

3-2018

Denying Refuge, Creating an Industry: Migrant Smuggling and the Human Cost of the Turkey-European Union Asylum Framework

Olivia Campochiaro

Follow this and additional works at: <https://digitalworks.union.edu/theses>



Part of the [International Relations Commons](#)

Recommended Citation

Campochiaro, Olivia, "Denying Refuge, Creating an Industry: Migrant Smuggling and the Human Cost of the Turkey-European Union Asylum Framework" (2018). *Honors Theses*. 1597.

<https://digitalworks.union.edu/theses/1597>

This Open Access is brought to you for free and open access by the Student Work at Union | Digital Works. It has been accepted for inclusion in Honors Theses by an authorized administrator of Union | Digital Works. For more information, please contact digitalworks@union.edu.

DENYING REFUGE, CREATING AN INDUSTRY:

MIGRANT SMUGGLING AND THE HUMAN COST OF THE TURKEY-EUROPEAN UNION ASYLUM

FRAMEWORK

BY

OLIVIA J. CAMPOCHIARO

* * * * *

SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
HONORS IN THE DEPARTMENT OF POLITICAL SCIENCE

UNION COLLEGE

JUNE, 2018

“IT IS THE OBLIGATION OF EVERY PERSON BORN IN A SAFER ROOM TO OPEN THE DOOR WHEN
SOMEONE IN DANGER KNOCKS.”

- DINA NAYERI

TABLE OF CONTENTS

ABSTRACT	v
I. INTRODUCTION	1
A. WHAT IS MIGRANT SMUGGLING?	2
B. CONTRIBUTING FACTORS TO IRREGULAR MIGRATION AND SMUGGLING	6
C. IRREGULAR MIGRATION POLICY	8
D. STATE RESPONSES TO MIGRANT SMUGGLING	12
E. THE HUMAN COST OF STATE RESPONSES	16
F. RESEARCH DILEMMAS	18
II. RELEVANT POLICY INSTRUMENTS	21
A. INTERNATIONAL LAW AND THE GLOBAL HUMAN RIGHTS FRAMEWORK	21
B. EUROPEAN UNION MIGRATION POLICY	28
C. THE HUMAN COST OF THE SECURITY FRAMEWORK	32
D. CONCLUSION	37
III. TRANSIT MIGRATION IN THE EASTERN MEDITERRANEAN: WHY MIGRANTS DO NOT WANT TO STAY IN TURKEY	38
A. PULL FACTORS TO TURKEY	41
B. THE TURKISH ASYLUM FRAMEWORK	42
I. THE LAW ON FOREIGNERS AND INTERNATIONAL PROTECTION	46
<i>LIMITED PROGRESS</i>	48
<i>CONDITIONAL PROTECTION</i>	49
<i>URBAN CENTERS, DISCRIMINATION AND VIOLENCE</i>	55
<i>CONCLUSION</i>	58
II. TURKEY AND THE EUROPEAN UNION	60
<i>THE EU-TURKEY READMISSION AGREEMENT</i>	60
<i>REPERCUSSIONS: PUSH-BACK, DETERRENCE AND CONFINEMENT</i>	63
C. CONCLUSION	65

IV. MIGRANT SMUGGLING IN THE EASTERN MEDITERRANEAN: A STATE-SPONSORED	
INDUSTRY	68
A. INTRODUCTION	68
B. THE NATURE OF MIGRANT SMUGGLING	71
I. OPERATIONAL CHANGES	71
II. NETWORKS	75
III. ACTORS	81
IV. PAYMENT	83
V. DANGERS	85
C. STATE RESPONSES TO MIGRANT SMUGGLING IN THE EASTERN MEDITERRANEAN	88
I. TURKEY	89
II. GREECE	92
D. CONCLUSION	94
V. CONCLUSION	100
A. MAIN FINDINGS	100
B. BROADER IMPLICATIONS AND FURTHER CONSIDERATIONS	103
I. THE SMUGGLING RESPONSE	105
II. SAVING LIVES THROUGH INFORMATION SHARING	108
III. DETERRENCE, OFFSHORE PROCESSING AND READMISSION DEALS	111
IV. ROUTE DISPLACEMENT	114
V. CONDITIONS IN TURKEY	116
VI. HUMAN RIGHTS AND THE FUTURE OF THE EUROPEAN UNION	119
BIBLIOGRAPHY	122

ABSTRACT

CAMPOCHIARO, OLIVIA JANE Denying Refuge, Creating an Industry:
Migrant Smuggling and the Human Cost of the Turkey-European Union Asylum
Framework. Department of Political Science, March 2018.

ADVISOR: Cigdem Çidam, PhD

This thesis examines how state responses to irregular migration impact human smuggling activity and the experiences of asylum seekers in Turkey and the European Union within the context of the current refugee crisis. To do so, I first discuss relevant global and regional policy frameworks regarding border security, human smuggling, and the rights of displaced people. I then embark on a case study of the Eastern Mediterranean Migration Corridor from Middle Eastern and North African states through Turkey to the Schengen Zone, a primary irregular pathway for migrants seeking asylum in the EU. Turkey hosts more internationally displaced people than any other country in the world, but most do not wish to stay. While the many limitations of Turkey's migration and asylum framework push transit migration, restrictive border policies incentivize migrants to seek out human smugglers. Smuggling has immense human costs: over fifteen thousand irregular migrants have died on the Mediterranean since 2014 and this trend shows no signs of stopping. I investigate the broader implications of this phenomenon and provide policy suggestions to better prepare states to receive and protect displaced people. I conclude by arguing that if states wish to stop irregular migration and human smuggling, demand must be eliminated by adopting less militarized responses and providing access to timely, regular channels to claim asylum.

I. INTRODUCTION

Within the first three months of 2017, 30,465 migrants entered Europe. 29,260 arrivals were by sea. While these numbers show a 97 percent decrease compared to the first quarter of 2016, Italy has experienced an 85 percent increase in arrivals.¹ Although EU states have taken drastic measures to strengthen border security, they have not necessarily curbed migration through irregular channels. Rather, there has been a geographical and methodological shift in migration, a direct response to the imposition of new barriers to movement. Multiple terrorist attacks in European cities have taken place during this time of unprecedented migration from North Africa and the Middle East. These simultaneous phenomena contribute to increasingly xenophobic sentiments and irrational perspectives of migrant criminality, despite the fact that most migrants relocating to Europe have suffered immeasurable terror, violence and insecurity in their own countries. Nevertheless, feeling personally inconvenienced by such population influxes, decision makers have shifted their political priorities from protecting human rights to sealing external borders and improving the ability to identify, monitor, and control populations.

Perhaps most significant is the sheer amount of people entering Europe by boat on one of the dangerous Mediterranean Sea routes: 96 percent of migrants arrived this way, demonstrating the high degree of desperation to enter the region as natural and manmade crises force people from their homes. Borders are becoming increasingly impermeable and migrants are encouraged to seek out alternative routes that are dangerous and expensive to cross. Lack of legal and safe channels motivate migrants to employ

¹ International Organization for Migration. "Tracks deaths of migrants, including refugees," Missing Migrants Project.

professional, clandestine agents, frequently referred to as ‘human smugglers’ or ‘migrant smugglers’ that assist them in completing their journey for a price.

In this chapter I begin with an exploration of the definition of human smuggling and its distinction from the related concept of trafficking. I then investigate the three primary driving forces of irregular migration: globalization, global crises and the increasingly restrictive immigration policies of destination states in response to unprecedented population movement. Migration and human smuggling, as well as the policy responses to these trends, are closely linked. However, for analytical purposes I examine these phenomena separately, first looking at the rise of irregular migration and state responses to *this* trend, then at the ways in which the increase in global migrants and the way states respond to their movement contribute to the growth of the human smuggling industry. This analysis brings me to the conclusion that state policies - both those that target smuggling and those that target irregular migration- have a direct impact on the human smuggling industry in a way that is counterintuitive to policymakers’ intentions. I finish this chapter by bringing to light the human costs associated with human smuggling, as well as the limitations to researching this clandestine industry.

A. WHAT IS MIGRANT SMUGGLING?

Human smuggling, also referred to as migrant smuggling, arises as a central issue within the context of irregular or “illegal” migration. Irregular migration refers to any sort of movement across borders that circumvents state regulatory norms, including passing with false documents or at unauthorized checkpoints, overstaying one’s visa, or making false claims to asylum. Human smuggling, which exists under the broader classification

of irregular migration, can be defined as *the clandestine movement of undocumented migrants and asylum seekers across international borders through the circumvention of state regulatory norms for financial gain*. As human smuggling continues without signs of significant decrease, states have begun to cooperate through transnational policy development. According to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, a supplement to the 2000 United Nations Convention Against Transnational Organized Crime, the smuggling of migrants can be defined as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”² The document distinguishes smuggling from human trafficking, or “the recruitment, transport, transfer, harbouring or receipt of a person by such means as threat or use of force or other forms of coercion, abduction, fraud or deception for the purpose of exploitation.”³ The UNODC (United Nations Office on Drugs and Crime) provides four criteria to distinguish human smuggling from trafficking, summarized as follows: smuggling is by definition consensual and involves a financial exchange in return for the crossing of international borders. Trafficking, in contrast, is always coercive and can occur domestically or internationally. Traffickers benefit not only from the process of transportation, but also the exploitation of the victim for financial gain. As Kyle and Koslowski point out, a lack of a clear distinction between the two concepts largely prevented transnational and trans organizational cooperation until the year 2000 when the UN General Assembly laid out these explicit definitions within the convention. Since

² UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, p. 2.

³ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, p. 7.

then, there has been a demonstrated effort to ensure policy better identifies and targets the problem, opening the door for states to be able to respond appropriately.⁴ How policy become practice, and the ways in which such policies affect both smugglers and migrants will be explored in further chapters.

Despite the extensive literature and policy dedicated to establishing why smuggling and trafficking are inherently different, these concepts can in fact transform or occur simultaneously. Smuggling, which is strictly the movement of people to a specific destination, can easily turn into trafficking if the actions of smugglers become exploitative. The dangerous and clandestine nature of smuggling endangers migrants, particularly asylum seekers, who are forced by circumstance to flee their home country and do not have the ability to pass through official ports of entry with valid documentation. Instead, they face the decision to stay home at risk of persecution or flee, which likely requires placing their lives in the hands of a criminal ‘expert.’ A smuggler is an ‘entrepreneur’ of sorts, and their primary goal is to profit off of their ‘product’ - migrants.⁵ Therefore, the safety and wellbeing of migrants is rarely a priority. It is not uncommon for irregular migrants to suffer beatings, sexual assault, severe hunger, robbery, and a host of other abuses. They may be sent by the hundreds across the Mediterranean Sea on boats not designed to hold so many people, forced en masse into warehouses for indefinite amounts of time, or are unwittingly passed into the hands of traffickers. The term ‘choice’ should be applied loosely when speaking of the decision to

⁴ David Kyle and Rey Koslowski, *Global Human Smuggling: Comparative Perspectives* (Baltimore: Johns Hopkins University Press, 2011), 7.

⁵ Emma Herman, "Migration as a Family Business: The Role of Personal Networks in the Mobility Phase of Migration," *International Migration* 44, no. 4 (2006): 195, doi:10.1111/j.1468-2435.2006.00384.x.

employ smugglers, as often staying at home can place migrants in horrifically violent and traumatic circumstances.

The separation of smuggling and trafficking policy was intended to better identify the crime committed and protect those subject to trafficking. However, a differentiation of terms that relies on the presence or absence of coercion and exploitation can become problematic. The “unscientific nature of the term ‘exploitation’”⁶ and the assumption that smuggling is a definitively consensual agreement allows room for smugglers to avoid accountability for any coercion or violence that takes place during the journey. However, the consensual nature of the initial agreement to be smuggled should not be interpreted as responsibility for any violence that takes place afterward. The policy framework’s subjectivity is problematic for asylum seekers, who are not protected by trafficking laws even if they are exploited and suffer abuse during their journey. Jacqueline Bhabha presents a possible solution to this problem: in lieu of using the terms “exploitation,” “coercion” and “consent” to differentiate between smuggling and trafficking, “it may be more satisfactory to use the presence (trafficking) or absence (smuggling) of an enduring exploitative relationship after the travel is completed as the distinguishing criterion.”⁷ If policy were restructured in this way, migrants who employ smugglers and are then forced into exploitative labor extending past their period of travel would be protected under trafficking law.

⁶ Jacqueline Bhabha, "Internationalist Gatekeepers?: The Tension Between Asylum Advocacy and Human Rights," *Harvard Human Rights Journal*, 2002nd ser., 15:22n8, www.mcrg.ac.in/AddReading/2008/C_Bhaba.pdf.

⁷ Ibid.

B. CONTRIBUTING FACTORS TO IRREGULAR MIGRATION AND SMUGGLING

The fairly recent, yet urgent concern regarding smuggling and trafficking gives rise to the question of what are the primary factors that contribute to the growth of human smuggling as a worldwide phenomenon. Past literature on the subject consistently emphasizes three factors that have led to industry growth, particularly within the past two decades: globalization, global crises, and state responses to mass migration. Globalization and global crises have caused a record increase in the number of global migrants, while tightened border controls and barriers to migration through official channels encourage migrants to seek alternative, clandestine routes.

Socioeconomic inequality forces poverty-stricken populations from their homes and draws them to countries with more economic opportunity, one of the reasons for a spike in regular and irregular migration. Furthermore, ever-expanding technological resources permeate even the most rural and impoverished regions, making information sharing and communication easier now more than ever. A mother in El Salvador can now speak to her son in New York on a regular basis and a family in Somalia may research various advertisements on Facebook for smuggling services from their hometown all the way to Europe. Syrians still at home can connect with their loved ones who have safely reached Europe, to learn of the best routes to pursue asylum. People can learn of foreign experiences, opportunities, and protections that may not be available in their home countries. Advancements in information sharing and transportation also facilitate faster and more effective communication within smuggling networks by providing updated information on the status of routes in relation to factors such as border security and weather, which allows for rapid itinerary and logistical changes.

Interstate conflict and transnational organized crime in the Sahel, anti-Muslim genocide in Myanmar, civil war in Syria and South Sudan, religious extremism in Somalia and Kenya, the immediate impact of the climate change across the Asian and African continents, brutal violence in the aftermath of war in Iraq, gang activity in Central America, and poverty worldwide have simultaneously produced record levels of mass migration. As new communication methods allow people to learn more about opportunities abroad and threats to life and livelihood continue at home, people are both incentivized and forced to cross borders and resettle in other countries. Migrant populations were once monopolized by those seeking economic opportunity, but terrorism, ethnic conflict, civil and international war, and state sanctioned violence, have tipped the scales and led to record numbers of asylum seekers. Although each story and experience is unique and should be treated as such, one gains a vague understanding of what conflicts give rise to population displacement by examining the origin countries of people smuggled into Europe. For example, the Central Mediterranean and the Apulia and Calabria smuggling routes, are dominated by Syrians, Eritreans, Nigerians and Somalis, who have been forced to flee due to civil war, militarized authoritarian governments, violent extremist groups, and failed state systems that breed further afflictions including violence, organized crime, economic instability and terrorism.⁸

Contemporaneously, destination states, including EU Member States, the United States, and Australia, which are relatively economically and politically stable, are strengthening border security measures and placing increasing restrictions on who may enter and stay in the country. Despite the high demand to reach developed countries, which are among the most desirable for the resources and protections they offer, the

⁸ Frontex, "Migratory Routes Map," FRONTEX.

majority of the world's 22.5 million refugees are internally displaced or live in camps in countries that presently also suffer conflict, crisis or underdevelopment, including Turkey, Pakistan, Lebanon, Iran, Uganda and Ethiopia. Among the ten countries that host the most refugees, Germany, ranked at number nine, is the only European country. The other nine either suffer conflict or are adjacent to conflict zones. In fact, Europe only hosts 17% of the world's 65.6 million forcibly displaced people, in contrast to Africa and the Middle East which in combination host 56%.⁹ While policy initiatives by EU destination states are designed to curb migration from Asia and Africa, many scholars argue that these efforts may increase irregular migration to Europe and create an inclination among migrants to utilize smuggling networks to do so.

C. IRREGULAR MIGRATION POLICY

Resistance to irregular migration to Europe has manifested itself in policy focused on deterrence and militarized border security, which takes on a criminal perspective of migrants. However, their responses have had the opposite effect of what was intended: tightening border security will not, and has not stopped irregular migration, it will only make it more dangerous, more expensive, and more elusive. To support this point, Kyle and Koslowski bring up the case of the U.S. Mexico Border. During the 1980s, U.S. border security was increased dramatically in response to high levels of irregular migration. Instead of curbing migration, these policies, in turn, encouraged people to employ smugglers to assist them in crossing the border. According to the Mexican Migration Project and UNODC, in 2005, 96 percent of irregular migrants crossing the U.S.-Mexico border employed professional smugglers, compared to 73 percent in 1975.

⁹ Malaka Gharib, "CHART: Where The World's Refugees Are," NPR, March 27, 2017.

This 23 percent increase can be attributed in part to the frequently reproduced “Prevention Through Deterrence” (PTD) strategy, and demonstrates the smuggling industry’s demand-driven monopoly of clandestine border crossing operations in response to a lack of alternative options.¹⁰

Between October 2000 and September 2014, the bodies of 2,721 migrants were recovered in Southern Arizona alone.¹¹ PTD was implemented in the 1990s in response to an influx of irregular migrants crossing the border from Mexico, particularly in urban areas such as El Paso. U.S. border security officials permeated the cities and more densely populated areas, funneling migrants into the uninhabited rural deserts, which are home to harsh landscapes and bandits. The hope was that the expensive and often fatal journey through the desert would do the work of border patrol officers to deter migrants.¹² This was not the case: because PTD did not address the root push and pull factors causing this population influx, it has only encouraged migrants to traverse more dangerous routes that require the assistance of smugglers. Furthermore, the correlation between the increase in irregular migrants entering the United States through the desert and the increase in fatalities in this region is strong, demonstrating how militarized reactions to migration produce violence.¹³ Ironically, as states seek to end irregular migration, they unwittingly have caused a spike in migrant smuggling without curbing irregular border crossings, which subsequently supports transnational organized crime by providing another profit source to their operations. From this case one can observe that

¹⁰ David Kyle and Rey Koslowski, *Global Human Smuggling: Comparative Perspectives* (Baltimore: Johns Hopkins University Press, 2011), 7.

¹¹ Jason De León, *Land of Open Graves: Living and Dying on the Migrant Trail* (University of California Press, 2015), 29.

¹² *Ibid.*, 31.

¹³ *Ibid.*, 35.

migration policy often creates a cyclical effect: as states increase border security and barriers to legal channels for migration, irregular migration and human smuggling also increase. This is in part due to the close relationship between the two phenomena. Instead of recognizing the undesired consequences, states respond by continuing to increase border security, only further promoting illicit and dangerous activities.

Border security policy has been approached through both domestic initiatives as well as international cooperation. These actions are supported by an organizational structure which Triandafyllidou and Maroukis describe as the “border bureaucracy.” Included in this bureaucracy are barriers and checkpoints including “border crossing points, border guards, passport controls, entry visas and passport stamps for those entering or leaving a country” as well as “a range of ‘border actors’ including not only state authorities but also non-governmental organizations, international organizations and criminal networks for human smuggling and trafficking.”¹⁴ Technological advancements in border security are a new development in the border bureaucracy system, which Dijkstra and Meijer describe as the “e-Border.” Detailed “risk files” on individuals are composed, satellites, air crafts and sea vessels monitor the Mediterranean Sea and the thousands of migrants that cross it each week, and imported cargo is investigated using heat sensors and carbon dioxide detectors.¹⁵

The increasingly restrictive and hostile nature of immigration policy is closely related to the way in which migration is often associated with acts of violence and terrorism in public discourse, however baseless these assumptions may be. Popular biases are reproduced through policy initiatives that aim to exclude specific populations or

¹⁴ Anna Triandafyllidou and Thanos Maroukis, *Migrant smuggling: Irregular Migration from Asia and Africa to Europe* (Basingstoke: Palgrave Macmillan, 2012), 5.

