in 2007 during his detention at a police station in Istanbul—in order to give an indication of the criminalization and impunity during this episode of migration control. Okey was a Nigerian migrant holding a UNHCR asylum application card for resettlement in a third country. The police officer, Cengiz Yıldız, who shot Okey, said in his defense that he thought Okey was hiding a gun in his shirt. Okey’s shirt was mysteriously lost after he was brought to the hospital. During the first hearing in February 2008, three friends of Okey, together with the Nigerian ambassador, were present but did not dare to demand to be party to the

legal action. The Progressive Lawyers Association's (ÇHD) intervention was also rejected with the reasoning that they were not directly affected by the crime. According to the ÇHD's accounts, the defense lawyer's statement offered an example of crimmigration par excellence: "This person is not called Festus Okey. He came here with an illegal visa, later on he called himself Festus Okey. I wonder, is he a terrorist?" While officer Yildiz was suspended briefly from his post, he was not even asked to hand over the gun with which Okey was killed for forensic investigation until 2009. Finally, ÇHD lawyers and members of Migrant Solidarity Network managed to reach Okey's family and requested that his brother, Mr. Ogu, be party to the legal action. In the sixteenth hearing in December 13, 2011, the court rejected this request and quickly sentenced the police officer to a four-year two-month prison sentence for "reckless killing." The Supreme Court of Appeals 1st Penal Chamber decided to overturn this prison sentence to have the police officer tried again, while the lower court insisted on its decision. On March 27, 2018, eleven years after Okey's death, the Supreme Court of Appeals Sentence Board decided that the brother Ogu's demand shall be considered and investigation shall be started again, first by checking the biological ties between Ogu and Okey.⁶¹

In other words, although liberal visa policies make entry easy and the new law offers the legal framework for a rights-based approach, ongoing geographical limitation to the Refugee Convention and exploitation in the informal labor market make access to basic rights and above all to justice close to impossible for migrants with irregular legal status. The first four years of no action and the last year's chain of decisions and appeals in Okey's case reveals, on the one hand, how migrants with irregular legal status are easily put in suspect positions, and, on the other hand, that the general tendency in the Turkish legal system is to slow down the process and delay due sentence when the defendant is a governmental official.

Episode III: Exclusive Inclusion under State of Emergency

The mass exodus from Syria has been a test case for the Turkish public and its officials in terms of how to legally and emotionally position these Sunni immigrants vis-a-vis other international protection seekers. Previous conflicts and regime changes in 1980s and 1990s in the region, such as the Iran-Iraq War and the first Gulf War, have also caused the arrival of many asylum seekers at the borders of Turkey. Although the

seeds of the AKP's foreign policy reorientation toward the Middle East have been sown in the Özal era of the late 1980s/early 1990s,⁶² Turkey approached asylum seekers composed of Iraqi Kurds and Turkmens more as a security threat and, despite ultimately offering shelter, made sure that their stay was temporary even by means of creating no-fly zones in conflict areas.⁶³ Turkey's policy toward mass movements from Syrians is similarly shaped by both the government's regional interests and concern over safeguarding territorial integrity and national identity, which once again put migration policies at the intersection of foreign and domestic policy.⁶⁴

Once the civil war broke out in Syria in 2011, Turkey first pursued diplomatic channels to convince Assad in a peaceful transition, genuinely believing that it could play such a mediatory role in this conflict.⁶⁵ When these efforts failed, Turkey put a halt to the rapprochement policy of 2009 and radically altered its stance toward the Assad regime in 2011. Turkey not only cut all diplomatic ties and economic cooperation, but the then PM Erdogan also spoke out in various international and domestic forums about regime transition in Syria.⁶⁶ In the meantime, the open-door policy toward Syrians fleeing their country continued. Their arrival was portrayed by the AKP government as the living evidence of the atrocities of the Assad regime and allowed the government to gain international legitimacy. Initially, they lacked a legal framework within which protection claims could be assessed, and they were welcomed as "guests," "a term framed and justified in reference to the notion of religious fraternity as well as indicating a temporary stay."⁶⁷ The legal framework for these Syrian "guests" has somewhat improved with the introduction of temporary protection status in October 2011 based on an EU regulation,⁶⁸ putting them at a more privileged position in terms of securing basic rights compared to other non-European asylum seekers who, according to the geographical limitation maintained in the 2013 Law on Foreigners and International Protection, were still not allowed to apply for international protection in Turkey.