¹⁵ *Ibid.*, 1.

aspects of their culture, demonstrating that a high level of identity politics is at play. For example, in August 2001, the *MV Tampa*, a Norwegian freight ship 140 kilometers off the coast of Christmas Island, was denied entry into Australian territorial waters after the Australian Government learned that the ship had rescued 433 Afghan asylum seekers off of Indonesia who had employed the assistance of smugglers.¹⁶ Disobeying the Australian Government's commands, the captain entered Australian waters, declaring a state of emergency and alerting officials of the critical condition of many of the passengers. Australian troops boarded the ship, provided medical care, and attempted to coerce the crew into turning around.¹⁷ That night, the Prime Minister introduced an emergency bill, "Border Protection Bill 2001," which failed to pass the Senate. The Bill would have allowed the Australian government to forcibly remove any ship from territorial waters deemed to have entered unlawfully.¹⁸ The passengers never were allowed onto Australian soil and after five days aboard the *Tampa*, they were received by the governments of New Zealand and Nauru.¹⁹

Although the Australian Government received international condemnation, their handling of the *Tampa* case was widely supported among Australian citizens. In fact, three days after the debacle, Melbourne's Herald Sun administered a poll in which 96 percent of respondents approved of the government's response. Furthermore, two days after the Australian government got word of the *Tampa*'s approach, the following statement was published in the Sydney Morning Herald, quoted from a letter sent in by a

¹⁶ Peter D. Fox, "International Asylum and Boat People: The Tampa Affair and Australia's 'Pacific Solution,'" *Maryland Journal of International Law* 25, no. 1 (2010): 356.

¹⁷ Niels Frenzen, "10th Anniversary of Australia's Tampa Affair," *Migrants at Sea*, August 26, 2011.

¹⁸ Claudia Tazreiter, "Asylum-Seekers As Pariahs In The Australian State: Security Against The Few," *UNU-WIDER*, 2003, 12.

¹⁹ Annabel Crabb, "Tampa Enters Australian Waters With 433 Asylum Seekers Onboard," *ABC*, June 17, 2012.

John Thos Brown: “These boat people are not illegal immigrants, nor refugees, alleged or otherwise. They are pirates, hijackers and thieves.”²⁰ As Bhabha points out, the conservative Australian government’s response to the arrival of asylum seekers, which took place in the midst of an upcoming general election, and this flagrant display of xenophobic popular opinion demonstrate the ways in which policy reflects prejudice towards migrants and vice versa.²¹

D. STATE RESPONSES TO MIGRANT SMUGGLING

U.S. Government officials have been condemned for the circumstances under which they respond to the human cost of migrant smuggling. As the following example demonstrates, state actors are willing to take action against human smuggling only after major tragedies that garner public outcry, and these responses seldom identify the root causes of this industry’s development. On June 6, 1993, the *Golden Venture* landed on the shore of Queens, New York carrying 286 illegally smuggled Chinese migrants. The ship ran aground after an altercation between the captain and a smuggler, after which many passengers, malnourished from the four month journey, jumped into frigid waters. Ten migrants drowned in efforts to reach the shore. While ninety percent were attempting to claim asylum, only about ten percent were granted refugee status while the rest were either deported or detained until 1997. In response, the Clinton Administration vowed to use the fullest extent of the law to prosecute the smugglers responsible and aggressively fight human smuggling in the future.²² The case of the *Golden Venture* demonstrates the

²⁰ Jacqueline Bhabha, "Internationalist Gatekeepers?: The Tension Between Asylum Advocacy and Human Rights," *Harvard Human Rights Journal* 15 (2002): 19.

²¹ Ibid.

²² Anthony M. Destefano, "1993 Ship Grounding Affected Immigration Policy," *Newsday*, June 02, 2013.

high level of human cost required to elicit public awareness and aggressive state action. As governments continue to fight smuggling by prosecuting individual actors, the question arises: will their initiatives prove effective, or will this industry continue to thrive as death tolls rise? States are reluctant to admit their own hand in the growth of this industry through restrictive and militarized policy that prevents safe, legal arrivals to destination states and instead motivates migrants to put their lives in jeopardy in an effort to save them. This case demonstrates the tendency to blame this sort of tragedy on the criminal greed and inhumanity of smugglers, who are prosecuted on an individual basis. Despite the current implausibility of an alternative, it is doubtful that migrants would employ such insidious actors if they were presented a safe and legal method of seeking asylum.

The *Golden Venture* tragedy is not an anomaly; news headlines reporting on migrant deaths on the Mediterranean and the U.S.-Mexico border are all too common. Few will forget the image captured of Aylan, a three year old Syrian boy who was found dead on the shore of Bodrum, Turkey in September of 2015, only one of over 3,515 deaths recorded on the Mediterranean that year - a journey that almost exclusively requires the employment of smugglers.²³ On the contrary, such cases makes one question whether the stunning regularity of these tragedies is normalizing migrant deaths rather than creating a sense of urgency and accountability on the part of state officials. While I do not have the answer to this question, the ceaselessness of this issue and the increasing death toll in the Central Mediterranean suggests the former.

²³ Ishaan Tharoor, "A Dead Baby Becomes the Most Tragic Symbol Yet of the Mediterranean Refugee Crisis," *The Washington Post*, September 02, 2015; International Organization for Migration, "Mediterranean." Missing Migrants Project 2018.

Security tactics are not limited to prosecuting irregular migrants and “professional” smugglers, but extend to citizens who assist this vulnerable population. A recent increase in violent police raids in France has encouraged homelessness among the migrant population. Residents have come together to establish support groups that assist in providing migrants with basic necessities such as food and shelter. These citizens are arrested and prosecuted for their humanitarian efforts, which are categorized as *délit de solidarité* (crimes of solidarity) - an expansion of the definition of human smuggling.²⁴ Lawmakers argue that such acts of solidarity violate Article 21 of the Revised Ordonnance of 2 November 1945, which states:

any individual who, while s/he is in France, facilitates or tries to facilitate the entry, circulation or irregular residence of a foreigner in France, either directly or indirectly, will receive a five-year prison sentence and a fine of 200,000 FF (€30,490,00).²⁵

As Jennifer Allsopp points out, this sort of policy is nothing new: in France “the scope of the law has always been large and penalties have accrued with time,”²⁶ The partial adoption of the Schengen Agreement of 19 June 1990 further demonstrates French lawmakers’ desire to broaden the definition of smuggling in order to deter citizens from supporting irregular migrants by placing their activities outside of the law. This was achieved by refusing to adopt the clause that includes “for-profit” in the practice of

²⁴ Kyle G. Brown, "France Prosecuting Citizens for 'Crimes of Solidarity'," France | Al Jazeera, January 25, 2017.

²⁵ Jennifer Allsopp, "Contesting Fraternité: Vulnerable Migrants and the Politics of Protection in Contemporary France," *Refugee Studies Centre*, 82nd ser. (July 2012): 13.

²⁶ *Ibid.*

helping to facilitate the journey of undocumented migrants within the Schengen territory.²⁷

As irregular migration continues without signs of slowing, particularly across the Mediterranean into Europe, international intergovernmental and nongovernmental organizations seek to find more humane alternatives to current migration policies employed by states. The most recent example is the New York Declaration for Refugees and Migrants, a declaration adopted by the UN General Assembly on September 19, 2016. All 193 Member States came to the consensus that refugees and asylum seekers must be protected and host states should be supported equitably by the international community. There is a demonstrated concern for human smuggling and trafficking within the text. They recognize the severity of the issue and encourage international cooperation to further combat it by better identifying and supporting victims as well as “disrupting and eliminating the criminal networks involved,” primarily through increased security measures and the implementation the 2010 United Nations Global Plan of Action to Combat Trafficking in Persons.²⁸ While these efforts are a step in the right direction, due to their emphasis on security measures, they fail to properly identify the ways in which immigration policy and border security fuel this industry they are trying so desperately to eliminate. If there were a viable legal channel to asylum, the *Golden Venture* tragedy likely would not have occurred and French citizens would not be taking responsibility for providing basic care to refugees. State officials may well understand that irregular migration drives smuggling and barriers to regular migration drive irregular migration, but stopping smuggling necessitates the elimination of the driving factors of irregular

²⁷ Ibid.

²⁸ UN General Assembly, *New York Declaration for Refugees and Migrants: resolution / adopted by the General Assembly*, 3 October 2016, A/RES/71/1, p. 7.

migration. This may be accomplished either by finding a (virtually non-existent) solution to global conflict or by creating a legitimate, timely and accessible path to destination.

E. THE HUMAN COST OF STATE RESPONSES

The most reprehensible consequence of state responses to irregular migration (and their inability to adequately address human smuggling) is the human cost. So far, in 2018 there have already been 710 recorded migrant deaths worldwide, including 410 in the Mediterranean alone, making it the world's deadliest migration zone. As previously stated, border restrictions encourage migrants to traverse dangerous routes where they are subject to financially-driven actors who likely are not concerned with protecting the wellbeing of their clients. Migrants are forced by the hundreds onto boats not designed to support even half of their passengers and are left to navigate the Mediterranean Sea alone. All too often, news headlines report mass fatalities of migrants, as boats capsize and passengers drown. What we do not see are the thousands more who are never discovered or make the headlines; whose deaths go unnoticed, who are passed on to traffickers, or are lost in the Sahara. Migrants also frequently face abuse along their journey perpetrated by smugglers, state officials, and bandits alike, and include crimes such theft, beatings, threats, coercion, and rape. Restrictions to migration have also been shown to correlate with increases in exploitation. As journeys become more complex and expensive, smaller actors are driven out of the industry, which in turn becomes dominated by larger criminal organizations who also specialize in other exploitative

activities, such as the trafficking of humans, drugs and arms, further putting migrants at risk.²⁹

In this way, transnational criminal organizations actually benefit from state policies that aim to curb immigration. As routes are cut off, migrants become increasingly desperate and seek out professionals to assist them in their journey. This spike in demand for human smugglers is accompanied by increases in the cost of their service. By making the journey more challenging and dangerous, states enable smugglers to charge more, allowing them to thrive as demand shows no sign of diminishing. As this illicit market expands, states take an increasingly militarized approach to irregular migration and to migrants who, to be clear, are not inherently violent nor criminals. Brysk and Choi-Fitzpatrick argue that this criminalized perspective of irregular migration has encouraged states to prioritize the “securitization of smuggling” over the rights of migrants, making asylum seekers more vulnerable since, being de facto stateless, they find it extremely difficult to claim their rights.³⁰

Despite improvements in the identification and prosecution of smugglers and traffickers, a large dilemma remains with respect to asylum seekers. Kyle and Koslowski point out that while it is important to break down these organized criminal networks and prosecute those that promote the violence against and exploitation of migrants, it is equally important to ensure that those fleeing persecution are able to reach safety. When legal channels are not available, these same actors may be a saving grace. This is not to say that human smuggling is an industry that should be promoted. On the contrary, it is a

²⁹ Anna Triandafyllidou and Thanos Maroukis, *Migrant Smuggling: Irregular Migration From Asia and Africa to Europe* (Basingstoke: Palgrave Macmillan, 2012), 13.

³⁰ Alison Brysk and Austin Choi-Fitzpatrick, *From Human Trafficking to Human Rights: Reframing Contemporary Slavery* (Philadelphia, PA: Univ Of Pennsylvania Pr, 2013), 5.

call to states to better understand the implications of their border security initiatives. While states, particularly the United States and EU Member States, have a demonstrated concern for border security, which they have taken great lengths to protect, it is unlikely that policymakers will reflect on the state's role in “creating and sustaining human smuggling or the nuances of its historical and sociological foundations.”³¹

F. RESEARCH DILEMMAS

Given the industry’s clandestine and evolving nature, as well as the inability of many states - particularly states of origin - to collect extensive data, research is largely dependent on qualitative rather than quantitative analysis, and data that accurately reflects the extent of migrant smuggling has yet to be produced. Nevertheless, in a 2011 report, the UNODC came to the following conclusions: 1) smuggling is directly connected to corruption but the extent of the involvement of government officials is unknown; 2) smugglers have a high level of adaptability as routes shift in response to counter-migration efforts; 3) the nature of migrant-smuggler relationships is largely unknown; 4) networks become increasingly complex as smaller actors are driven out in high security areas.³² Nevertheless, the increasing severity of this issue, particularly across the Central Mediterranean Route, has created a heightened interest in human smuggling that will likely continue to produce more information on the subject.

There is scholarly disagreement regarding the perspective from which migrant smuggling should be investigated. In contrast to previous studies, which take on either a

³¹ David Kyle and Rey Koslowski, *Global Human Smuggling: Comparative Perspectives* (Baltimore: Johns Hopkins University Press, 2011), 33.

³² M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 7, doi:10.18356/5347a578-en.

social or economic perspective, Triandafyllidou and Maroukis combine the two previously mutually exclusive categories into a study of a socioeconomic paradigm of human smuggling. They acknowledge a variety of past studies, which demonstrate smuggling's high profitability, evidence that increases in border security also increase levels of exploitation, as well as the fact that smuggling is disproportionately skewed towards poor migrants, who are less discouraged by "better detection in the formal employment sector."³³ While these studies are important, the authors argue that they lack social analysis. There are many more details that are crucial to understanding human smuggling industry, such as the nature of migrant-smuggler, how they come to be introduced to one another, and who the smuggler is in relation to a much larger network of actors. This form of analysis is not restricted to economic factors, but also stretches to view the cultural and personal factors as equally significant to gaining a comprehensive understanding of this form of transnational crime.³⁴

This question relates to Triandafyllidou and Maroukis' central theoretical and empirical dilemma: based on their socioeconomic method of analysis, should human smuggling be regarded as an exclusively criminal business, or as a social issue that should be studied from a socio-relational perspective? They argue that the decision to seek out smugglers should not simply be examined through cost benefit analysis. Yes, economic factors are the primary cause of migration, but it is these factors that give rise to the social dynamics that push people to make the difficult decision to migrate, seek asylum and employ smugglers to complete their journey. Social relations are also crucial in terms of the planning and successful completion of their journey. These relations

³³ Ibid., 13.

³⁴ Ibid., 13-14.

should be investigated among migrants and their families, between migrants and smugglers, as well as the various actors that make up the complex network of the smuggling industry.

Taking my cue from Triandafyllidou and Maroukis, I focus in detail on the Eastern Mediterranean route, an irregular migratory route from the Asia and Africa through Turkey into the European Union. This route is dominated by human smugglers and has long historical roots, but has experienced unprecedented popularity in recent years as regular migratory channels have been cut off. In order to better understand the relationship between state action, irregular migration, and smuggling, I examine relevant global and EU policy and rights frameworks as well as Turkey's migration and asylum system.

II. RELEVANT POLICY INSTRUMENTS

The following section is dedicated to examining policy instruments relevant to the experiences of migrants and the responsibilities of states within the context of the European Union as a global superpower. Particular focus is paid to the rights of migrants and refugees protected by international law and within a global human rights framework. European border security and immigration policy is also examined with a focus on the legal-political structure of the European Union and its relationship with the national policy of the sovereign states that comprise it. The purpose of this exploration is to identify tensions in policy formation between two legitimate concerns, those for security and those for human rights. Europe has experienced multiple terrorist attacks and simultaneously high levels of migration from North Africa and the Middle East, which contribute to increasingly xenophobic sentiments and a possible priority shift among decision makers from protecting human rights to an improved ability to identify, monitor, and control populations. The global and regional policy that follow in the analysis reflect this perspective, as well as the need for long term, effective responses to a protracted crisis that could very well become a permanent reality.

A. INTERNATIONAL LAW AND THE GLOBAL HUMAN RIGHTS FRAMEWORK

The rights of migrants and refugees are protected by a global human rights framework, grounded in United Nations (UN) conventions and made binding through domestic and international law. The Universal Declaration of Human Rights (UDHR), entered into force in 1948 and is the cornerstone of international human rights law, setting a standard among its signatory states to protect the dignity, rights, liberty and

safety of its people. Although the UN is not a lawmaking body, and the document is a resolution and therefore is nonbinding, its power lies in its affirmations that support the content of another document: the UN Charter. The 1945 Charter of the United Nations is binding to all states that signed and ratified it, yet the fundamental concept of state sovereignty often obscures recognition, protection and enforcement of human rights.

At the time of the formation of the UDHR, the idea of universal human rights, entitled to every person - not by virtue of being the citizen of a sovereign state, but by virtue of being human - was an entirely new concept. Its ideals presented a tension between the non binding nature of the document and the aim of protecting its content. States could become party to the document without fear of violating its contents as the United Nations lacks the power to interfere with state sovereignty. Furthermore, although rights are entitlements, they must be claimed by an individual and ultimately guaranteed by a state. The issue is, rights are all too frequently denied. This dynamic is easily complicated as states are simultaneously the principle guarantors and violators of human rights, presenting a very real obstacle to the protection of an individual's life, liberty, and dignity.³⁵

Although the UDHR has been criticized as a baseless fantasy, particularly in its initial years, its content became binding with the ratification of the International Bill of Human Rights in 1976. This bill consists of the UDHR as well as two UN treaties: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The covenants were designed to outline the specific guidelines and limitations of the aspirations set forth in the UDHR. Although human rights enforcement is still weak, it has improved drastically

³⁵ Ayten Gündođdu, *Rightlessness in an Age of Rights* (S.l.: Oxford University Press Inc, 2015), 8.

since the documents' ratification. Formal institutions such as the European Court of Human Rights, the European Court of Justice, and the Charter of Fundamental Rights of the European Union protect these "pillars of the international human rights framework" on a regional basis. National policies often reflect and reinforce the UDHR, while informal mechanisms, such as civil society efforts, occasionally have a comparable capacity to influence state behavior. Transnational advocacy groups and non-governmental organizations wield a significant ability to pressure state actors, and the protection of human rights lies at the forefront of foreign policy priorities for certain global powers, which now can apply pressure to those actors who violate human rights through military intervention and financial sanctions. Now, as Gundogdu argues, the protection of human rights, based on the contents of the UDHR and subsequent treaties, is a necessary requirement for legitimate statehood.³⁶

The UDHR begins by stating that all people "are born free and equal in dignity and rights" and that these rights are universal entitlements, without discrimination on the basis of identity or the political status of the individual or the state to which they belong. In the aftermath of the two World Wars, the issue of statelessness and large scale population displacement was more relevant than ever before, and the universal application of human rights to *all* people, regardless of nationality or citizenship status had the potential to protect millions of people from discrimination, violence, statelessness, and insecurity. The document takes on a transnational nature as it guarantees the right to leave any country, including one's own. However, the right to exit one country does not imply a right to enter another. In this sense, there is a tension

³⁶ Ayten Gündogdu, *Rightlessness in an Age of Rights* (S.I.: Oxford University Press Inc, 2015), 8.

between state sovereignty and human rights. In cases of political persecution, one has the right to seek asylum in a foreign country. This is the foundation of international refugee law but has nevertheless resulted in subsequent exclusion and derogation as states have an obligation to hear claims but not grant asylum.

The First and Second World Wars produced millions of refugees, presenting a crisis states were not prepared for. In 1921 progress ensued as the League of Nations began to develop a series of protocols to protect the displaced and the stateless. In July of 1951 the Geneva Convention Relating to the Status of Refugees (popularly referred to as the 1951 UN Refugee Convention) was adopted, followed by an amended 1967 Protocol which expanded the scope of the Convention from a post-WWII Europe context to a globally relevant document. The Convention, regarded as the “centrepiece of international refugee protection today,”³⁷ defines the term refugee and outlines the rights and responsibilities of refugees and the legal obligations of the 148 signatory states to protect these rights.³⁸

The Convention attempts to prevent states from treating refugees as unwelcome criminals. It recognizing the complicated and often dangerous nature of seeking asylum, prohibiting penalties or punishment for entering a country “illegally” when coming from a territory in which one’s life is in danger, given that the asylum seeker reports themselves and makes an asylum claim immediately upon arrival. It also prevents states from sending to another territory “a refugee lawfully in their territory save on grounds of

³⁷ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 2.

³⁸ As any 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.” (Ibid., 14).

national security or public order.”³⁹ Article 33 prohibits the expulsion or return of a refugee to a territory in which they are in danger of persecution on the basis of their identity. This clause, better known as *non-refoulement*, is considered the core principle of the Convention and is now protected under customary international law. It reinforces the right to life by recognizing the very real dangers refoulement presents and the importance of states to recognize claims of asylum as valid. The principle of non-refoulement also prohibits states from preventing refugees from entering their territorial jurisdiction, although instances like this take place all too often.⁴⁰

Displaced people seek asylum when their home country is unable or unwilling to protect their human rights. Without the protocols of the 1951 UN Refugee Convention, the relationship between asylum seekers and destination states becomes foggy. The Convention is a rights-based instrument that outlines more specifically the role of the international community in protecting this vulnerable population. It emphasizes multilateral cooperation and recognizes the international scope of mass migration, which cannot be left to the responsibility of any single state. However, in spite of the Convention, states are increasingly hostile toward refugee and migrant populations on the grounds of security and economic concerns. Within the perceptual framework of “guilty until proven innocent” and “illegality,” refugees are forced to prove the validity of their claim through demonstrable physical trauma. As a result, “the suffering human body has become a crucial site for claiming rights” as “states, courts, and refugee advocates have

³⁹ Ibid., 29.