The Turkish state's stance toward the Syrian border has further been altered with the realization that the Assad regime would not be quickly overthrown and that Turkey would not receive the international support it desires for its staunch anti-Assad foreign policy. Moreover, the downing of Turkish jets by the Syrian regime in June 2012 and a number of "domestic" incidents, most prominently the bombing of the Turkish southeastern border town Reyhanli in May 2013 that claimed the lives of fifty-three people, increased the fear of a spillover of the conflict. The porous border intentionally maintained by the Turkish state in order to exert influence on the Syrian armed conflict changed, leading to a period of "gradual and

partial securitization” of migration and border governance in 2013–14.⁶⁹ In terms of border-crossers, this implied an unofficial “closed-door” policy, although the border remained selectively permeable until mid-2015.⁷⁰

Since 2014 the AKP government’s humanitarian discourse via brotherhood has become harder to maintain. Turkey began to more systematically register Syrian refugees and to raise its voice about responsibility-sharing and international aid for accommodating refugees in Turkey.⁷¹ The flight of Christian and Yazidi Iraqis as well as Kobanë Kurds from ISIS assaults disrupted AKP’s narrative of Syrian “guests” as victims of Assad’s despotism and revealed the selective nature of the Turkish asylum policy.⁷² Amnesty International reports from that period of time show that asylum seekers from Kobanë were detained, questioned about their relations to PYG/YPG, and often convinced or forced to return.⁷³ Similarly, pro-government media reserved its humanitarian approach only for refugees fleeing from the Assad regime while turning a blind eye to atrocities committed by ISIS on these other groups.⁷⁴ Given their lack of confidence in Turkish authorities, asylum seekers from Kobanë mostly refused to take places at separate camps that AFAD had organized and preferred to be hosted by local communities of the same ethnic/religious origin. Even though the effects of temporary protection status are not yet systematically analyzed, it also seems that this status is helping mostly Sunni and Arab Syrians to obtain access to rights.⁷⁵ In October 2014, the street protests that were organized in different cities in Turkey to draw attention to the atrocities in Kobanë turned into clashes between Turkish and Kurdish nationalists in some places, such as Antep, and were eventually suppressed by riot police with disproportionate use of force.⁷⁶ In the aftermath of these events, which ended with at least forty civilian casualties, the riot police’s right to use firearms was expanded even further with the controversial 2015 “internal security package” that restructured the country’s law-enforcement agencies, domestic security, and civilian affairs’ authorities.⁷⁷

Witnessing the side effect of blurring the boundary between domestic and foreign political interests, the incumbent AKP has ever since made national unity, territorial integrity, and border control its priorities. This national unity discourse has brought all opposition, except HDP, closer to the AKP’s stance, marginalized Kurdish and leftist HDP and its vote base, and eased criminalization of any related groups, citizens and noncitizens alike. It also led to “full-fledged securitization” along the borders after mid-2015⁷⁸ with the erection of a wall and cross-border military action becoming easily accepted by the majority of the Turkish public (e.g., Operation Euphrates Shield between August 24, 2016, and

March 27, 2017, and the ongoing Olive Branch Operation since January 2018).⁷⁹

Under this political turmoil within Turkey and across its southern border, the EU-Turkey Statement was agreed upon on March 18, 2016. The deal is built around the 1:1 principle, meaning that Turkey would accept the return of all new irregular migrants and asylum seekers whose applications have been declared inadmissible or unfounded after a fast-track asylum procedure in the Greek Aegean islands, and, for every Syrian returned to Turkey, one Syrian would be resettled in the EU. The stakes are therefore higher for unauthorized crossers, who are faced with either being deported to Turkey, where they would have no access to international protection, or would be locked in the islands.⁸⁰ Although the movement has not stopped and the crossings have become riskier and deadlier,⁸¹ these conditions have deterred a considerable number of migrants from undertaking the journey, lowering the number of arrivals to Greek islands from 856,723 in 2015 to 173,450 in 2016 and to 29,000 in 2017 and 2018.⁸²

Even though the total number of returns to Turkey remains far below EU's expectations compared with the number of Syrians resettled to the EU from Turkey (1,896 to 8,834),⁸³ returns to Turkey began as early as April 2016. According to the press releases of the NGO Building Bridges, the returnees are received under extremely isolated conditions (e.g., blocking volunteers from access to persons in the arriving ships) and are cut off from all human contact, including legal aid.⁸⁴ Returnees are directly placed in deportation centers, initially often in Pehlivan köy Center, and are veritably incarcerated, being held behind bars that are opened three times a day to allow returnees access to meals and very short recreation times.⁸⁵ They have no access to internet, phone, or TV, and often are unaware of the legal situation that they are in.⁸⁶ The report of the European Commission states that 57 returned non-Syrians applied for international protection in Turkey, while 831 of them have been returned to their countries of origin. These figures, which are already alarming, might not even be entirely true, as they are reported by Turkish authorities and are so far unverified by any nongovernmental agency. Additionally, NGOs such as Building Bridges and scholars on the ground show how access to international protection has been seriously hindered.⁸⁷ Legal aid is only provided to a few asylum seekers who can manage to get in touch with NGOs through personal contacts. Extreme legal uncertainty combined with prison-like detention conditions reduces returnees to what Agamben calls "bare life"⁸⁸ to the extent that they are rendered not significant enough to be addressed publicly by the European or Turkish authorities.