⁴⁰ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 30.

increasingly turned to the suffering bodies of asylum seekers and other migrants”⁴¹ to find evidence of persecution.

The UDHR guarantees the “right to life, liberty and security of person.”⁴² Article 2 of the European Convention on Human Rights, a legally binding document offers further protection of this right.⁴³ As the death toll on the Mediterranean increases each day, the right to life becomes a primary concern and there is more need than ever to protect it. However, many argue that it is among the most violated rights in the context of irregular migration to Europe. Indirect acts of violence including failure to rescue distressed vessels, stopping migrants from reaching their jurisdiction in order to prevent asylum claims in their territory, and sending migrants to potentially dangerous environments, also known as “push-back,” can be seen as violations of this right, as well as violation of the *non-refoulement* clause of the 1951 Refugee Convention, which prohibits returning migrants to regions where they are at risk of persecution. Despite the binding nature of the right to life as stated in the ICCPR, thorough investigations rarely take place, and instead are “tolerated as an assumed risk of irregular travel”⁴⁴

In an effort to improve state responses to mass migration, the United Nations General Assembly adopted the New York Declaration for Refugees and Migrants in September 2016. The Declaration is comprised of a series of commitments to refugees and migrants in preparation for the creation of two related compacts to be presented by the High Commissioner for Refugees in 2018: the Global Compact on Refugees and the

⁴¹ Ayten Gündoğdu, *Rightlessness in an Age of Rights* (S.I.: Oxford University Press Inc, 2015), 11.

⁴² UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), 2.

⁴³ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, as amended by Protocols Nos. 11 and 14, 4 November 1950, 6.

⁴⁴ UN General Assembly, *Unlawful death of refugees and migrants*, 15 August 2017, A/72/335, p. 9, 11, 14.

Global Compact for Safe, Orderly and Regular Migration. The first part of the Compact on Refugees will contain a Comprehensive Refugee Response Framework (CRRF) which emphasizes “the need to respond in a comprehensive and predictable manner.”⁴⁵ The second part will outline a *Programme of Action* to support the framework with specific policy and protocol suggestions for states. The contributors to the new framework recognize that the refugee crisis is transforming into a sustained reality. States, however are less willing to grant asylum to displaced people, whose movement is regarded as “illegal” and who are treated as criminal suspects until their claim is accepted.

It is clear that the primary goal of this compact is to save lives through cooperation, crisis prevention, and a rights-based perspective. Transit states and states that border countries of origin are disproportionately affected by mass migration as their financial capacities are stretched and cohesion is shocked by large population influxes. This reality is acknowledged within the CRRF and its authors encourage other, non transit or border countries to share responsibility as global leaders and protectors of the rights and wellbeing of migrants. Instead of an ineffective and often damaging “quick fix,” the CRRF’s strategy is promoted as a long-term investment in the wellbeing of migrants, the socioeconomic progress of destination and transit states, and the sustainable resilience of countries of origin.⁴⁶

The framework is intended to be implemented through the coordination of a wide network of state and nonstate actors and will take a nuanced approach that should better prepare states to respond to a broad range of situations. It envisions a policy framework in which border security will effectively combat transnational crime without threatening

⁴⁵ UN General Assembly, *New York Declaration for Refugees and Migrants : resolution / adopted by the General Assembly*, 3 October 2016, A/RES/71/1, p. 16.

⁴⁶ *Ibid.*, 2-3.

the rights of migrants.⁴⁷ The CRRF covers protocol for each step of migration including search and rescue (SAR),⁴⁸ reception and admission, support for immediate and long-term needs, support for destination countries and their communities, and sustainable solutions.⁴⁹ It is the first globally-conscious plan that looks at mass migration not as a temporary crisis but rather as a protracted and perhaps permanent reality in the modern world.

B. EUROPEAN UNION MIGRATION POLICY

The role of the European Union is complicated by its powerful yet non traditional political framework - it lies somewhere in between the organizational structures of a regime and a federation allowing for discrepancies between national and EU policy and tensions between the priorities of regional and national political bodies.⁵⁰ It is important to be aware of this multidimensional legal framework and its implications when examining regional migration policy.

The concept of free movement on the European continent has a long history, but was legally formalized in the 1950s with the development of the Treaty of Rome and subsequent Schengen Agreement. While the Treaty of Rome established Europe as a singular economic community, the Schengen agreement effectively eliminated internal border controls among its signatory states and expanded external border control,

⁴⁷ Ibid., 5.

⁴⁸ Maritime Search and Rescue is also governed by three United Nations maritime conventions: Article 98 of The United Nations Convention on the Law of the Sea, Regulation 15 of The International Convention for the Safety of Life at Sea and Chapter 2.1.1 of The International Convention on Maritime Search and Rescue, which together outline the duty of states to rescue vessels in distress even outside of the jurisdiction of their territorial waters.

⁴⁹ Ibid., 17-19.

⁵⁰ William Wallace. (1983) "Less than a Federation, More than a Regime: The Community as a Political System." In Wallace, H. et al. (eds) *Policy-Making in the European Community* (Chichester: John Wiley).

extending the provisions of the Treaty of Rome from workers to all people, allowing the free movement of European citizens while preventing the arrival of “unwanted” migrants particularly via the southern coastal and eastern land borders.⁵¹ The initial Agreement was signed in 1985 by France, Germany, Belgium, Luxembourg and the Netherlands and was formally implemented in June of 1990. Since the end of the Cold War, EU immigration policy has intensified and from this point on the geopolitical scope of the Schengen area expanded as more countries joined and a uniform visa and population database were created.

The initial agreement was incorporated into the European Union legal framework with the signing of the Treaty of Amsterdam in May 1999. This was the first step in the development of a Common European Asylum System (CEAS) as the new treaty extended to cover further issues regarding asylum and migration and its relationship with the Schengen area’s geographical and political framework.⁵² The CEAS came to be comprised of a series of directives which established a system of Temporary Protection, conditions of and qualifications for reception, and procedures regarding the treatment of refugees and their claims.⁵³

The Dublin Regulation (1997) was an important milestone in the development of the CEAS. As the core of the “Dublin System”⁵⁴ it affirms that one must claim asylum in the state where they are first fingerprinted. This is the state responsible for processing their claim and granting asylum. In 2015, the regulation was revised and Member States

⁵¹ Christina Boswell and Andrew Geddes, *Migration and Mobility in the European Union* (Basingstoke: Palgrave Macmillan, 2011), 9.

⁵² "The Schengen Agreement: Countries, Map and the Definition." Schengen VISA Information.

⁵³ Theresa Papademetriou, “Refugee Law and Policy: European Union,” March 01, 2016.

⁵⁴ Comprised of the Dublin Regulation and EURODAC, a fingerprinting database of irregular migrants in the EU.

were permitted to deport migrants to the first country of entry into the EU. The Dublin Regulation and its amendment were created to ensure timely processing of claims and to hold states accountable for examining these claims, so as to not leave asylum seekers “in orbit.”⁵⁵ Furthermore, it discourages filing multiple claims within the Schengen Area in order to prevent secondary movement and promote cost effectiveness. It was also intended to maintain solidarity and “burden sharing” among Member States - the foundational principle of the CEAS.⁵⁶ Referring to an influx of displaced people as a “burden” reveals how states are less concerned with protecting rights and safety and ultimately see refugees as an inconvenience. In practice, the Dublin Regulation created an undue burden on border states by preventing migrants from continuing their journey northward, leading to overpopulation, strained resources, and congested borders as many northern and eastern states evade responsibility.

The Treaty of Lisbon (2009) is the most recent development within the CEAS, and consolidates the Treaty of Rome (1957) and the Maastricht Treaty (1993) into a singular law.⁵⁷ The Treaty of Rome initiated the concept of a single border region and created a single market within the European Union, allowing for an unrestricted internal flow of workers, goods and capital. The Maastricht Treaty further integrated the EU through increased measures promoting economic and political cooperation. In particular, the treaty deals with the external migration flows of third country nationals to the EU in response to large-scale migration from Kosovo and former Yugoslavia in post Cold War Europe. With the Lisbon Treaty, migration and asylum protocol were fully incorporated

⁵⁵ PC. Pastore, *Refugees in Orbit (The Problem of Refugees without a Country of Asylum)*. New Haven (CT): Yale Law School. Lowenstein Human Rights Law Project, 1986.

⁵⁶ European Commission, *Evaluation of the Dublin III Regulation*, 4 December 2015, p. 3.

⁵⁷ Christina Boswell and Andrew Geddes. *Migration and Mobility in the European Union*. Basingstoke: Palgrave Macmillan, 2011, p. 7.

into EU law and enforced by the Court of Justice and Court of Human Rights. States are obligated to share the responsibility of responding to asylum claims and managing external borders, and provides for the creation of regional institutional mechanisms for border and population management.⁵⁸ It also encourages collaboration with third countries in order to combat trafficking and smuggling, and improved uniformity, justice, and expediency when processing asylum claims.⁵⁹ The power and jurisdiction of EU institutions such as the European Court of Justice are increased, strengthening the EU as a supranational structure. Finally, it makes the Charter of Fundamental Rights of the European Union legally binding. This Charter includes all provisions laid out in the European Convention on Human Rights as well as international human rights law, such as those spelled out in the UDHR and 1951 Refugee Convention.⁶⁰

The institutional capacity of external border management has increased in recent years, particularly on the southern coastal and eastern land borders, in response to a consistent rise in the numbers of displaced people and related human smuggling activity on irregular migration routes. As asylum and migration have been fully consolidated in EU law, the European Union and its agencies have taken on a high level of power over Europe's borders and the framework for immigration control and border security has become supranational in nature. The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, better known as Frontex, was established in 2004 and is responsible for "controlling and protecting" the borders of the Schengen Area. The agency was limited in

⁵⁸ Ibid., 10.

⁵⁹ Ibid., 11; European Commission. "Common European Asylum System." Migration and Home Affairs – European Commission. March 13, 2018.

⁶⁰ European Commission, "EU Charter of Fundamental Rights," March 07, 2018.

scope until the height of the refugee crisis prompted a new mandate in 2016, after which Frontex became part of a new institution, the European Border and Coast Guard Agency (EBCG). Under EBCG, Frontex is an autonomous body with substantially more resources and operational capacities, an independent staff, and authority to carry out missions without needing to recruit personnel from Member States.⁶¹ Furthermore, the mandate expanded Frontex's jurisdiction, which now has joint operations with the border control agencies of neighboring third countries such as Turkey. These relationships consist of technical and operational collaboration, information and personnel exchange, and training. Frontex and Turkey signed a memorandum in which both parties agree to engage in data and information sharing, officer training, programs to stop irregular migration and seal borders, and joint forced returns.⁶² Frontex also works in conjunction with the European Fisheries Control Agency and European Maritime Safety Agency. Their operations are designed to comply with the UN's maritime search and rescue framework, comprised of three treaties: The International Convention for the Safety of Life at Sea (SOLAS), the International Convention on Maritime Search and Rescue, and the United Nations Convention on the Law of the Sea.

C. THE HUMAN COST OF THE SECURITY FRAMEWORK

Smuggling is addressed in accordance with the 2000 UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplement to the Convention Against Transnational Organized Crime. It is further addressed in the Tampere, Hague, and Stockholm Action Plans (1999-2004). Although the Plans lay out objectives and protocol

⁶¹ Frontex, "Frontex's Role in the EU Turkey Statement," FRONTEX.

⁶² Frontex, "Third Countries," FRONTEX.

for the successful implementation of the Treaty of Amsterdam and are non binding in and of themselves, they are significant for a variety of reasons. They provide the framework for future policy creation and implementation, demonstrate the relevance of smuggling in the context of migration and security, and establish the governing bodies of the EU as key arbiters with significant power to set the agenda.⁶³

In contrast to the UN rights-based framework, Frontex operations are grounded in an anti-crime, security-based perspective that reflects EU resistance to migrant population influxes. *Operation Triton*, for example, was a naval security mission implemented by Frontex in November 2014 to combat human smuggling and deter irregular migration on the Central Mediterranean Route from Libya to Italy. The operation replaced the more effective *Mare Nostrum* initiative, Italy's humanitarian search and rescue (SAR) program. *Mare Nostrum* saved the lives of over 100,000 migrants in one year, a success that prompted criticism that successful SAR operations such as this were actually a pull-factor, increasing irregular migration. Unlike *Mare Nostrum*, *Triton* had an explicit focus on border security rather than SAR or human rights, despite prior recognition that abruptly dismantling *Mare Nostrum* and adopting the new approach of non-assistance and decreased operational radius puts migrant lives at risk. Frontex's Interim Executive Director even stated that "while *Mare Nostrum* is clearly a search and rescue operation, *Triton* will be with a main focus on border control." The operation continued, despite opposition from not only international bodies such as the UNHCR and Amnesty International, but also from members of EU agencies and

⁶³ Christina Boswell and Andrew Geddes. *Migration and Mobility in the European Union*. Basingstoke: Palgrave Macmillan, 2011, p. 52-3.

institutions. Decision makers hoped hearing of no more possibility of rescue and the rising death toll would deter prospective migrants from making the journey.⁶⁴

Purposefully increasing human cost as a means of deterrence on a particular irregular border crossing route is a method employed all too often and exemplifies a blatant apathy towards migrant fatalities. The operation did not reach as closely to Libyan shores as *Mare Nostrum*, personnel was limited, and state-operated rescue was suspended. As a result, overcrowded ships of asylum seekers were forced to sail farther out to sea. Journeys became longer, increasing the likelihood for capsizing and drowning. According to UN Maritime Law, captains are required to attempt rescue should they become aware of a vessel in distress. As states no longer participated in SAR, other vessels at sea, such as merchant and private ships, were called upon to fill in this gap and untrained civilians were forced to take on the burden of responsibility.⁶⁵

Contrary to the predictions of Frontex officials, migrants continued to cross the Mediterranean at the same rate after *Mare Nostrum* was discontinued. However, because SAR operations were no longer in place, the death toll quickly began to rise. *Mare Nostrum* ended on December 31, 2014. Between January 22 and February 8, the death toll peaked at an estimated 365 lives lost. In the months that followed, conditions were not remedied and death tolls remained steady as ships went undetected, deployment took hours, and *Triton* vessels were ill-equipped to care for those suffering from hypothermia. The “Black Week” of April 2015 is the most frequently cited example of the deadly consequences of deterrence-based maritime operations such as *Operation Triton*, despite countless warnings. Between the 12th and 18th of April, predictions became a

⁶⁴ Charles Heller and Lorenzo Pezzani, "Death By Rescue: Main Narrative," *Death by Rescue*.

⁶⁵ *Ibid.*

nightmarish reality as over 1,200 migrants were killed in circumstances that could have been avoided. Numbers were skyrocketing, as they typically do in April as the weather warms and the seas begin to calm. On the 12th alone, 3,791 people were rescued. Operational personnel, however, were not sufficient to meet such numbers, and this deliberate vacuum in SAR capacity directly caused the incredible loss of human life that would come in the following days.⁶⁶

A boat carrying some six or seven hundred passengers suffered engine problems soon after leaving the Libyan shore. The captain put in multiple distress calls. Rather than deploying rescue vessels, the Italian Coast Guard encouraged the ship to continue forward until they reached Italian waters. The migrant vessel soon reached a large oil platform among many other ships, but approached with caution, not knowing if these ships were Libyan. The passengers began to argue over the nationality of the ships and moved en masse to the port side to get a better look. This movement tipped the already unstable and over-capacity boat, causing it to capsize. Though they tried, the few present vessels were ill equipped to rescue the hundreds of people now cast to sea and without life jackets. It is estimated that over four hundred people drowned. Six days later, after being contacted by the Italian Coast Guard, a large cargo vessel approached a wooden fishing boat carrying eight hundred and attempted rescue. One of the boats accelerated towards the other, causing a collision (although testimonies conflict as to which of the two boats accelerated). The smaller migrant boat capsized on impact and only twenty eight people were rescued, compared to the almost eight hundred individuals who drowned, including hundreds of women and children.⁶⁷

⁶⁶ Ibid.

⁶⁷ Ibid.

Leaving Search and Rescue to the responsibility of civilian vessels leads to deadly consequences for a number of reasons. The ships are not designed for rescue missions, often being so disproportionately large that they can cause migrant vessels to capsize or are unable to transfer passengers from one vessel to another. Further, they are neither trained, nor equipped for SAR operations. The limited presence of Frontex and national coast guard vessels further reduces the chances of successful rescue - or any attempt at rescue at all. Instead of mending the limitations of Operation Triton, however, the program was expanded in 2015 and a new military operation, EUNAVFOR MED Operation Sophia, was launched. This operation is carried out by the militaries of Member States and aims to reduce human smuggling in the region through surveillance, identification, and dismantling of smuggling networks and their assets. It has been criticized for improperly addressing smuggling as it does not combat its on-shore origins, but rather only a small portion of a complex operation.⁶⁸

Complicated Search and Rescue protocol also has high human costs. State and nonstate actors alike frequently deny responsibility for carrying out rescue missions, despite their obligations as spelled out in UN Conventions regarding Maritime Rescue. This all too often leaves distressed migrants in life threatening circumstances. In 2007, twenty seven people were forced to cling to a fishing net for five days in open waters as the Libyan and Maltese governments argued over whose responsibility it was to rescue them.⁶⁹ This example demonstrates the need for continued policy creation that provides for immediate and effective rescue protocol and clearly defines the party responsible for the mission. It also highlights the perspective of states, who typically see irregular

⁶⁸ Great Britain. Parliament. House of Lords. *Operation Sophia: a failed mission: 2nd Report of Session 2017-19*. The Authority of the House of the Lords, 2017, p. 2

⁶⁹ CBS News. "More than 200 bodies recovered from ill-fated ship." CBS News. July 07, 2016.

migrants, including those with a legal right to asylum, as a burden and even a threat to their economic, social and political stability.⁷⁰

D. CONCLUSION

This chapter has highlighted the tensions that European countries face as they experience consistently high levels of migration since World War II, most significantly that between protecting the rights of migrants and maintaining sovereignty and security by controlling external borders. This conflict is fundamental to the nature of human rights, as states are their sole guarantor and primary violator. The right to life has become a primary concern, as states are legally obligated to protect this right, yet the annual death toll on the Mediterranean remains in the thousands. We have also seen the internal contradictions of UN Conventions, which exist as fundamental global norms, yet are nonbinding and often unenforceable. Despite binding legislation, the loopholes that allow states to evade granting asylum, such as denying responsibility for SAR, demonstrate the position of uncertainty that migrants continue to occupy. The successes and pitfalls of SAR and maritime anti-smuggling operations bring light to the struggle the EU faces as it tries to balance protecting its borders and protecting the lives of those who cross them. They also highlight the complicated nature of the European Union as a uniquely powerful political structure, and the simultaneous operation of local, national and supranational powers. In the following chapter I explore how these tensions have played out in the case of mass migration to Turkey and onward into Europe and how state responses to irregular transit migration affect the experiences of migrants, almost always in harmful ways.

⁷⁰ Christina Boswell and Andrew Geddes. *Migration and Mobility in the European Union*. Basingstoke: Palgrave Macmillan, 2011, p. 123.

III. TRANSIT MIGRATION IN THE EASTERN MEDITERRANEAN:

WHY MIGRANTS DO NOT WANT TO STAY IN TURKEY

A. INTRODUCTION

Among the many migration routes through the Mediterranean to Europe, the Eastern Corridor from the Northern Africa and the Middle East to Turkey and then Greece has long been known for its high levels of irregular migrant traffic and smuggling activity. Migration flows peaked in 2015 with 885,386 border crossings to Greece - a number seventeen times higher than the previous year.⁷¹ Now, Turkey hosts more internationally displaced people than any other country in the world.⁷² Entry and exit points shift between land and sea borders based on the number of migrants, their countries of origin, and whether there are conditions preventing passage through certain routes, such as weather and border securitization measures. Since January 2015, land borders are lesser traveled and more than one million migrants have landed on Greek shores. In the first three weeks of 2018, there were 847 arrivals to Greece, all by sea.⁷³ The Greek Isles receive the bulk of irregular migrants and the islands of Kos and Lesbos are particularly popular for their proximity to the Turkish provinces of Aydın, İzmir, Balıkesir and Çanakkale (located approximately 2.5 and 9 miles across the Aegean Sea, respectively).⁷⁴ The most frequently traversed land routes into the EU are from the Turkish provinces of Kırklareli and Edirne into northeastern Greece and southeastern

⁷¹ Frontex. "Migratory Routes." Eastern Mediterranean Route.

⁷² Filippo Grandi and Achim Steiner, "3RP Regional Refugee & Resilience Plan 2018-2019: Regional Strategic Overview," *UNHCR*, December 2017, 6.

⁷³ International Organization for Migration. "IOM Displacement Tracking Matrix (DTM) - Europe." Migration.iom.int.

⁷⁴ Mike Corder. "Migrants mass in Turkey to take shortest route to Europe." San Diego Union-Tribune. August 24, 2016.

Bulgaria, respectively. The path from Turkey, Greece, then northward through the Former Yugoslav Republic of Macedonia (FYROM) and Serbia is commonly known as the Balkan Route.⁷⁵

The Eastern Mediterranean Corridor's historical significance, geographic location, continuously high levels of transit migration, and the diversity of policy responses create a unique context for analysis. Such factors allow for a more comprehensive exploration of why displaced people come to Turkey, and why they don't stay. People flee their homes not by choice, but by necessity; because they fear they will not survive if they stay. The factors that cause mass flight may encourage an outsider to assume Turkey a destination country, offering stability, economic opportunity, and democratic values - all potential pull factors. This, however, is not the case. Displaced people continue to leave Turkey, or at least try to, via irregular methods. In this chapter I determine why Turkey remains a transit state, despite recent policy initiatives that prevent irregular migration to Europe that force displaced, non-Turkish nationals to stay in Turkey. To answer this question I first draw attention to the pull factors that encourage irregular migration to Turkey, namely the country's location and hope for protection within its borders. I then review Turkey's asylum and migration framework, most notably its maintenance of the geographical limitation on the 1951 Refugee Convention, the passing of the Law on Foreigners and International Protection (LFIP) in 2013, and the 2016 EU-Turkey Statement. Finally, I explore the effects such policies have on the experiences of migrants within Turkey and at its borders, with a particular focus on the rights violations that occur within the country's asylum framework.

⁷⁵ McAuliffe, M.L., and F. Laczó. "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base." 2016.

I conclude that Turkey is a state of transit because it is a dangerous place for migrants, which stirs fear, frustration, and desperation - push factors that encourage secondary migration to Europe. Recent policy measures such as the EU-Turkey deal, though touted as humane solutions to irregular migration, only offer small improvements and many problems remain.⁷⁶ Under the EU's guise of opening its borders to refugees and providing a regular path to asylum, Turkey enjoys freedom from scrutiny as migrants are forced to live in harsh conditions with little guarantees to protection and basic necessities.⁷⁷ Ultimately, asylum seekers have become hostage to precarious circumstances that open the door to numerous rights abuses, while virtually eliminating the possibility of situational improvement or the ability to leave Turkey altogether. By exploring irregular transit migration in Turkey, I also aim to contribute to a broader understanding of national and intergovernmental approaches to migration, the effects of Syrian population displacement on policy development, and the influence of state interests on the experiences of migrants. While irregular migration is constant, it also is constantly changing. It is therefore necessary to continuously revisit the way states respond to population influxes in order to assure states are upholding the rights and needs of migrants and are held accountable in the all too frequent case they do not. The human costs of irregular migration to and through Turkey demand a critical look at the legal frameworks purportedly designed to protect migrants, yet actually put their lives in danger.

⁷⁶ European Council of the European Union. "EU-Turkey Statement." European Council of the European Union. October 23, 2017.

⁷⁷ Nergis Canefe, "Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies," *New Perspectives on Turkey* 54 (2016): 19.

B. PULL FACTORS TO TURKEY

For almost a century Turkey has been a hub for asylum seekers and various forms of irregular migration. From the 1920s through the 90s over a million people migrated to Turkey. The Cold War, conflicts in Iraq and Iran during the 80s, and the fall of the Soviet Union created population influxes from the Middle East and post-Soviet states. Harsh discrimination by state and nonstate actors push the large Kurdish diaspora to flee Turkey in large numbers. The Arab Spring in 2011 furthered displacement and the Syrian Civil war brought numbers to an all time high in 2015. Today, in addition to Syrians, the Mediterranean Route is traversed by people arriving from Afghanistan, Pakistan, Somalia, Iraq and Iran - the countries at the forefront of migration to the EU.⁷⁸

Turkey, lying at the crossroads between the south, west, and east experiences drastically higher migratory flows than EU Member States, which see Turkey as a buffer between the Schengen territory and the global south and east. Situated directly between some of the world's most troubled countries and Europe makes Turkey a "*de facto* country of first asylum," the stepping stone between peril and prosperity.⁷⁹ While many plan to forge on to Europe immediately after entering Turkey, others remain in Turkey, at least temporarily. Hope for a steady income, relative stability, access to resources, and co-ethnic community are some of the pull factors drawing displaced people to Turkey. The belief that Turkey offers sufficient protection and hope that the causes of displacement are temporary can initially discourage migrants from attempting longer journeys.

⁷⁸ Ibid., 10-11.

⁷⁹ Ibid., 17.

Turkey historically had lax border security enforcement, as officials were happy to let unwanted migrant populations continue on to Europe.⁸⁰ Today, although border securitization has drastically increased, the country's tourist visa policies may be an appealing solution to migrants who are able to obtain one and enter the country through official checkpoints. Visa policies depend on the country of origin. Citizens from certain countries benefit from a visa-free policy and only require a passport to stay in the country for up to ninety days. Others are required to obtain an e-Visa online or a standard visa at a Turkish diplomatic office in their country of origin. Migrants become irregular if they overstay or fail to renew their visa, do not claim asylum or apply for domestic protection, or work without a permit. However, many asylum seekers often find it impossible to acquire a visa for a host of reasons. They may lack the required papers, do not have access to the internet or the embassy or consulate, or do not have a credit card, which is necessary to be able to acquire an e-Visa. These barriers can make it necessary to cross borders irregularly. To enter the country, Syrian, Afghan, Bangladeshi, Somali and Iraqi citizens are required to have a visa, while Iranians must have a visa for stays over ninety days.⁸¹ While asylum seekers should be absolved of the crime of irregular border crossing *post facto*, this does not stop border officials from taking violent measures to prevent migrants from entering and subsequently claiming asylum in Turkey.

C. THE TURKISH ASYLUM FRAMEWORK

The long history of irregular migration in Turkey has contributed to a number of policy developments in recent decades. Until 2013, asylum and migration were regulated

⁸⁰ Douglas A. Howard, *The History of Turkey, 2nd Edition* (Santa Barbara, CA: ABC-CLIO, 2016).

⁸¹ Republic of Turkey Ministry of Foreign Affairs. "Visa Information for Foreigners." Republic of Turkey Ministry of Foreign Affairs.

by three laws: Law No. 5682 on Passports (15 July 1950), Law No. 5683 on Residence and Travel of Foreigners in Turkey (24 July 1950), and the 1994 Regulation on Asylum.⁸² The Law on Passports addressed cross-border movement, which required proper documentation and a visa. It also determined who was (and was not) permitted to enter the country. The list of those forbidden entry include,

Tramps and beggars, insane persons, or those suffering from contagious diseases... persons 'perceived' to have come to Turkey for the purpose of destroying security and public order or assisting persons who intended do so, prostitutes and persons who incited women to prostitution, or were involved in 'white women trading,' and all types of smuggler, persons who could not prove they had enough money to live in or depart from Turkey or could not prove that they would not engage in employment prohibited to foreigners.⁸³

The language employed demonstrates the antiquity of the laws, which nevertheless remained in effect until 2013. One can also see the high degree of discretion afforded officials when determining whether to grant border entry.

The Law on Residence and Travel of Foreigners in Turkey gave specificity to the otherwise vague Law on Passports. It granted residence permits to non-citizens staying in Turkey for more than ninety days and, with supplementary legislation, differentiated between various types of permits. Applications for residence and grounds for detention and deportation were reviewed by local police officials, who could deny residence for political, economic, religious, or security reasons.⁸⁴ Evidently, the high level of discretion

⁸² Full title: *Regulation on the Procedures and the Principles related to Mass Influx and the Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to seek Asylum from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum From a Third Country.*

⁸³ Esra Dardağan Kibar, "An Overview and Discussion of the New Turkish Law on Foreigners and International Protection," *Perceptions* XVIII, no. 3 (Autumn 2-13): 113.

⁸⁴ *Ibid.*, 119-120.

granted to officials in the Passport Law was also present in the legislation, which opened the door to discrimination and exclusion. Over subsequent decades, this legal framework quickly became outdated as migratory patterns evolved and global migration increased. Because migration was regulated by multiple laws and secondary legislation, its governing framework also lacked specificity and clarity. The National Action Plan (NAP) for the adoption of the EU asylum *acquis*⁸⁵ came into force in 2005 in an effort to remedy these limitations and create an asylum framework more in-line with European asylum standards.⁸⁶

Until recent years, Turkey long sought accession to the EU, but was continuously denied in part because lawmakers refused to lift the geographical limitations of the 1951 Refugee Convention when the 1967 Protocol was written. In doing so, Turkey is one of only two signatories that only grants refugee status to European asylum seekers. Despite protests from the EU, Turkey's 1994 Asylum Regulation made the incomplete adoption of the convention official. This regulation was "the first piece of domestic legislation Turkey adopted in order to regulate the processing and treatment of persons seeking asylum in Turkey." Prior, UNHCR took charge of 'refugee status determination' (RSD) procedures for all non-European claims under its own international mandate, but the new regulation granted the Turkish National Police discretion over the process by splitting applications into two categories with separate protocol. Rather than a migration agency, the Foreigners Dept. of the National Police handled claims because residence permits were viewed as a temporary step prior to resettlement rather than a long-term or permanent situation. Europeans were processed by Turkish authorities while asylum

⁸⁵ The "asylum *acquis*" is the legal framework created to establish a Common European Asylum System.

⁸⁶ Amnesty International, "No Safe Refuge: Asylum-Seekers and Refugees Denied Effective Protection in Turkey," (2016), 13.

claims from non-Europeans were now either reviewed by UNHCR or submitted to the ministry of Interior for the protection of the Turkish government.⁸⁷

The rights stipulated in the 1951 Refugee Convention are only granted to those granted refugee status by the state that accepted their claim to asylum. Because of the geographical limitation, asylum seekers in Turkey are not afforded the same rights as refugees. Under Turkish law, they can even be deported after UNHCR has accepted their claim if third country resettlement takes too long.⁸⁸ Turkey was scheduled to lift the geographical limitation in 2012, which would have allowed migrants to claim asylum from the Turkish government and relieved the UNHCR of its “direct operational role in Turkey” but this did not happen.⁸⁹ While Turkey is unconstrained by the 1951 Refugee Convention, deportation or preventing entry could violate the UN Convention Against Torture and the case laws of the European Court of Human Rights, which also contain a *non-refoulement* clause and prohibit returning migrants to countries where they could be subject to torture or other harmful or degrading treatment.⁹⁰ The geographical limitation has allowed Turkey to evade its responsibility to hear asylum claims. Because the convention is virtually powerless within the country’s borders, the lack of rights actually encourages transit migration activity to the EU, which may be more appealing to asylum seekers who fear *refoulement* or getting “stuck” in a country that does not afford the same protections as European states.⁹¹

⁸⁷ Oktay Durukan, *Country Report: Turkey*, issue brief, Asylum Information Database (European Programme for Integration and Migration, 2015), 19-20.

⁸⁸ Human Rights Watch. "Protecting Refugees." Turkey.

⁸⁹ UNHCR, Turkey: UNHCR Global Appeal 2007, report (UNHCR, 2007), 274.

⁹⁰ Human Rights Watch. "Protecting Refugees." Turkey.

⁹¹ UNHCR, Turkey: UNHCR Global Appeal 2007, report (UNHCR, 2007), 274.

I. THE LAW ON FOREIGNERS AND INTERNATIONAL PROTECTION

In April 2014, Turkey adopted Law No. 6458 on Foreigners and International Protection (LFIP). This framework consolidated previously complicated legislation and was intended to address irregular migration and bolster administrative and border security capacities.⁹² It also created a system of domestic protection for internationally displaced people, with special provisions for Syrians under the Temporary Protection Regulation of 2014, a supplement to Article 91 of the LFIP. The Directorate General for Migration Management (DGMM), a newly created civilian agency under the Ministry of the Interior, is in charge of implementing the contents of the LFIP and subsequent regulations.⁹³ UNHCR continues to hear asylum claims from non-Syrians, while the DGMM is responsible for processing Temporary Protection applications from Syrian nationals and referring cases beyond its capacity to UNHCR.⁹⁴ At the time of the LFIP's creation, the ruling conservative Turkish Justice and Development Party was still in pursuit of EU accession, and so the law was created with the EU asylum *acquis* in mind. The Council of Europe, UNHCR, and international governmental and nongovernmental organizations participated in its formation, demonstrating a more comprehensive approach to migration and asylum that fit a contemporary context.⁹⁵

The LFIP categorizes asylum seekers according to their country of origin and the context of their flight. The Temporary Protection Regulation (TPR) went into force in October of 2015 and was created in response to asylum seekers who arrive “in masses”

⁹² Saime Ozcurumez and Deniz Yetkin, "Limits to Regulating Irregular Migration in Turkey: What Constrains Public Policy and Why?" *Turkish Studies* 15, no. 3 (2014): 447-448.

⁹³ Izza Leghtas and Daniel Sullivan, "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey," *Refugees International*, February 2016, 4.

⁹⁴ *Ibid.*, 15. ; Refugee Solidarity Network. "Refugees and Asylum in Turkey." Refugee Solidarity Network.

⁹⁵ Nuray Ekşi, "Turkey's Asylum Profile: An Overview." ; Amnesty International, "No Safe Refuge: Asylum-Seekers and Refugees Denied Effective Protection in Turkey," (2016) 13.

so profound that their applications for international protection cannot be processed individually.⁹⁶ The Board of Ministers is responsible for determining which situations of mass flight require Temporary Protection. The TPR was a direct response to the civil war in Syria, which has forced over three million people into Turkey.⁹⁷ Syrians are granted long-term residence, protection from *refoulement*, freedom of movement, and certain basic rights and services including healthcare, education, work permits, and financial assistance, funded largely by the EU. Work permits are provided under the Regulation on Work Permits of Refugees under Temporary Protection of January 2016, a subsequent regulation under the LFIP framework. Some may laud Turkish lawmakers for such an official response. However, the LFIP is only enforced by domestic law and lacks the power of international standards of protection. So, there is no accountability mechanism that asylum-seekers can turn to when they suffer abuses or cannot access basic necessities. Neither are there international refugee rights for non-European migrants to claim from the Turkish government.⁹⁸ The circumstantial and subjective nature of the law allows Turkey to evade a mandated response to other influxes of displaced populations, opening the door to a discriminatory and selective application of the law. So, victims of future crises and non-Syrians currently in Turkey may not be afforded the protections and services they need.

⁹⁶ Turkey. *Temporary Protection Regulation of Article 91 of the Law No. 6458 on Foreigners and International Protection*, (2013), 3.

⁹⁷ Filippo Grandi and Achim Steiner, "3RP Regional Refugee & Resilience Plan 2018-2019: Regional Strategic Overview," *UNHCR*, December 2017, 10.

⁹⁸ Oktay Durukan, *Country Report: Turkey*, issue brief, Asylum Information Database (European Programme for Integration and Migration , 2015), 15.

LIMITED PROGRESS

The LFIP has been praised for its proactive response to the Syrian crisis, as it includes a cash transfer program, access to municipal services and regular employment, and a large effort to enroll Syrian children in school.⁹⁹ While it is commendable that hundreds of thousands of Syrian children residing in Turkey can now continue their education, the registration process is arduous and complicated, which prevents an equally large population from enrolling. Exclusion and inequality are furthered as the legal right to work has little benefit in a country suffering endemic unemployment, especially if hiring managers are biased against certain groups.¹⁰⁰ So, beneficiaries remain dependent on humanitarian aid are pushed to find work in the informal sector where they risk of abuse and deportation. Distribution of permits to temporary protection beneficiaries is also a problem: only 26,000 Syrians have received work permits since January 2016, a shameful number when compared to the over three million Syrians currently residing in Turkey.¹⁰¹

The quality of application processing for temporary protection is also questionable. Under the LFIP, officials are obligated to provide a detailed and justified explanation for instances when a claim is denied. However, grounds for refusal are left undocumented. Furthermore, thirty thousand decisions were made in April 2016 alone, yet Turkey has not demonstrated the institutional capacity to effectively take on such a large volume of applications in such a short period of time, highlighting the probability

⁹⁹ Filippo Grandi and Achim Steiner, "3RP Regional Refugee & Resilience Plan 2018-2019: Regional Strategic Overview," *UNHCR*, December 2017, 10.

¹⁰⁰ Nergis Canefe, "Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies," *New Perspectives on Turkey* 54 (2016): 16.

¹⁰¹ Filippo Grandi and Achim Steiner, "3RP Regional Refugee & Resilience Plan 2018-2019: Regional Strategic Overview," *UNHCR*, December 2017, 16.

that applications are not thoroughly and adequately reviewed. This demonstrates the weakness of a strictly domestic migration and asylum framework, which proves insufficient in its administrative and protective capacities.¹⁰²

The LFIP's provisions for accelerated procedures increase the possibility of abuse and blatant rights violations. In 2015, Amnesty international reported multiple violations of *non-refoulement* as many asylum seekers were forced to return to the country they had fled from - including Iraq and Syria. There are reports that guarantees that interviews will be administered and a decision will be made within thirty days and six months, respectively, are disregarded. What is more, rejected applicants are denied the opportunity to appeal, a protection afforded by the LFIP. Certain groups of asylum seekers and irregular migrants may be detained, including those who submit false documentation, are deemed a flight risk, overstay their visa or residence permit, cross borders irregularly, or are denied protection.¹⁰³ Detention can last for up to a year in removal centers, presenting ample opportunity for a host of abuses including physical assault, denial of the right to a lawyer, or inability to communicate with the outside world.¹⁰⁴

CONDITIONAL PROTECTION

Those who do not qualify for Temporary Protection apply for refugee status through the UNHCR. They also apply for “conditional” refugee status under the International Protection framework of the LFIP while they await UNHCR Refugee Status

¹⁰² Amnesty International, "No Safe Refuge: Asylum-Seekers and Refugees Denied Effective Protection in Turkey," (Amnesty International 2016), 15-16.

¹⁰³ Ibid., 11-12, 16.

¹⁰⁴ Republic of Turkey Ministry of Interior Directorate General of Migration Management, "Law on Foreigners and International Protection," April 2014, 61.

Determination (RSD) and resettlement. Turkey's international protection system applies to individual applicants deemed not to arrive "in masses" and consists of three further categories. "Refugees" are European asylum seekers, the only population protected by the 1951 Convention. "Subsidiary protection" applies to non-European nationals who require protection from persecution but do not qualify for refugee status, conditional protection, or temporary protection. Finally, "conditional protection" applies to non-European, non-Syrian nationals granted residence in Turkey while UNHCR process their claim and arranges third country resettlement.¹⁰⁵

Non-Syrian nationals typically apply for refugee status from UNHCR and conditional protection from the Turkish government. Given scarce financial opportunity or available aid, resettlement in a third country is the objective of the majority of migrants whose residence in Turkey is intended to be temporary. However, applicants often wait years before they are relocated and report having difficulties checking on the status of their case or accessing information on the application and resettlement processes. The number of accepted applicants is consistently low. In 2016, the United States accepted eight and a half thousand refugees from Turkey, yet by the middle of that year there were approximately 328,000 active applications for asylum in Turkey.¹⁰⁶ These numbers are even more concerning when one considers the fact that the United States hosts 91 percent of Turkey's resettled refugee population.¹⁰⁷ Numbers are only dropping: President Trump's "refugee ban" was lifted in October of 2017, yet forty percent less migrants are being resettled compared to when the ban was initially instated,

¹⁰⁵ Republic of Turkey Ministry of Interior Directorate General of Migration Management, "Law on Foreigners and International Protection," April 2014, 64-66.