Things have only deteriorated since the failed coup attempt of July 15, 2016, and the ensuing state of emergency. According to Amnesty

International reports, a series of executive decrees adopted have failed to respect even the reduced guarantees left in place under the state of emergency, such as the Decree Law of October 29, 2016 (KHK/ 675 and 676). While there were few instances of forced return of asylum seekers and refugees back to Afghanistan, Iraq, and Syria, where they would face a high risk of human rights violations,⁸⁹ Executive Decree 676 has basically removed significant safeguards against refoulement from the international protection regime in Turkey, extended the categories of foreigners against whom Turkish authorities can issue removal orders, and abolished the automatic suspensive effect of an appeal against removal orders for individuals, including a recognized refugee or a registered asylum seeker, who are considered to constitute a “threat to public order, security, and health” or are regarded as somehow associated with “terrorist organizations.” In such cases, removal orders can be issued even when the person concerned is a recognized refugee or a registered asylum seeker.⁹⁰

Since late 2017 and early 2018, Syrians who have thus far benefited from a comparatively secure legal status have been reported to experience hardship in registering their temporary protection status in ten provinces, including Hatay and Istanbul.⁹¹ Even though Turkish authorities denied the suspension of registrations, NGOs report that only pre-registered Syrians, urgent medical cases, and babies were continuously registered. There are also more instances of refoulement and collective expulsion since 2017 from the eastern and southeastern border towns close to Syria as well as cases of direct deportation of those apprehended at the Greek-Turkish border for unauthorized border crossing.⁹²

The state of emergency in the aftermath of the failed coup and the aggressive fight against what is defined as “terrorist” activity put all newcomers in a suspect position, swinging the pendulum of victimization and criminalization of migrants to the criminalization end. The most obvious obstacle for both Syrians and other non-European refugees remains the exclusion from the right to citizenship in Turkey; meanwhile, the state of emergency executive decrees have extensively limited even basic rights of citizens by, for example, withholding the right to mobility of political dissidents.⁹³ The deportability of noncitizens, even though the practice is against the fundamental principles of international law, reinforces their absolute exclusion and makes it easier to completely disregard their political subjectivity, political demands, and basic rights.

Conclusion

By looking at the three episodes of migration governance in Turkey, we aim to contribute to this volume on populism and criminalization of migration by underlining the role of existing ethnoreligious divisions underlying a citizenship regime that might go unnoticed in general accounts in Turkey. Even though the flows of refugees from Syria since 2011 are indeed unprecedented in Turkey's history, our chapter has sought to situate this current migration within the historical and comparative perspective, which allowed us to underline continuities and ruptures more clearly. Significantly, it has shown how the intertwining of citizenship regime and foreign policy interests has always been part and parcel of migration control. While the preferential treatment extended to "Turkish descent" migrants from Bulgaria described in detail in the first episode derives directly from the state-centric circumscription of Turkishness, which despite the official republican ideal is rooted in ethnicity, the open-door policy of the pre-1990s as well as the halt of the practice of automatic citizenship after the 1990s proves that the open-door policy was equally a foreign policy statement to communist Bulgaria in the Cold War era. The same lens can be applied to read the Turkish stance for the official welcoming of Syrian refugees, as explained in the third episode, which again shows the continuity of the amalgamation of foreign policy and citizenship regime while governing migration.

However, the episodes also enable us to demonstrate ruptures that came about most significantly during the authoritarian populist rule of AKP. Whereas the *how* of migration control—that is to say, the foundational elements of migration control—has not shifted significantly, the "packaging" of citizenship regime and foreign policy has gained increasingly Islamic undertones. To be sure, AKP has not invented populism or neo-Ottomanism; however, it made it a central piece of its citizenship *and* foreign policies. Again, following Hadiz⁹⁴ this did not imply putting an end to the idea of nation, which was predicated in "Turkish descent," but rather adding Sunni majority references that were excessively mobilized in the reception of Syrian refugees. Even though AKP's brotherhood discourse did not find as much resonance within the Turkish public,⁹⁵ it was sustained by its hegemony over the parliament and the media, which failed to bring about a more rights-based discourse. Therefore, the *who* of migration control has become very significant. While some migrants were thus granted protection and rights on the basis of their putative proximity to the "imagined community" of Turkey, others, such as Festus Okey, who were not part of the national imagination, were legally

disregarded and indisputably criminalized. The second episode shows us how the threat of deportability and criminalization is a Damoclean sword for non-Syrian and non-Western asylum seekers in Turkey.

Finally, throughout the episodes, but particularly in the third one, the criminalization of migrants along with citizens becomes the currency of the day, as Turkey's regional political and economic aspirations and migration control are shaped by AKP's Islamic populist politics transcending national borders. Constant fear of existential threats from within and outside paved the way for the imprisonment of all political dissidents, while military interventions in the neighboring countries, allowed by the emergency bill of September 23, 2017, and recent concerns for political (and economic) stability at home put all the new arrivals from the region in suspect positions. This is the new height of electoral authoritarianism, which easily suspends rights granted by the constitution and protected by international law, violates the right to mobility of its citizens and the principle of non-refoulement for noncitizens, and shows its "benevolent" face only to its obedient citizens and migrants who fit into AKP's national imagery.

Notes

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