¹⁰⁶ Izza Leghtas and Daniel Sullivan, "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey," *Refugees International*, February 2016, 4, 7.

¹⁰⁷ Refugee Solidarity Network. "Refugees and Asylum in Turkey." Refugee Solidarity Network.

and now Muslims only make up ten percent of this population.¹⁰⁸ In Turkey, the majority of asylum seekers are Muslim, reducing their chances of being resettled.

Conditional refugees are forced into a state of limbo while they await UNHCR action. This period is intended to last no more than six months, yet it often takes several years. Unable to return home or continue to another country, they are indefinitely stuck in Turkey unprotected and often without income or access to basic necessities. Furthermore, most humanitarian efforts are geared exclusively toward the Syrian population, ignoring the more than three hundred thousand non-Syrians, whose conditional status already offers little.¹⁰⁹ For example, the UNHCR Regional Winter Assistance Plan provides cash-assistance and pre-loaded debit cards to buy basic necessities during cold winter months, yet these potentially life-saving services are only offered to Syrians and Iraqis.¹¹⁰ Barriers to even minimal subsistence not only threaten safety, they also contribute to one of the largest obstacles migrants face: integration. They are forced to exist externally from Turkish society and language barriers prevent gainful employment or even the ability to complete an application for a work permit. Social immobility, dangers to human rights and security, and the belief that conditions in countries of origin will not improve soon offer little reason to remain in Turkey and should be considered contributing factors to irregular migratory flows to Europe, which Turkish law has been unable to stop thus far.¹¹¹ From this we see that the basic structural framework of the LFIP is flawed. Until migrants no longer believe staying in Turkey endangers their wellbeing, confines them to

¹⁰⁸ Yeganeh Torbati, "Trump lifts refugee ban, but admissions still plummet, data shows," Reuters, December 09, 2017.

¹⁰⁹ Izza Leghtas and Daniel Sullivan, "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey," *Refugees International*, February 2016, 4.

¹¹⁰ UN High Commissioner for Refugees (UNHCR), *UNHCR Regional Winter Assistance Plan 2017-2018 (Syria, Turkey, Lebanon, Jordan, Iraq, and Egypt)*, September 2017.

¹¹¹ The Economist. "Europe has a deal with Turkey, but migrants will keep coming." The Economist. November 30, 2015.

destitution, or inhibits their right to seek asylum, Turkey will remain a transit destination rather than a place of long term residence.

Syrians receiving temporary protection may register in any city they choose and refugees are granted the right to freedom of movement within state territory under Article 26 of the 1951 Refugee Convention.¹¹² Conditional protection applicants, in contrast, must register in Ankara through the UNHCR Association for Solidarity with Asylum Seekers and Migrants (ASAM). Next, they are assigned to one of sixty two ‘satellite cities,’ which are designated municipalities that accept non-Syrian asylum seekers and are ‘open’ on a rotational basis so as to prevent congesting local public service institutions. Ankara, Istanbul and Izmir, Turkey’s three largest cities, are not satellite cities and are therefore inaccessible to conditional refugees. Until resettlement, leaving one’s assigned city without permission is prohibited and regular check-ins with authorities are required. To leave the city’s limits, one must apply for a travel permit, which is typically granted only for UNHCR interviews or infrequently for medical reasons.¹¹³ This selective confinement, made possible by the constraints of the LFIP and by denying international refugee protection, presents a variety of dangers to asylum seekers, who are confined to ‘undesirable’ territories suffering crowding, scarce resources, weak law and order, and competition for menial labor.

Asylum seekers often flee their country of origin with no material possessions, or the little they do have is given to smugglers to pay for their journey to a country of asylum. It is common for migrants to arrive in Turkey without money or identification.

¹¹² Amnesty International, "No Safe Refuge: Asylum-Seekers and Refugees Denied Effective Protection in Turkey," (Amnesty International 2016), 14. ; UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, 27.

¹¹³ Izza Leghtas and Daniel Sullivan, "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey," *Refugees International*, February 2016, 6-7.

However, applicants for conditional protection must independently arrange and fund transportation to their assigned satellite city, where they will register with the Provincial Directorate of Migration Management (PDMM). Upon registration, one must provide a residential address where their identification card (*kimlik*) may be sent. Receiving the *kimlik* can take anywhere from days to months, but conditional refugees cannot access healthcare or education without one in their possession. Therefore, they must immediately find housing and a means to pay for it if they wish to enroll their children in school or get medical treatment.¹¹⁴ So, while the Turkish government claims they offer registered migrants free or almost-free healthcare and primary and secondary education, they are inaccessible to a large portion of this population. The inability to obtain resources necessary for basic survival in satellite cities can force asylum seekers to reject the international protection system entirely or violate the conditions of their conditional refugee status by leaving the city's boundaries without permission, working without a permit, or relocating to a large city. Others decide to pursue asylum in Europe on their own terms by working irregularly until they can afford a smuggler. In sum, Turkey's protection framework is rendered useless if it fails to actually offer basic protections or necessities and instead holds its 'beneficiaries' hostage to dangerous circumstances where they have no choice but to either break the law to survive or seek out dangerous paths to asylum.

Even though almost no one arrives in their satellite city equipped with a steady income, a place to stay, or sufficient funds to pay the upfront cost of rent, conditional protection applicants and beneficiaries are required to independently finance their transportation, find housing, and afford rent and basic necessities like food and fuel to

¹¹⁴ Ibid., 6.

keep warm during winter. In addition to restricted movement and the difficulty of obtaining basic necessities, temporary and conditional protection beneficiaries are ineligible to apply for a work permit until six months after submitting their initial application for protection. They may only work in their initial city of registration or assigned satellite city, and even then applications are frequently denied or “lost” in clogged bureaucracies.¹¹⁵

Turkish authorities from the Ministry of Labor and Social Security will not consider permit applications without a secondary application submitted by the employer, along with a balance sheet from the previous fiscal year certified by tax officials. Furthermore, work permits are only granted to individuals hired by businesses that “employ at least five Turkish nationals for every foreign employee.”¹¹⁶ These barriers make finding employment, particularly by small business owners, almost impossible and push conditional refugees into further danger by forcing them to pursue irregular work. Migrants are vulnerable to abuse without any possibility of seeking legal or medical protection as irregular work violates the conditions of their stay and puts at risk of deportation. Without income, however, conditional migrants are more likely to experience homelessness, malnutrition, illness and violent crime. Obstacles to safe work and a sustainable income are only some of the vulnerabilities that come with working in the informal sector and can easily drive irregular movement to neighboring countries and should be considered push factors for transit migration.

¹¹⁵ Izza Leghtas and Daniel Sullivan, "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey," *Refugees International*, February 2016, 2, 7.

¹¹⁶ *Ibid.*, 11.

Turkey's sixty two satellite cities and twenty one refugee camps do nothing to overcome the virtually insurmountable obstacles that prevent integration and self sustainability. And so, migrants relocate to large urban centers in search of basic resources and employment. Ninety percent of Turkey's 3.3 million 'people of concern' (asylum seekers, refugees and stateless people) reside Ankara, Istanbul, and Izmir, none of which are satellite cities and so are otherwise formally inaccessible to conditional refugees.¹¹⁷ These cities are disproportionately affected by population influxes as the support systems in other regions prove ineffective and inefficient. However, they have their own dangers, as one of the largest threats to migrants is civil society. Migrants may be attracted to their heterogeneous composition, yet diverse and densely populated urban centers increase the chances that identity politics will develop into violent ideological clashes.

Migrants enter an already fractured and struggling civil society while being simultaneously constrained by policy frameworks that prevent integration. This increases the likelihood that migrants will be regarded as unwelcome outsiders. Marginalized groups such as the Kurds already feel ignored and targeted by the ruling Justice and Development Party (AKP) under Erdoğan, a president who many Syrians regard as their savior for the Syrian-focused initiatives established under his administration, including the Temporary Protection Regulation, targeted aid programs, and funding from the EU-Turkey deal.

Many claim Syrians receive preferential treatment from public institutions. Meanwhile, feelings of exclusion among minority groups are exacerbated as they witness

¹¹⁷ UNHCR. "Turkey." Global Focus. October 2017.

the impacts of population influxes on their urban communities, including heightened job competition, increases in the cost of rent, strained public service institutions, and overcrowded schools, hospitals and public transportation. In other words, resentment of political leadership is often acted out through a hatred of migrants. It does not help that the Turkish Treasury allocates funds to the country's municipalities in proportion to the number of Turkish citizens.¹¹⁸ Clearly this framework was created without considering the possibility of influxes of migrants, presenting further strain on large cities with significant refugee populations. Opportunist politicians use this as an opportunity for political gain by creating tension between migrants and civil society and establishing xenophobic electoral platforms that appeal to feelings of injustice and resentment. This tactic is gaining popularity in anticipation of the 2019 elections and produces hostile environments characterized by inter-ethnic and inter-communal rivalries.¹¹⁹

It is an unfunny irony that many fleeing persecution in their home country arrive in Turkey only to experience continued discrimination for similar or different reasons related to identity, ideology, culture, or appearance. It is important to recognize the vulnerable among the vulnerable. In Turkey, LGBT people, single women, Africans, Christians, and victims of sexual or gender violence face particular risks. Gay and transgender people are denied work, housing and medical care and often experience violence. Africans report rampant racism and Christians cite exclusion and lack of access to religious services. Single women are more likely to suffer sexual assault and single mothers are forced to choose between staying with their children and finding work. It is

¹¹⁸ International Crisis Group, *Turkey's Syrian Refugees: Defusing Metropolitan Tensions*, report no. Europe Report no. 248 (Brussels: International Crisis Group, 2018), i.

¹¹⁹ International Crisis Group. "Integrating Syrian Refugees in Istanbul's "District of Victimhood"." February 15, 2018.

also reported that the Turkish government and aid organizations do not offer adequate medical, legal or psychosocial support to victims of sexual and gender-based crimes.¹²⁰

The tension between citizens and non-citizens is widening the existing schism that divides Turkish society along political, social, and economic lines and contributes to growing civil discrimination against migrants. When compared to the same period of the previous year, there were three times more incidents of anti-migrant violence in the second half of 2017 and thirty five related deaths. Municipal leadership is reluctant to solve these problems and improve support and integration services, fearing backlash from their constituents and hoping unsavory urban environments will push migrants out or encourage voluntary returns when circumstances allow.¹²¹ It is crucial to note here that integration is a false policy objective. It is a deception propped up by platitudes and ineffective programming designed earn the favor of those who “matter” (i.e. the EU and UN) and deter unwanted populations. However, inaction may cause even greater inflammatory responses and electoral repercussions as citizens witness continued strain on local institutions and compete with migrants for low wage jobs. Leadership is failing to realize frustration towards migrants can easily transform into a rejection of current political leadership.

In sum, discrimination and lack of opportunity in satellite cities encourage migrants to relocate to urban centers in hopes of inclusion and social mobility. Upon arrival, most encounter greater risks of violence and little access to work or resources. And so, migrants continue to leave. This phenomenon, constructed in part by the LFIP,

¹²⁰ Izza Leghtas and Daniel Sullivan, "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey," *Refugees International*, February 2016, 13-14.

¹²¹ International Crisis Group, *Turkey's Syrian Refugees: Defusing Metropolitan Tensions*, report no. Europe Report no. 248 (Brussels: International Crisis Group, 2018), i, ii, 3.

has two primary effects. First, migrants are encouraged not to register upon arrival or to violate the conditions of their stay by relocating or working illegally. Irregular status makes it impossible for aid programs to identify and target people in need, deters migrants from seeking humanitarian assistance or legal protection, and prevents access to public services. Second, denying basic necessities for subsistence forces migrants to exist externally from Turkish society where they are vulnerable to deportation and abuse. All of these factors largely contribute to irregular transit migration.

CONCLUSION

Conditional and temporary protections are defended as sufficient replacements to fill the void created by the incomplete adoption of the 1951 Refugee Convention. This substitution cannot be justified. The 1951 Convention includes provisions for family unification and a path to citizenship, while the LFIP does not. It is also a fundamental part of an international rights framework that offers protection through international oversight. By not being party to the convention migrants are unable to claim rights from the Turkish government and the country is able to act according to a domestic code. Reluctance to lift the geographical limitation and continuous human rights abuses are evidence enough to disprove the claim that the LFIP can substitute the convention. Instead, the LFIP is a device that provides a level of service acceptable enough to allow international actors to turn a blind eye, relieving them of their responsibility to intervene or pressure Turkey to rise to international standards and grant refugee status to non-European asylum seekers, an otherwise global norm.

The legislation confines migrants to dangerous, subhuman, degrading, and often violent conditions with virtually no opportunity for integration or upward mobility. It is riddled with catch-22s that force migrants to violate the conditions of their stay or seek irregular employment in order to gain access to public services. For example, conditional refugees are required to pay for their own transportation, housing, and basic necessities, yet cannot apply for a work permit for the first six months. Furthermore, a *kimlik* is required to access public services such as education and healthcare, but one must provide a residential address, and therefore be able to afford rent, to receive their *kimlik*. Such conundrums make it impossible for migrants *not* to violate the law.

The LFIP privileges some groups over others, denying aid to conditional refugees, who are particularly vulnerable in comparison to temporary protection beneficiaries. Certain minority populations are especially vulnerable and face frequent abuse with little to no legal, medical, or psychosocial support. Public institutions are unprepared for such population influxes and NGOs and local authorities are ill-equipped to provide adequate services. Politicians intentionally instill hatred and xenophobia, exacerbating anti-migrant backlash, widening societal divisions, and further preventing integration.

The LFIP was designed to help displaced people in Turkey in order to reduce irregular migration to Europe, yet it fails to fulfill its mission. It is an unethical policy framework that cannot be considered a justifiable mechanism for curbing irregular transit migration to Europe, neither can it be praised for including education, work, and healthcare provisions if such they are inaccessible. Promises for amnesty, protection, and essential resources prove empty considering regular work and basic necessities are virtually unattainable and integration is hampered by bloated institutions, convoluted

procedures, a xenophobic social climate, and officials reluctant to remedy these limitations. The LFIP is unsustainable because it hinders the wellbeing of its beneficiaries, particularly conditional refugees, who have no incentive to stay in Turkey but are nevertheless forced to, in circumstances that contribute to illegal activity and prevent personal growth and cohesive communal development. Short-sighted policy prescriptions that fail to meet the needs of the local context, address the root causes of irregular migration, or offer sufficient access to resources or protections are unlikely to curb irregular migration.¹²² Each of these limitations should be considered among the many push factors driving transit migration through Turkey. Therefore, the LFIP is counterintuitive to Turkey and the EU's intentions of stopping irregular migration into Europe. Until migrants feel safe and can achieve a sustainable livelihood in Turkey, they will continue to seek out ways to reach Europe.

II. TURKEY AND THE EUROPEAN UNION

THE EU-TURKEY READMISSION AGREEMENT

Until recently, the prospect of accession to the EU dictated Turkish policy development. Before considering granting Turkey membership, EU leaders required harmonization on issues related to asylum procedures, border management, penalization of irregular migration, combating human trafficking and smuggling, and full adoption of the 1951 Refugee Convention. Turkish leadership reduced pressure for accession when they realized the EU's legal framework was an obstacle to the regime. However, in March 2016, Turkey and the EU established a migrant readmission deal. By doing so,

¹²² Saime Ozcurumez and Deniz Yetkin, "Limits to Regulating Irregular Migration in Turkey: What Constrains Public Policy and Why?" *Turkish Studies* 15, no. 3 (2014): 454.

European leadership chose to prioritize security over human rights and turned a blind eye to past concerns about rights violations and authoritarianism. Frightened by the amount of irregular migrants entering the Schengen territory at the height of the refugee crisis (720 thousand migrants were apprehended on Greek shores in 2015),¹²³ European powers saw Turkey as an opportunity to prevent the entry of unwanted populations. As stated on the EU's website, the deal is a direct effort to "strengthen external border controls and reduce the number of asylum seekers."¹²⁴ There is no mention of any wish to protect migrant rights, reduce the human cost of irregular migration, or provide a safer, more accessible path to asylum.

With this agreement, Turkey would bolster its border security and all apprehended irregular migrants and asylum seekers would be returned to Turkey, which would act as a sponge preventing movement into Europe via Greece and Bulgaria. In return, Europe agreed to grant asylum to one Syrian refugee for every irregular migrant returned to Turkey.¹²⁵ Turkey would receive three billion Euros to support its Syrian population and enjoy visa liberalization in the Schengen territory. Accession talks would also resume, provided Turkey made good on its promise to keep migrants out of Europe. Finally, Europe offered Turkey a "privileged partnership" that would strengthen regional economic ties and upgrade the 1995 Customs Union to facilitate cross-border flows of workers and goods.¹²⁶

¹²³ Nergis Canefe, "Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies," *New Perspectives on Turkey* 54 (2016): 24.

¹²⁴ European Union. "A decade of opportunities and challenges - European Union - European Commission." European Union. October 24, 2017.

¹²⁵ "M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 152,

¹²⁶ Nergis Canefe, "Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies," *New Perspectives on Turkey*, 54 (2016): 24.

The EU's commitment to its part of the deal has proven weak. As of February 2017, less than eleven months after coming into force, only 3,565 people were resettled. This number is problematic when compared to the almost 2.8 million Syrians residing in Turkey at the time and is a blatant disregard of Europe's promise to provide access to a timely and legal way to Europe.¹²⁷ In reality, since the deal was established, irregular migration is not even close to stopping and border crossings to Greece have only dropped to pre-2015 numbers.¹²⁸ Disputes over delays in payments to Turkey have tainted the relationship and tensions run high as Turkish officials renew their demands for a path to accession and still await visa liberalization.¹²⁹

Turkey's relationship with the EU is quite fragile and unfulfilled promises lead President Erdoğan to threaten reopening the country's northern borders with Greece and Bulgaria. Meanwhile European leadership counters Erdoğan by threatening to withhold pre-accession funding in light of human rights abuses and political instability.¹³⁰ It is clear the relationship is built on fear, manipulation and personal interest rather than mutual cooperation, interregional solidarity, or a desire to protect migrants. Even if the deal did work according to plan, it excludes the large population of non-Syrians stuck in Turkey, many of whom have been waiting years for resettlement. This population is a lesser-priority to European leadership and the Trump administration continues to lower quotas and cut program funding, further reducing their chances of leaving Turkey through regular channels.

¹²⁷ Kondylia Gogou, "The EU-Turkey deal: Europe's year of shame," Amnesty International, March 20, 2017.

¹²⁸ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

¹²⁹ Jon Stone, "Turkey says it would reject any deal with EU other than full membership," The Independent, January 19, 2018.

¹³⁰ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

The chief concern of the Turkish government is to make sure the EU makes good on their end of the deal and ensure that the interregional migration framework does not become an obstacle to their increasingly authoritarian regime. Meanwhile, the EU occupies a complicated position as it relies on Turkey to keep unwanted migrants out and depends on the deal's success to ease political tension in the region. Continuing to withhold payment and refusing to grant visa liberalization or resume accession talks could lead Turkey to open its borders and let migrants continue freely northward. If the agreement survives such obstacles, however, Europe is effectively condoning a volatile authoritarian regime while ignoring the many dangers migrants face in the country. By continuing to return migrants to Turkey despite the cognizance that it is a dangerous place for migrants, Europe is also violating the rights of refugees to *non-refoulement* as it can be argued that insecurity and the reluctance of Turkish leadership to protect migrants make readmissions a violation of this principle.¹³¹

REPERCUSSIONS: PUSH-BACK, DETERRENCE AND CONFINEMENT

The pressure on Turkey to seal its borders has drastic repercussions. Police brutality is implicitly encouraged through 'push-back' tactics, a method of border management that restricts people fleeing persecution from their right to seek asylum by forcing them back into the previous country of transit or other countries through, often through violent and degrading methods. Officials on the Balkan route have unleashed dogs and forced migrants to stand naked in the freezing cold. Brutal beatings are common as agents intentionally cultivate a climate of fear, using scare tactics to deter migrants

¹³¹ Nergis Canefe, "Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies," *New Perspectives on Turkey*, 54 (2016): 27.

from returning.¹³² Recently, there have been reports of Turkish border agents shooting at Syrians to prevent them from entering the country and therefore claim asylum or apply for Temporary Protection.¹³³

The Balkan Route, which runs northward from Turkey to Greece, through the FYROM (Former Yugoslav Republic of Macedonia) and Serbia to northwestern countries, was 'closed' in early March of 2016. A popular humanitarian corridor known to assist struggling migrants on their way from Greece to Germany was shut down, roadblocks were established in northern Greece, and fences were erected along the southern borders of Serbia, Hungary, Slovenia, and FYROM. European leadership claimed the closure a success, pointing to decreases in irregular migration. However, transit through the Balkans continued with over twenty four thousand crossings within the first five months of its 'closure.' The route did become more treacherous and expensive, presenting lucrative business opportunities for smugglers. Detention camps in Greece became overcrowded after absorbing thousands of migrants who crossed the sea from Turkey or were turned back from the northern border. The subhuman conditions of the camps further motivated migrants to pursue the Balkan route or search for alternative possibilities, despite barriers.¹³⁴

Migration flows were not halted, they were displaced. Central Mediterranean crossings from Libya to Italy peaked after the closure of the Balkan route and have been continuously high since.¹³⁵ It is now the deadliest migration route in the world. New

¹³² Oxfam and Partners. *A Dangerous 'Game': The pushback of migrants, including refugees, at Europe's borders*. Oxfam and Partners. Oxfam. April 2017.

¹³³ Human Rights Watch. "Turkey/Syria: Border Guards Shoot, Block Fleeing Syrians." Human Rights Watch. February 09, 2018.

¹³⁴ Patrick Kingsley, "Tens of thousands migrate through Balkans since route declared shut," *The Guardian*, August 30, 2016.

¹³⁵ Andrea Dernbach, "Balkan migration route is 'not closed'," March 13, 2017.

pathways were also formed and migrants began leaving Greek and Albanian shores for Italy, circumventing Macedonia through Albania and Montenegro, and entering Bulgaria directly from Turkey.¹³⁶ The latter route was rarely attempted prior to the Balkan closure, as migrants reported racism from ultra-nationalists and violence from vigilantes and police officers. In 2017, Turkey followed suit, completing a 911 kilometer long fence along the Bulgarian border and beginning the construction of a wall on the border with Iran.¹³⁷ Turkey is also initiating the process of erecting a wall on the Iraq border. While leadership claims the barriers are an effort to combat human trafficking and terrorism, they appear to be a direct response to the spike in alternative entries of refugees after the Balkan route was closed. Ultimately, they reflect a desire to prevent entry on the southern borders now that the inaction of the EU and U.S. is transforming Turkey from a transit state into a state of indefinite and involuntary residence.¹³⁸

D. CONCLUSION

Solutions will be found only by addressing the root causes of population displacement and providing a safe, legal path to asylum. Push-back, physical barriers, and violence do not stop irregular migration. Not only do these tactics violate the right to seek asylum, the right to life, and the *non-refoulement* clause of the 1951 Refugee Convention, they also contribute to displacement, aid the smuggling industry, strain response personnel, and make migrants more vulnerable to violent actors and harsh conditions. Nevertheless, the continued efforts to cross these routes by risking their lives demonstrate

¹³⁶ Emergency Response Coordination Centre, "Western Balkans Route," Getdailymap, 2015.

¹³⁷ Imanuel Marcus, "A year after Balkan Route closure: Thousands of refugees are stuck," The Sofia Globe, March 10, 2017.

¹³⁸ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

both their bravery and the desperate conditions in which they have been placed. While Turkey is not fully bound by the Refugee Convention, it is constrained by the UN Convention Against Torture and the laws of the European Court of Human Rights. Furthermore, all EU Member States are obligated to uphold the rights guaranteed in the 1951 Convention, reinforced by EU law. Returning asylum seekers to a country with an authoritarian government, rampant discrimination and antimigrant abuse, and limited access to work, education, healthcare, or basic necessities for survival violates the rights of refugees. Therefore, Turkey or any country that does not adopt the convention in full should not be considered an acceptable place for refugees or asylum seekers.

As we have seen, the EU-Turkey Deal is problematic first and foremost because Turkey is not a safe place for refugees.¹³⁹ Turkey is not immune to the phenomena discussed in chapter one, which repeatedly demonstrate that barriers to regular migration and tough border security laws only increase smuggling rather than stop irregular migration. The repercussions of these border policies are harmful. While the deal is promoted for successfully decreasing the numbers of arrivals into Europe, it is crucial to question at what cost.¹⁴⁰ We should take caution to believe in success when “success” is measured by the ability to bar vulnerable populations from their right to seek and enjoy asylum. While irregular migration has slowed, there is no evidence that smuggling activity has slowed with it. The first months of the deal saw an increase in deaths on the Eastern Mediterranean sea route, perhaps in direct response to more militarized border

¹³⁹ Kondylia Gogou, "The EU-Turkey deal: Europe's year of shame," Amnesty International, March 20, 2017.

¹⁴⁰ In the year prior to the deal's signing, over one million asylum seekers took the Eastern Mediterranean sea route to Greece from Turkey, in comparison to 173,561 arrivals in 2017 (International Organization for Migration. "Mediterranean Migrant Arrivals Reach 171,635 in 2017; Deaths Reach 3,116." ReliefWeb. January 5, 2018.)

security tactics that harm migrants, either directly through push-back and violent apprehensions, or indirectly by motivating migrants to seek out more dangerous routes in desperation to reach refuge in Europe.¹⁴¹

The absence of rights protections and the dangers present in Turkey provide little incentive to stay and increased security at the borders may encourage taking more dangerous routes facilitated by smugglers. Furthermore, the perspective that crises in countries of origin have no end in sight makes migrants aware that their stay will not be brief and encourages them to forge on to more prosperous and stable countries. In chapter four, the human smuggling industry in Turkey is investigated, taking into account its regional history, development, social and economic aspects, and its relationship with the Turkish legal framework.

¹⁴¹ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 372.

IV. MIGRANT SMUGGLING IN THE EASTERN MEDITERRANEAN

A. INTRODUCTION

Irregular access to Europe's Schengen zone from Turkey is achieved through two primary channels: the sea route to the Greek islands and the newer northern land route to Bulgaria. Turkey is much closer to the Schengen zone than Libya, which is separated from Europe by the central Mediterranean Sea, now the site of the majority of global migrant deaths.¹⁴² However, closer proximity to EU entrance points does not alleviate risks. Ninety percent of all irregular entries into the EU are facilitated by smuggling, and more than half of all suspected smugglers were arrested at the Greek-Turkish land borders.¹⁴³ Over fifteen thousand individuals have died trying to reach the Schengen Zone since 2014, whether in overcrowded dinghies on the Mediterranean or Aegean seas, suffocated while hidden in sealed trucks, refrigeration vehicles, and oil tankers, or at the hands of smugglers or traffickers themselves. Others who successfully arrive on Greek shores have died in congested, unsanitary and dangerous camps while indefinitely waiting for their claims to be processed. Furthermore, while arrivals during the first three months of 2018 are less than half than what they were in 2017, the number of deaths has reduced only slightly. So, the percentage of deaths as a portion of arrivals has increased, and this extraordinary death toll demands investigation.¹⁴⁴ As new global crises take form, the war in Syria worsens, and destination states further restrict access to asylum, demand for smuggling remains. Even if bolstering security were an effective method of

¹⁴² International Organization for Migration. "Mediterranean." Missing Migrants Project.

¹⁴³ Rob Wainwright and Jürgen Stock, *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*, Europol, INTERPOL, May 2016, 4.

¹⁴⁴ International Organization for Migration. "Mediterranean." Missing Migrants Project.

slowing irregular migration and smuggling, the high death toll forces one to ask at what cost.

As discussed in chapter three, current policy approaches such as militarized border security, push-back, readmission deals, and substituting international rights frameworks for domestic protection are ineffective for stopping irregular migration. Rather, when migrants are confined to precarious circumstances without international protection or the ability to gain asylum, they are implicitly encouraged to continue their journey. Such policy responses are counterintuitive to states' goal to stop irregular cross border movement and eradicate the industry facilitating such movement. Instead, the journey only becomes more expensive and dangerous by forcing migrants to take alternative, less desirable and more difficult to traverse routes. If states successfully curb arrivals from one route, they are not stopping irregular migration - they are displacing it and increasing the opportunity for smugglers to profit off of this displacement. Irregular migrants in Turkey overwhelmingly report seeking out smugglers when they do not have access to legal channels to cross-border movement.¹⁴⁵ In this way, migrant smuggling is a state-created phenomenon that benefits from restrictive migration policies that drive demand and increase costs.

The causes forced displacement are not going away, yet Turkey's migration and asylum framework is unable to keep displaced people safe, the number of people granted asylum continues to dwindle, and border security is equated with keeping migrants out, often through violent means. Instead of subjecting themselves to asylum frameworks that either lack protection or present further rights abuses, migrants continue onward and seek

¹⁴⁵ Ayslin Yildiz, *Perception of "Smuggling Business" and Decision Making Processes of Migrants*, Norwegian Government, June 2017, 15.

out other means of reaching safety. This may mean working in the informal sector to pay for basic necessities, medical care, or passage to a country offering asylum. **Because leaving is no longer easy, this typically means employing a smuggler to reach such destinations when regular channels are denied.** From a refugee's perspective, employing a smuggler is routine and fundamental to contemporary cross-border movement and the asylum process.¹⁴⁶

Because demand for smuggling rises with the danger and difficulty of the route, one can assume that almost all of the migrants who died on the increasingly complicated pathways through the Eastern Mediterranean were smuggled. The human cost is shocking, yet Turkey and the EU appear unwilling to address the problem at its source. They are quick to blame the deaths of thousands of migrants on people they characterize as self-interested, violent criminals, yet fail to hold themselves accountable for forcing migrants to employ these actors when they withhold the ability to reach safety in any other way

Smuggling in the Eastern Mediterranean has a long history and benefits from consistent demand. In this chapter, I explore the migrant smuggling industry in Turkey, by focusing on its development, the nature of its operations, and its socioeconomic structure. This clandestine industry has undergone fundamental changes in direct response to state action. I will demonstrate how the industry has become more professionalized and sophisticated in recent years. Contrary to popular rhetoric, the industry, at least in the Eastern Mediterranean, is not dominated by large transnational and hierarchical criminal syndicates and rather has an informal and adaptable social dynamic that is continuously evolving in response to new obstacles. This, however, does

¹⁴⁶ Ibid., 17.

not make smuggling less dangerous for migrants. I argue that there is a constant tension between the professional, trust-based relationships that increase the marketability of smuggling, and the industry's coercive nature, where migrants are vulnerable to dangerous environments, rights abuses, and violence at the hands of state and nonstate actors. Trust-based relationships, however, do not eliminate dangers, as smuggling is an inherently violent activity. The chapter also demonstrates that Turkey and its neighbors' policy responses to human smuggling address smuggling's consequences rather than its causes. Methods such as criminalization, push-back and direct physical dismantling of materials, only exacerbate its dangers and increase migrant fatalities.

B. THE NATURE OF MIGRANT SMUGGLING

I. OPERATIONAL CHANGES

The facilitation of irregular migration has undergone drastic changes in recent years due to developments in technology, spikes in demand, and new obstacles to cross border movement. Each operation is unique and made up of multiple interactions, transactions, and legs - each presenting its own dangers. The sea route from Turkey to the Aegean islands is usually facilitated by loading some sixty migrants onto inflatable dinghies or shoddy wooden fishing boats where one passenger is assigned to navigate.¹⁴⁷ Migrants are also loaded into freight trucks or hidden spaces on buses, which traverse the land border from Turkey into the Western Balkans via Bulgaria or board ferry boats sailing to Greece and Italy. Suffocation and overheating are common as migrants are squeezed into tanker trucks and airtight vehicles, where they are less likely to be

¹⁴⁷ Rob Wainwright and Jürgen Stock, *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*, Europol, INTERPOL, May 2016, 9.

discovered by authorities.¹⁴⁸ However, such clandestine measures typically put migrants' lives in further jeopardy. In August 2015, seventy one decomposing bodies were discovered in a locked airtight truck in Austria that smugglers had driven from Turkey.¹⁴⁹ In August of last year, a boat carrying twenty five smuggled migrants from Turkey to Greece capsized; at least sixteen passengers died, including three children.¹⁵⁰ This latter incident shows that measures such as the LFIP and the EU-Turkey Deal have not alleviated demand for transit migration from Turkey, neither have they stopped migrants from employing smugglers to make possible what states otherwise deny.

The difficulties in crossing borders have "professionalized" the industry. While operations are increasingly clandestine, marketing is more public than ever. Take the PBS Frontline documentaries, "Exodus" and "Exodus: The Journey Continues" which follow smuggling operations that are now broadcasted to the world. Whatsapp accounts and Facebook pages list smuggling enterprises, advertising stock photos of luxury yachts and glowing reviews from questionable sources. Reliance on social networking makes business development ethnically- and linguistically-based and smugglers' nationalities and ethnicities typically mirror those of their clients. This makes marketing easier as they can rely on word of mouth to promote their business within the ethnic community and creates a higher degree of trust between the client and facilitator as migrants are likely to prefer working with members of their ethnic community. Smugglers depend on this dynamic to maintain their reputation and keep their business afloat. As the high death toll

¹⁴⁸ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 113.

¹⁴⁹ Fazel Hawramy, "Migrant truck deaths: the untold story of one man's desperate voyage to Europe," *The Guardian*, October 07, 2015.

¹⁵⁰ Lizzie Dearden, "Two children among at least 16 refugees killed in boat disaster between Turkey and Greece," *The Independent*, April 25, 2017.

reveals, trust is often given where it is not due, and can be deceiving to individuals desperate to escape precarious circumstances at home.¹⁵¹ Border restrictions make smugglers indispensable, so coercion may not be so necessary with such high levels of dependency. Dependency-based trust, however, does not mitigate risks, particularly when dependency is fostered by state policy that intentionally makes safe passage impossible

While every operation is different, there are certain shared aspects. Contact begins in countries of origin, where smugglers market their services through family, friends, community, and social media.¹⁵² An “intermediary” establishes an informal contract with the client after discussing the projected route and method of payment. The intermediary then works out logistics with “organizers,” lower level actors who are physically present to carry out the various legs of the journey. Then, transport begins. It is very rare that one smuggler will facilitate an entire journey. Rather, from origin to transit and destination countries, migrants are passed through a complex network of diverse actors and hidden in warehouses, shanties, apartments, and vehicles along the way.¹⁵³

Smuggling routes align with irregular migration routes, and are therefore constantly changing. When speaking of irregular migration on the Eastern Mediterranean, the use of a smuggler is an unspoken given for almost all cross-border movement into Europe. Refugee crises of the 1990s first made smuggling a criminal concern in Turkey, but before that it went largely unpunished.¹⁵⁴ In 2008, forty percent of all arrivals to the EU were facilitated through the Eastern Mediterranean Route, and numbers spiked again

¹⁵¹ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 125.

¹⁵² *Ibid.*, 124.

¹⁵³ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 385.

¹⁵⁴ "M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 105.

in 2010 with an increase in asylum seekers from Iraq and Afghanistan. With this new demand, smuggling over the river Evros on the Greece-Turkey land border gained popularity. At its height, over three hundred people were crossing the Evros every day. In response, Greece erected border fences and Frontex launched a Rapid Border Intervention Team (RABIT) to stop such entries. Nevertheless, the smuggling operations continued and arrivals rose in 2011. Entries through Bulgaria spiked and sea routes became longer and more creative as authorities tried to patch holes in the Greek border.¹⁵⁵ While the 2016 EU-Turkey deal drastically reduced the number of entries into Europe through the Eastern Mediterranean, arrivals on the Central and Western Mediterranean immediately spiked.¹⁵⁶

Eighty five percent of irregular migrants enter Turkey with the help of a smuggler and this number jumps to a staggering ninety nine percent for irregular exits to Europe.¹⁵⁷ Furthermore, when comparing 2016 and 2017, there was a marked increase in secondary migration, and the percentage of the Afghan and Syrian refugee populations using Turkey as a transit state increased.¹⁵⁸ These trends can be explained in part by rising insecurity in Turkey, particularly for migrants. Furthermore Because the EU-Turkey deal transformed border security operations, the prices smugglers charge have been affected. There is a high chance of return to Turkey or detention in camps when traversing the Aegean Sea on dinghies, so this route is now less expensive and less travelled than it once was. In

¹⁵⁵ Frontex. "Migratory Routes." Eastern Mediterranean Route. Accessed March 13, 2018. <https://frontex.europa.eu/along-eu-borders/migratory-routes/eastern-mediterranean-route/>.

¹⁵⁶ Frontex. *Risk Analysis for 2018*. Frontex. February 2018, 16.

¹⁵⁷ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 382.

¹⁵⁸ International Organization for Migration. *Analysis: Flow Monitoring Surveys in the Eastern Mediterranean, 2016/2017 Comparison*. International Organization for Migration (IOM). International Organization For Migration. July 2017, 5-7.

contrast, it is more difficult than ever to continue northward from Greece, but demand to reach northern Europe remains high. So, transport by the Balkan route is now more expensive. The addition of the EU-Turkey deal to the LFIP has confined migrants to precarious circumstances in Turkey, particularly because it is difficult to evade discovery and returns when arriving to Europe through Greece. Therefore, operations now rely on entry through Bulgaria and on larger vessels seeking Italian shores in an effort to evade Greece.¹⁵⁹

II. NETWORKS

Eastern Mediterranean smuggling networks are loosely organized, informal, exploitative, and characterized by a division of labor and adaptability.¹⁶⁰ While individual operations may be complex and sophisticated, networks are not. When an operation is dismantled and smugglers and migrants are detained, there is a rapid chain-like communication among the various actors and a new route is quickly established. When authorities increased controls in Edirne (a city and hub for smuggling located on the Turkey-Bulgaria border) it only took a week for operations to shift to the Aegean sea route, using yachts out of the port of Çanakkale, a lesser-suspected vessel, though more expensive for migrants.¹⁶¹ Smugglers are accustomed to periodic checks on highway routes, which only alert them to quickly detour. New vehicles are constantly employed as well. According to an interviewed smuggler, “commercial panel type vehicles” are the

¹⁵⁹ Ayslin Yildiz, *Perception of "Smuggling Business" and Decision Making Processes of Migrants*, Norwegian Government, June 2017, 29.

¹⁶⁰ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 145.

¹⁶¹ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 382.

new norm on Turkish roads, “if you see any panel van around here equipped with black window films, you can be sure that it is used for smuggling.” Flexibility facilitates navigation of growing the aforementioned operational complexities and allows smugglers to readjust according to environmental and political changes. Adaptability has risen notably since the Syrian refugee crisis.¹⁶²

There is no evidence of a singular, dominating transnational criminal organization, and hierarchical and mafia-like networks are not the norm.¹⁶³ Smugglers can be part of local or regional criminal groups, but it is more likely that they are entrepreneurs who join a smaller network of individual actors who each play a specific role.¹⁶⁴ Networks are not strictly local, national or international. Smugglers extend their operations and communications when necessary, and cooperate with a variety of actors and locally-based groups through horizontally-structured relationships. The average smuggling network in Turkey is made up of nine people, but they typically range from anywhere between two and twenty actors depending on the scope of their operation, contextual demands, and available capital.¹⁶⁵ Demir, Sever and Kahya, compare the networks in Turkey to multinational corporations, where

companies have part-time and full-time employees who have various responsibilities such as administration, logistics, production and so on. Companies work together and with subcontractors, sometimes both nationally and internationally. All companies need marketing for their products and services. They have customers, and customers make choices from among a range of service providers. Choices are usually made

¹⁶² Ibid., 388.

¹⁶³ Ibid., 387.

¹⁶⁴ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 114.

¹⁶⁵ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 371, 386.

according to the quality and price of the service and the product. The way transnational migrant smugglers operate and conduct their illegal business can be characterised exactly as above.¹⁶⁶

This arrangement is also appealing for its cost-effectiveness, where business partners are unlikely to exploit one another, extort funds, or adhere to a hierarchical organizational framework. Such informalities make the industry accessible to new actors from all backgrounds seeking financial gain. This can explain why the demographic makeup of smuggling groups often mirrors that of their clients. Transactions are more easily facilitated without cultural or linguistic barriers and displaced people often see smuggling as an opportunity to sustain themselves.

Poverty is endemic in Turkey, particularly for migrants. For those living at the borders and in transit hubs such as Istanbul, Edirne, Ankara and Ayvalik, smuggling is a means of relieving financial burdens. One man defended his decision to take part, stating “I was making 2,000 dollars per transfer. If I had a regular income, I would not do this job. Otherwise, how would I raise my children?” Because demand for passage to Europe is so high and the LFIP restricts work visas to an extent that makes gainful employment almost impossible, smuggling presents a lucrative opportunity that displaced people in Turkey otherwise wouldn’t have access to. This income can help struggling migrants support their families and save enough money to perhaps find a reliable path to a country willing to offer protection. So, while it is true that illegal industries can attract insidious actors, one should be critical of sweeping claims of criminality. Just as asylum seekers

¹⁶⁶ Ibid., 382.

have no choice but to flee, they also may have no choice but to temporarily take part in an illegal industry in order to keep their lives and the lives of their families afloat.¹⁶⁷

Scholars debate whether transnational migrant smuggling is organized crime or “crime that is organized.” Smuggling is a “crime that is organized” in the sense that it is complex, sophisticated, and often requires extensive planning between a large and diverse group of actors. This does not inherently make smuggling ‘organized crime,’ which is carried out by criminal organization that does not dissolve after the crime is committed and is often involved in other criminal activities such as trafficking.¹⁶⁸ There is evidence that closer linkages are developing between smuggling activity and organized criminal groups in Turkey.¹⁶⁹ According to the International Organization for Migration, in 2016, twenty-two percent of all suspected smugglers had a connection to drug trafficking, while 20 percent were linked to human trafficking and another 20 percent to property crime.¹⁷⁰

Some claim there are clear connections with terrorist organizations.¹⁷¹ According to Turkish officials, terror and smuggling groups have a mutually beneficial relationship, where terrorists require the assistance of smugglers to enter target destinations and smugglers depend on terrorists to provide protection and cross border areas and otherwise

¹⁶⁷ Ibid., 380.

¹⁶⁸ J. O. Finkenauer “Russian Transnational Organised cCrime.” In D. Kyle & R. Koslowski (Eds.), *Global Human Smuggling: Comparative Perspectives* Baltimore-London: Johns Hopkins University Press, 2001, 166–186.

¹⁶⁹ Anna Triandafyllidou & Thanos, M. *Migrant smuggling: Irregular migration from Asia and Africa to Europe*. London: Palgrave Macmillan, 2012 ; Louise Shelley. *Human Smuggling and Trafficking into Europe: A Comparative Perspective*. (Washington, DC 2012) Migration Policy Institute.

¹⁷⁰ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 115.

¹⁷¹ According to the UNODC, 13 out of 55 countries surveyed showed clear ties between terrorist organizations and migrant smugglers. (*UNODC (United Nations Office on Drugs and Crime). (2010). Smuggling of migrants into, through and from North Africa: A thematic review and annotated bibliography of recent publications.*)

inaccessible regions.¹⁷² Rebels of the Kurdish Workers' Party (PKK) are not only responsible for domestic terror, they also are cited as "one of the largest criminal networks in Europe and actively involved in the migrant smuggling currently occurring in Europe."¹⁷³

Recent qualitative, interview-based data clashes with such previous accounts, instead showing that migrant smugglers in Turkey are staunchly opposed to other criminal involvement such as drug and arms trafficking. Migrant smugglers generally seem deterred from partaking in other black-market activities, even though illicit trades frequently follow similar routes. According to Demir, Sever and Kahya, "should any other group already dealing in narcotics, for example, dare to become involved in migrant smuggling, this could be seen as a 'challenge' and become a possible source of conflict."¹⁷⁴ Potential stakeholders perceive migrant smuggling as less risky than other illicit markets and large organized criminal syndicates are inherently exploitative and present dangers to the personal safety of both clients and facilitators. Furthermore, migrant smugglers have a higher degree of independence and are less likely to have to share their earnings with other actors because networks are rarely hierarchical and therefore there is no superior to report to. Avoiding other criminal activity also protects smugglers from potential additional charges, which are often much more severe for narcotic or sexual trafficking or for being connected to a transnational criminal organization. Smugglers are dependent on client trust and make efforts to maintain it,

¹⁷² Louise Shelley, *Human Trafficking and Smuggling in Europe: A Comparative Perspective*, Migration Policy Institute, February 2014, 9.

¹⁷³ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 371, 376.

¹⁷⁴ *Ibid.*, 381.

even if it is undeserved. Migrants are more likely to hire a smuggler if they believe they are not connected to an organized criminal group but instead are a benefactor of sorts from their own ethnic community. Such actors appear “safer” as they may be more willing to empathize with or protect their clients, who are likely at a lesser risk of becoming victim to traffickers.¹⁷⁵

Each of the social dynamics just discussed, including terrorist organizations, mafia-like structures, and transnational polycriminal syndicates, may very well coexist alongside the networks that try to remain strictly independent from organized crime. The migrant smuggling industry is not one dimensional. Its complexities derive from the various reasons why people join the industry or seek assistance for cross-border movement. Social, political, financial, and geographical contexts further influence the development of operations and networks. Rather than saying one structure is the singular reality, one must consider the countless factors that make every experience unique. Diverse involvement that includes violent actors, criminal and terror groups, and impoverished and displaced people shows that a multidimensional approach to researching and addressing smuggling is necessary. A further degree of complexity is added when one considers the variety of factors that draw individuals to migrant smuggling, including barriers to safe and regular work, inability to safely reach asylum, and desperation to access the basic necessities essential to sustaining oneself.

III. ACTORS

As previously stated, smuggling in Turkey is characterized by adaptability, horizontal relationships, infrequent communication among actors, less direct violence

¹⁷⁵ Ibid., 375-6. For more information on the differences between trafficking and smuggling, see chapter 1.

than with mafia-like groups, and limited experience. Such networks are made up of a variety of actors, who are either “leaders” (or “planners”), “organizers” or “low level facilitators.”¹⁷⁶ The actor’s role often depends on the scope of his/her network. If you have money, transnational connections, and extensive smuggling experience, you are more likely to be a leader. Leaders are the operational head and plan the journey, arrange transportation, and resolve any complications that may arise. They reside in metropolitan cities that are transit hubs, such as Istanbul, and organize all transportation by working with liaisons in origin, transit, and destination countries, and with nearby organizers. Organizers’ jobs are more direct: they arrange transportation from hubs to ports and towns on the western borders and for subsequent departure, and secure temporary lodging.¹⁷⁷ “Depositories,” or *hawaladar*, are in charge of the financial aspect of the operation. They provide an “escrow service” and receive a commission for handling financial transactions. They accept smuggling fees from migrants, which typically are not given to the leaders until the operation is successfully completed.¹⁷⁸

While leaders organize the operation, facilitators engage in its direct facilitation while in communication with organizers. The majority of smuggling arrests are of facilitators and therefore do little to dismantle the network, particularly because leaders protect themselves by limiting communication. They are the land and sea transporters, public officials and shelter providers. “Mountaineers” help migrants navigate Turkey’s southeastern mountain regions on the Iran and Iraq borders. “Transporters” are the truck drivers and boat captains who directly facilitate movement. These actors run the highest

¹⁷⁶ Rob Wainwright and Jürgen Stock, *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*, Europol, INTERPOL, May 2016, 4.

¹⁷⁷ *Ibid.*, 7.

¹⁷⁸ Theodore Baird, "Human Smuggling and Violence in the Eastern Mediterranean," *International Journal of Migration, Health and Social Care* 10, no. 3 (2014): 127.

risk of arrest yet have some of the loosest connections with the networks' core. Rather, they are local people who may or may not be formally employed and use smuggling jobs as a source of supplementary or primary income. They often are fishermen or truck drivers whose vehicle or vessel is an asset for further financial gain. Escorts, guides and lookouts are local experts who facilitate movement by supporting transporters. Shelter providers rent out their space to provide temporary clandestine lodging to up to a hundred people while they await the next leg of the journey.¹⁷⁹ One of the greatest assets to smugglers are public officials, including customs and border security officers, who accept bribes to allow passage in some of the most difficult to traverse and heavily guarded areas.¹⁸⁰

Among this diverse group of actors there are certain demographic patterns. A profile study of fifty-four migrant smugglers in Turkey found that all subjects were male and the mean age is thirty-six, where the vast majority are in their thirties and forties, married, and received no more than a secondary school education. Most are self employed and work in fishery or transportation - an easy way of getting involved in a low-level smuggling job. Eighty percent of smugglers interviewed had been in the industry for less than ten years, while thirty percent have committed public order crimes (theft, burglary), ten percent were involved in drug movement or distribution, and less than ten percent had a record for working with mafia-like groups. Nationalities mirror those of their client population, with smugglers coming from Iraq, Iran, Syria, Afghanistan, and Bangladesh. While ethnic Kurds from Turkey have dominated the

¹⁷⁹Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 382-4.

¹⁸⁰Rob Wainwright and Jürgen Stock, *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*, Europol, INTERPOL, May 2016, 8.

industry, Syrians have a growing stake and their presence grew eightfold from 2013 to 2014.¹⁸¹ These populations are some of the most marginalized in Turkey and the growing Syrian presence gives rise to the question of whether Temporary Protection provisions are doing enough to keep Syrians afloat. According to some of the subjects interviewed, in border communities most families are involved in smuggling in one way or another, each with their own role. In this way, smuggling is normalized and not viewed as “criminal” among locals, even though it is illegal.¹⁸²

IV. PAYMENT

The multibillion dollar smuggling industry’s profitability is due to the high demand and low costs of operations.¹⁸³ The cost of transport depends on multiple variables and is paid in installments for each leg or one in lump sum. Typically, the smuggler and client agree that payment will be transferred upon safe arrival, which prevents robbery and exploitation and presents the opportunity for multiple attempts should the operation fail.¹⁸⁴ Migrants report extortion, forced labor, and threats to their family’s lives if they fail to pay the full amount upon arrival.¹⁸⁵ Payments are either given to trusted loved ones in origin or transit countries, to a *hawaladar*, or placed in a

¹⁸¹ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 382-4.

¹⁸² *Ibid.*, 379.

¹⁸³ Rob Wainwright and Jürgen Stock, *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*, Europol, INTERPOL, May 2016, 4.

¹⁸⁴ Ayslin Yildiz, *Perception of "Smuggling Business" and Decision Making Processes of Migrants*, Norwegian Government, June 2017, 23.

¹⁸⁵ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 112.

password protected safe box until arrival in the destination country.¹⁸⁶ The length of distance, number of border crossings, mode of transportation, official checkpoints and barriers, landscapes, and weather all affect the complexity and therefore the cost of the journey.¹⁸⁷

Generally, price increases with demand and the costs, obstacles and risks presented to smugglers. In contrast, if a route is particularly dangerous to migrants, it may cost less, especially if a smuggler is not present. For example, prices for sea crossings are lowest during winter months in spells of bad weather via inflatable dinghy.¹⁸⁸ However, arriving to Greece or Italy from Turkey in summer months aboard a yacht is quite expensive (up to EUR 6,000), particularly if the ship is not crowded to dangerous capacities.¹⁸⁹ This is because in winter months demand is low and smugglers do not accompany these journeys, so the only real risk is to the migrants themselves. Entering Turkey is quite cheap (USD 100) in comparison to the fees required to exit, which range anywhere from USD 500 to EUR 20,000.¹⁹⁰ The predominant trend in recent years has been the steady rise in costs. In 2016, seven percent of Syrian respondents reported their journey cost over USD 5,000, while in 2017 this number jumped to fifty-seven percent¹⁹¹ as a result of new obstacles and risks thanks to policy initiatives such as

¹⁸⁶ Ayslin Yildiz, *Perception of "Smuggling Business" and Decision Making Processes of Migrants*, Norwegian Government, June 2017, 24.

¹⁸⁷ Rob Wainwright and Jürgen Stock, *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*, Europol, INTERPOL, May 2016, 8.

¹⁸⁸ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 113.

¹⁸⁹ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

¹⁹⁰ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 145.

¹⁹¹ International Organization for Migration. *Analysis: Flow Monitoring Surveys in the Eastern Mediterranean, 2016/2017 Comparison*. International Organization for Migration (IOM). International Organization For Migration. July 2017, 4.

increased coast guard patrols, highway checks, dismantling of sea vessels, border walls, and other push-back techniques.

V. DANGERS

Professionalization and technological advancements have not made smuggling any less dangerous. While Demir, Sever and Kahya argue that “migrant smugglers rarely use violence in Turkey” the high death toll and endless accounts of abuse, violence and exploitation show violence, or at the very least, risk of violence, is inherent to the activity. Even if a smuggler does not directly physically abuse his clients, violence is inherent to the nature of smuggling. Threats to safety are environmental, structural, and are presented by state and nonstate actors.¹⁹² A smuggler can pride himself on never laying a hand on one of his clients, yet the inflatable raft he sent from Turkish shores yesterday may have capsized on its way to the Aegean islands, killing all of its passengers - an all too frequent scenario. Thousands of migrants have been killed in tankers, vans, trucks, ships, rafts, and “safe houses” in recent years. They continue to suffocate in airtight vehicles and drown on the Mediterranean in startling numbers and risk kidnapping, trafficking, and forced sexual and manual labor. Furthermore, while state actors condemn smugglers for violent practices, violence directly from state actors is also common, particularly on smuggling routes such as the Balkan where asylum seekers are treated as unwelcome criminals. Physical and verbal abuse are common, there are multiple reports of asylum seekers being shot at on Turkish borders, and migrants live

¹⁹² M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 145.

in constant fear of Greek officials; one interviewee stated, “the Greek police hate human beings.”¹⁹³

A recent IOM report cites frequent aggression, violence, and disrespect from smugglers.¹⁹⁴ Coercive violence is intrinsic to migrant smuggling in the Eastern Mediterranean. According to Baird there are four types of violence involved in human smuggling enterprises: “threats and pressure, physical force, deception and fraud, and coercion/advantage taking.” Such violence serves a variety of purposes including, “to assert control, to discipline the group, to enforce ad hoc rules, to coerce those who may be unwilling to move, to collect payment, or to sexually abuse or rape women.”¹⁹⁵ In a 2012 study of migrants smuggled from Turkey to Greece, one third of respondents said they experienced physical force during crossing, over one half said they felt exploited, 1/3 said they were threatened or pressured and another third had been “deceived or defrauded by smugglers.”¹⁹⁶

Sexual abuse and rape are common and are substituted for unfulfilled payments, and the particular vulnerabilities women face may explain why women report feeling taken advantage of more than men. However, respondents overwhelmingly claim that they feel financially taken advantage of more than anyone else. Robbery is so common that it is to be expected, and can occur before and during the journey. Some may invest all of their savings in a smuggler only to never hear back from those who promise them safe passage to a country of asylum. Extortion is common as well, and migrants are

¹⁹³ Theodore Baird, "Human Smuggling and Violence in the Eastern Mediterranean," *International Journal of Migration, Health and Social Care* 10, no. 3 (2014): 128.

¹⁹⁴ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 145.

¹⁹⁵ Theodore Baird, "Human Smuggling and Violence in the Eastern Mediterranean," *International Journal of Migration, Health and Social Care* 10, no. 3 (2014): 121.

¹⁹⁶ *Ibid.*, 124.

deceived into thinking they have arrived in the EU, only to find themselves in Eastern Turkey.¹⁹⁷ These findings are even more startling when one considers the fact that these people are unprotected by the 1951 Refugee Convention while in Turkey, so there is no rights framework in place to turn to in cases of abuse.

If there is in fact “strong interpersonal trust between smugglers and those smuggled in Turkey,”¹⁹⁸ and if violence is rarely used, as Demir, Sever and Kahya claim, this does not eliminate the violent and threatening nature of smuggling. One can argue that statements such as these are counterproductive and deceptively convey an image of circumstances free of coercion, insecurity and malice. They ignore the countless other dangers and the fact that part of the danger in smuggling is not whether or not violence takes place, it is that the door for such violence is left wide open.

My research reveals a tension between these trust-based networking and marketing strategies and the fact that smugglers are not trustworthy. The problem here is that migrants have no other choice but to trust these actors. What is perceived as trust is more likely to be coercive circumstances that give migrants no option but to place their lives in the hands of such suspicious actors. Co-ethnic community may make this decision easier, but migrants trust such actors with their lives because they have to. Arguing that migrants have agency in these decisions can move culpability from the smuggler to the smuggled. This noun disregards the level of desperation one must reach to enter such a contract and encourages a criminal perspective of migrants.

¹⁹⁷ Ibid., 126, 128-130.

¹⁹⁸ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 145.

C. STATE RESPONSES TO MIGRANT SMUGGLING IN THE EASTERN MEDITERRANEAN

Despite the proclaimed intention of stopping migrant smuggling and irregular migration, state responses have done the contrary, aiding the industry, increasing its profitability, and exacerbating risks migrants face by driving demand for. Strategies that overwhelmingly invest in border security and surveillance force smugglers to professionalize their business model, making operations more organized, but less safe. Although recent data on smuggling at the Turkish-EU borders is limited, the literature shows that violence and fatalities rise with increases in border security and the death toll on the Eastern Mediterranean climbed in the first half of 2016 compared to the first half of 2015, despite the accumulation of anti-smuggling measures over previous years and during a period when both Turkish and EU forces were drastically increasing their security presence on Eastern Mediterranean waters.¹⁹⁹ Turkey has worked closely with the EU to address regional smuggling activity through new legal frameworks and direct intervention. In this section I bring attention to anti-smuggling developments in Turkey and Greece and their effects and broader implications. Because these measures fail to address the causes of smuggling and demonstrate a disregard for the safety of migrants and their right to seek and enjoy asylum, they will continue to prove ineffective in dismantling the migrant smuggling industry in the Eastern Mediterranean.

I. TURKEY

Similar to its approach to irregular migration, Turkey's anti-smuggling efforts in recent decades were developed to harmonize with the EU migration and asylum *acquis*. The Turkish government established the National Defence Force to Combat Human

¹⁹⁹ International Organization for Migration. "Migrant Deaths by Route." Missing Migrants Project.

Trafficking under the Ministry of Foreign Affairs, as well as the Department of Combatting Migrant Smuggling and Human Trafficking under Turkish National Police. The former works with the Ministry of Interior's Department of Anti-Smuggling and Organized Crime and the Department of Foreigners, Borders and Asylum to address domestic and international smuggling activity and engage in smuggling-related research.²⁰⁰ The latter is made up of fifty central officers and has offices in regions with high levels of smuggling and trafficking activity. Officers were meant to coordinate with local law enforcement, but corruption, complicity, and a lack of international cooperation prevented substantial action.²⁰¹

In an effort to align with the global legal framework dealing with smuggling and trafficking, Turkey adopted the UN Palermo Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2003, and with it a broader definition of “smuggling” and stricter penalties for involvement to be implemented in reforms to the Penal Code in 2005.²⁰² The 2003 Road Transportation Law of the Penal Code states that in cases where a vehicle is carrying irregular migrants and the driver is sentenced on smuggling charges, the driver's transportation permit will be suspended for three years and the vehicle will be seized.²⁰³

Smuggling is legally defined and addressed first and foremost by Article 79 of the new Turkish Penal Code Law No. 5237 (June 2005). According to the code, a migrant

²⁰⁰ Sule Toktas and Hande Selimoglu, "Smuggling and Trafficking in Turkey: An Analysis of EU–Turkey Cooperation in Combating Transnational Organized Crime," *Journal of Balkan and Near Eastern Studies* 14, no. 1 (March 2012): 139.

²⁰¹ United States. Office of the Undersecretary for Civilian Security, Democracy, and Human Rights., *Trafficking in Persons Report: June 2017*(Washington, D.C.: Office of the Under Secretary for Civilian Security, Democracy, and Human Rights, 2017), 400-401.

²⁰² Turkey, *Supporting Turkey's efforts to combat human trafficking and promote access to justice for all trafficked persons*, Justice, Freedom, and Security, January 06, 2007, 3.

²⁰³ Saime Ozcurumez and Deniz Yetkin, "Limits to Regulating Irregular Migration in Turkey: What Constrains Public Policy and Why?" *Turkish Studies* 15, no. 3 (2014): 446.

smuggler is “any person who, by illegal means and with the purpose of obtaining, directly or indirectly, a material gain: a) enables a non citizen to enter, or remain in, the country, or b) enables a Turkish citizen or a non citizen to go abroad.” Smugglers are sentenced to three to eight years in prison and up to ten thousand dollars in judicial fines. Penalties increase if smuggled persons are subjected to dangerous circumstances or degrading treatment, or if the smuggler is found to be a part of a criminal organization.²⁰⁴ In 2010, Article 79 was amended so that even unsuccessful attempts at smuggling will be prosecuted to the full extent of the law.²⁰⁵

In 2015, there were seventeen times more irregular arrivals to Europe than the previous year, partially due to the large influx of Syrian asylum seekers, with around 885,000 internationally displaced people entering through the Eastern Mediterranean alone, most by the sea route to Greece, then northward through the Balkans. In response, the presence of national and regional border officials multiplied on Greek and Turkish shores and surveillance and security measures were strengthened. This spike in arrivals pushed the EU to create a Common Action Plan Against Migrant Smuggling (COM (2015) 285) and invest more resources into militarized counter smuggling tactics, but not to help asylum seekers find safer ways to enter.²⁰⁶ The EU border agency Frontex increased their presence on Greek and Turkish waters by deploying more sea patrols, namely Poseidon Rapid Intervention in December 2015. According to Frontex, the purportedly anti-smuggling mission was in response to “large numbers of third-country

²⁰⁴ Turkey. *Turkey: Criminal Code* [Turkey], Law No. 5237 , 26 September 2004, 29.

²⁰⁵ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 139.

²⁰⁶ *Ibid.*, 106-108.

nationals trying to enter the territory of a Member State illegally,”²⁰⁷ demonstrating a strong motivation among EU Member States to keep migrants out. The North Atlantic Treaty Organization (NATO) also established themselves on the Aegean sea, employing militarized security tactics to dismantle smuggling operations and return migrants to Turkey.²⁰⁸ In January of 2016, Turkish and German special forces collaborated in Operation Wave, which led to the arrest of a grand total of fifteen smugglers.²⁰⁹ While such anti-smuggling measures were implemented throughout the course of 2015 and 2016, there was simultaneous spike in the number of migrant smugglers in the region.²¹⁰

As discussed in chapter three, Turkey has erected a 911 kilometer long wall on the Syrian border, one of the longest in the world, to deter irregular border crossings and smuggling operations. At the same time, the EU has made it more difficult for Syrians to obtain a visa for sea and air travel into Europe, Turkey’s western borders are heavily monitored, and the EU-Turkey deal gets rid of any possibility for Syrians to claim asylum if arriving irregularly from Turkey.²¹¹ Syrians already relied on smugglers to traverse Syria’s interior, but now more than ever smugglers are needed to leave the country. The inability to reach Europe through regular channels due to the combination of policy measures such as visa restrictions physical measures such as walls along the Turkish borders, readmission, and other push-back methods such as gunfire and dogs, encourage irregular transit migration through Turkey and drive demand for smugglers.

²⁰⁷ Frontex. "Rapid Intervention." 2017.

²⁰⁸ Robin Emmott, "NATO launches sea mission against migrant traffickers," Reuters, February 11, 2016, accessed March 13, 2018.

²⁰⁹ M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 141.

²¹⁰ Oguzhan Omer Demir, Murat Sever, and Yavuz Kahya, "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal of Criminal Policy and Research* 23 (August 6, 2016): 372.

²¹¹ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

II. GREECE

Poor treatment of asylum seekers is not unique to Turkey, even though Greece adopted the 1951 Refugee Convention in full. Greece is notorious for its broad legal application of the term “smuggling.” While the UN definition stipulates the need for financial gain, this is not the case in Greece. Any person can be arrested for smuggling for facilitating irregular border crossings, with a standard sentence of ten years. There is no legal distinction between facilitation of irregular stay and irregular entry; both are considered smuggling. The only exception is for circumstances requiring the assistance of a person whose life is in immediate danger. Because Greece does not require the presence of financial gain for facilitated border crossings to be considered smuggling, many more people are at risk of arrest, including asylum seekers and Greek citizens. Providing lodging or transportation to asylum seekers, even purely out of humanitarian good will, has led to smuggling charges. Bus and taxi drivers have been arrested for smuggling for allowing irregular migrants to board their vehicles, and lifeguards were arrested for trying to locate a raft of asylum seekers in distress off of Greek shores.²¹²

Asylum seekers sailing to and from Greece, particularly those assigned by smugglers to navigational duties, can easily be accused of smuggling, arrested, imprisoned, and potentially deported. Such circumstances risk violating some the rights of asylum seekers, including the right to seek and enjoy asylum and non-refoulement. Punishing the victims of smuggling and not the perpetrators is not only a violation of some of the most basic human rights, it is also a gross misreading of the context of irregular migration in the Eastern Mediterranean and poor policy that disregards the

²¹² M.L. McAuliffe and F. Laczó, "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base," 2016, 119-121.

structure of the migrant smuggling industry and the causes for its development. The diversity in approaches to migrant smuggling among states and Greece's broad application of the law makes consistent and accurate data collection difficult. In this way, the already limited research on smuggling is made even more vague.

According to the European Union Court of Justice, the Greek asylum system experiences "systemic deficiencies." Although this ruling took place in 2011, Greece's methods for managing influxes of irregular entries continue to be insufficient and inhumane.²¹³ Irregular migrants smuggled into Greece are either turned back to Turkey or brought to detention camps on the Aegean Islands until resettlement or return to Turkey. Greek camps, described by a Syrian detainee as a "grave for humans" and "hell," are overpopulated with asylum seekers who face indefinite detention in subhuman conditions. Asylum seekers suffer disease, injury, and lack of access to medical treatment and other basic necessities. Migrants have died from illness, fires, and violence and some even voluntarily return to Turkey - a testament to the hellish nature of conditions in Greece. Overpopulation in Greek camps reached an all time high immediately after the EU-Turkey readmission Deal became official, when Greece's Asylum Appeals Committees declared Turkey too dangerous for migrants. And so, all asylum claims were temporarily processed in Greece. This opinion switched, seemingly without reason, in June of 2016 and Turkey began to hear asylum claims again.²¹⁴ This rapid change without significant improvement in Turkey's treatment towards migrants leaves one questioning the motives lying behind the migration bureaucracy if the protection of lives, rights, and dignity clearly is not the answer.

²¹³ Theresa Papademetriou, "Refugee Law and Policy: European Union," March 01, 2016.

²¹⁴ Kondylia Gogou, "The EU-Turkey deal: Europe's year of shame," Amnesty International, March 20, 2017.

D. CONCLUSION

Migrant smuggling on the Eastern Mediterranean is complex, ever changing, increasingly profitable and in high demand despite decreases in the number of irregular entries into Europe from Turkey. Each of these qualities are a direct consequence of state responses, which neither address the central, most influential actors of smuggling networks, nor the factors that drive demand for smuggling. Dismantling networks is becoming more difficult as the majority of smugglers are not located within the EU, eluding Member States' reach.²¹⁵ Because states are reluctant to address the causes of smuggling (international population displacement, high demand to reach asylum without regular means of doing so, lengthy waits for resettlement) they attempt to stop operations directly by arresting smugglers as they arrive and dismantling or confiscating materials. States also increase criminal penalties for smuggling as a means of deterrence, which does little to substantially disrupt the industry. It is quite easy to observe that harsh punishment of drug smuggling, human trafficking, and involvement in criminal organizations has not even come close to putting an end to these activities.

One should also keep in mind the high levels of poverty and endemic unemployment in Turkey's transit regions, particularly for migrants, and the significant financial gain smuggling presents. It would not be unreasonable to speculate that asylum seekers in Turkey join the smuggling industry, just as they become involved in other forms of irregular work, because they are otherwise unable to financially sustain themselves or their families. Economic conditions for asylum seekers, particularly non-Syrians, have only worsened since the adoption of LFIP and the EU-Turkey deal, which confine migrants to subhuman conditions in overcrowded and unsupported cities that

²¹⁵ Frontex. *Risk Analysis for 2018*. Frontex. February 2018. Accessed March 13, 2018, 17.

offer little opportunity and protection. The inability to obtain a work permit and the significant financial gain that smuggling offers encourage participation in this illicit trade, a last resort for many migrants who fear arrest and deportation yet have no other choice to support themselves. In addition to prosecuting smugglers and addressing larger criminal involvement, states must look at the reasons why the industry is growing in the first place. Smuggling will continue as long as people do not have access to a sustainable income and migrants are unable to claim asylum or are confined indefinitely to dangerous circumstances while they await resettlement.

Combating smuggling is ineffective when measures are also designed to restrict the movement of asylum seekers. Rather than stopping smuggling, border security and stricter migration and asylum policies have forced smugglers to attempt more complicated operations. This increases the price of the journey, thereby boosting profits. Furthermore, more complicated routes typically mean more dangerous routes as well. The number of global migrants fleeing persecution and violence is not shrinking and people are still desperate to reach safety in Europe, which offers a higher level of protection and opportunity than many other countries. Yet, getting to these countries is more difficult than ever as Member States continuously employ new methods to keep migrants out and deny asylum. This drives demand for smugglers, who are forced to transport migrants across more dangerous routes through increasingly precarious methods. While reports of smuggling dropped nineteen percent in 2017, this cannot be explained by a reduction in smuggling activity. Rather, advances in operative sophistication only make their activity more difficult to detect.²¹⁶

²¹⁶ Ibid.

Stopping smuggling by bolstering border security and violently deterring migrants from entering present the possibility for multiple rights abuses. The right to seek and enjoy asylum is a fundamental human right, yet push-back and barriers to reach asylum disregards this right, particularly if migrants are already within that state's territory.²¹⁷ By returning Syrian asylum seekers to Turkey once they reach Greek shores, states are denying their right to seek asylum and often violate the right to *non-refoulement*. Because resettlement rates from Turkey are so low, states cannot justify these returns by claiming regular channels to asylum are available. Furthermore, understanding that Turkey is a dangerous place for migrants who are not protected by the 1951 Refugee Convention, states are violating Article 33 of the 1951 Refugee Convention which prohibits refoulement and Article 25 of the Universal Declaration of Human Rights. It states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.²¹⁸

As we have seen, none of these rights are guaranteed in Turkey. Non-Syrians under conditional protection and unregistered migrants are in particular danger. Many intentionally do not register themselves, knowing the limitations of government protection and understanding these limitations, particularly to movement and work, can be more dangerous than living with irregular status. These conditions make the prospect of hiring a smuggler all the more appealing, especially given the long waits for UNHCR resettlement, which often takes years.

²¹⁷ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), 3.

²¹⁸ *Ibid.*, 5.

As Agnes Callamard, the Special Rapporteur of the Human Rights Council, argues, refugees and irregular migrants are victims of the arbitrary deprivation of the right to life - an international crime. Under Article 3 of the UDHR, as well as Articles 6 (1) and 26 of the ICCPR, states have a legal obligation to protect human life without discrimination, even in times of war or states of emergency. Furthermore, states are required to investigate all deaths and disappearances effectively and with due diligence, include the family members of the missing or deceased in the investigation, provide reparations, and prosecute those responsible, whether state or nonstate actors. According to the International Organization for Migration, more than forty-six thousand migrants have lost their lives since 2000.²¹⁹ Although these numbers give a rough estimate of the number of casualties, they are incomplete. Many more cases each year go unreported and there is a concerning lack of data on the direct and indirect roles of states and their policies in instances of such violence and abuse.

While the right to life is the most fundamental human right, by observing the sheer numbers of preventable mass casualties of irregular migrants during smuggling operations, one can see that its scope, while legally universal, is practically exclusive and subjective. States have demonstrated a “failure to prevent preventable, foreseeable deaths”²²⁰ through migration and border security policies that demonstrate an intolerance to migrants and a neglect of human rights in favor of migrant deterrence and direct, physical dismantling of smuggling operations. A “deliberate intent” to harm migrants is

²¹⁹ UN General Assembly, *Unlawful death of refugees and migrants*, 15 August 2017, A/72/335, 4-6.

²²⁰ *Ibid.*, 4.

not a necessary requirement for a death to be considered “arbitrary”²²¹ and the failure to investigate such instances is in and of itself a violation of international law. Through policies that promote deterrence, border militarization, and push-back, states are implicitly responsible for violating the right to life by consciously subjecting migrants to abuses by border security agents and nonstate actors, as well as harsh environments and dangerous activities.²²²

Lethal force at the hands of state actors is only one manifestation of the deprivation of the right to life, but non lethal force can have the same consequences, albeit indirectly.²²³ When maritime security forces dismantle smuggling boats, migrants are loaded into increasingly unsafe vessels; when Greek coast guard patrols remove boat engines and toss them into the sea, then turn vessels full of distressed asylum seekers around, back toward Turkey; when responders refuse to rescue overcrowded ships dangerously close to capsizing because they do not want to be responsible for hearing their asylum claims, the right to life is violated and people continue to die.

In conclusion, approaches to stopping migrant smuggling are proving ineffective. In 2017, the number of reported smugglers decreased by nineteen percent from the previous year. These lower rates of detection do not necessarily correlate with a significant reduction in smuggling activity. Rather, they could also indicate that operations are now more difficult to detect. Now, smugglers conduct operations out of third countries and methods of transport are more sophisticated due to the various anti-

²²¹ UN Ad Hoc Committee on Refugees and Stateless Persons, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings*, June 2017, A/HRC/35/23, 7.

²²² UN General Assembly, *Unlawful death of refugees and migrants*, 15 August 2017, A/72/335, 6-7.

²²³ *Ibid.*, 9.

smuggling initiatives throughout Europe and the Mediterranean.²²⁴ Not only have state responses made smuggling more elusive, they have a tendency to exacerbate the inherent dangers of smuggling while violating the rights of migrants. By hindering migrants' pursuit of safety and asylum and denying fundamental rights to life and *non-refoulement*, states are creating an increasingly dangerous black market industry and supplying its demand. Therefore, states are directly responsible for many of the dangers displaced people face; migrants are not only victim to circumstances in countries of origin, but also to the legal-political structures of the countries from which they seek protection.

²²⁴ Frontex. *Risk Analysis for 2018*. Frontex. February 2018. Accessed March 13, 2018, 17.

V. CONCLUSION

A. MAIN FINDINGS

Manmade and natural crises in Africa and the Middle East have forcefully displaced millions of people in recent years. Europe has comparable stability, equality of opportunity, democratic values, and strong rights regimes that create a high demand to reach this region. In chapter two I laid the groundwork for the following chapters by discussing the development and foundational philosophy of the formation of European Union – a direct response to World War II. I provided evidence of their commitment and obligation to uphold human rights and humanitarianism in order to show how current anti-migration/anti-smuggling responses that violate these foundational principles are not practical for Member States. This is because the European Union identity was built on the notion of human rights and protecting displaced people. The EU also prides itself for offering free cross-border movement within the Schengen zone, given their philosophy that the creation of a unified borderless international structure that respects human rights would ensure that fascism could never raise its ugly head again.

In direct opposition to these principles, decades later the EU again began increasing border controls that made access to the region more difficult than ever. It is for this reason that in the early 2000s many scholars began to talk about how the region became a “fortress Europe.” Today, this trend continues in a fashion that harkens back to the World War II era. However, the desire to keep migrants out is now so strong that EU Member States are turning back on this fundamental principle of free movement. The geographical landscape is fragmenting and internal borders are beginning to resemble external ones once more. When political leaders talk about the “migration crisis,” they are

not speaking the unfathomable violence and suffering that has displaced millions of people. Rather, from their perspective, the crisis is one that is caused by the people wishing to seek refuge within their borders. To the grave misfortune of forcefully displaced people, Member States have decided repeatedly to prioritize narrowly defined conceptions of “security” and “European culture” over fulfilling their legal obligation to uphold international human rights and refugee law. If freedom of movement, human rights, and protecting displaced people are no longer primary concerns to Member States, the EU is no longer functioning as it was designed or standing by its foundational values. Therefore the failure of the EU to fulfill its moral-legal responsibilities is a direct threat to its very existence.

In chapter three I investigated the tendency of EU Member States to elude their commitment to “burden sharing” through the recent readmission agreement with Turkey. While movement through Turkey was once easy and much safer, pressure from the EU has forced the Turkish government to strengthen its border security. Human rights abuses, refusal to fully adopt the 1951 Refugee Convention, the harmful Law on Foreigners and International Protection, and political, social and economic turmoil make Turkey an unsafe place for migrants. Restricted movement, forced confinement, and lengthy UNHCR processing in Turkey make these circumstances even more threatening. Desperation to leave Turkey and barriers preventing asylum and resettlement have encouraged dependence on irregular methods to reach destination countries and caused migrant smuggling to flourish. In this way, the interregional policy measures discussed in chapter three, which were designed to keep migrants out of the EU, have actually

encouraged transit migration to Europe and support the migrant smuggling industry as explained in chapter four.

As shown in chapter four, the Eastern Mediterranean migrant smuggling industry is complicated, multinational, and constantly changing in response to new policy measures and security initiatives. Despite former research that characterizes smuggling in the Eastern Mediterranean as a trust-based and rarely violent industry, I argued that these sympathetic tones are harmful to migrants, considering smuggling is an inherently dangerous activity that always opens the door to rights abuses, violence and uncertainty. Increased security at borders and on popular routes to Greece and Bulgaria force smugglers to employ riskier methods in order to avoid being discovered. Routes are displaced and new terrain is unfamiliar, increasing exposure to potential pitfalls. Dismantling the materials smugglers use, most notably ships and dinghies, do not stop smuggling, either. Rather, they reduce availability of safe and reliable vessels and force smugglers to rely on poorly constructed and unseaworthy boats, hundreds of which have sank while crossing the Mediterranean. Smugglers are also susceptible to many of the risks their clients face, including violence, perilous environments, and arrest. For this reason, as well as the increasing complexity of journeys, the cost of hiring a smuggler is steadily rising, making the industry more and more profitable.

Despite the frequent appeals to the human rights discourse in anti-smuggling measures introduced by destination states, there almost always is a secondary agenda. Anti-smuggling actions double as means of curbing irregular migration, often through violent means. These catch-all responses equate illegal facilitation of entry with illegal entry, and smuggler with client despite the fact that irregular border crossings are not

illegal when seeking asylum. Nevertheless, states choose to perceive and represent those seeking safety within their borders as insidious criminals cheating the asylum system by not “waiting their turn” in camps until their claim is processed. Chapter four demonstrated how this logic completely disregards international human rights and refugee law, which grant the right to seek and enjoy asylum, and ignores the fact that the majority of asylum seekers in camps are living in subhuman and dangerous conditions and experience shamefully long waits for resettlement.

My research has shown how the inability to safely seek asylum, confinement to precarious circumstances, reliance on smugglers, and security-based migration regimes present state-sponsored dangers. Migrants drown by the thousands on Mediterranean waters and in the back of cargo trucks, and suffer homelessness in freezing temperatures. They are unwittingly sold to traffickers for sexual and labor exploitation and are beaten and shot at on Turkish and Eastern European borders. Rape, discrimination, and inability to access work, food and urgent medical care are also problems that migrants face more often than not. They are denied safety within the borders of countries that call themselves global leaders in protecting human rights, and are arrested, indefinitely detained, and deported to places that directly endanger their lives and wellbeing. Not only is this immoral, it is a blatant violation of some of the most basic human rights and the fundamental values of the European Union.

B. BROADER IMPLICATIONS AND FUTURE CONSIDERATIONS

It is imperative that states address the complex causes of forced displacement, as well as the reasons why migrants seek asylum through irregular means and employ

smugglers. Protecting lives and upholding human rights should be the primary concern of EU leadership and wealthier states should use their privilege to assist poorer and strained states that receive the bulk of irregular arrivals. In order to maintain legitimacy and protect their regime, rather than asking how to keep migrants out, leaders must question how they can best uphold the rights frameworks they have constructed and are accountable to. The central question should be, how can human smuggling be stopped without violating rights or endangering lives, and how can states best prepare themselves to respond to asylum seekers in a timely and humane manner to ensure protection and safety while maintaining domestic and regional stability?

In this section I broaden the scope of my research to demonstrate the greater implications of the European Union's current approach to irregular migration and human smuggling and then offer suggestions for improvement. First, I argue that **current responses to smuggling are ineffective because they do not properly address its causes.** Second, I address the **need for transparency and improved information sharing with migrants.** Third, I explore the practicality and legitimacy of methods of deterrence, offshore processing, and readmission deals designed to keep migrants out, all of which contribute to route displacement. I then offer suggestions aimed at improving conditions for migrants in Turkey. Finally, I call upon EU Member States to prioritize human rights and humanitarianism in their response to the refugee crisis. Without politically sound actions, the European Union's legitimacy is undermined and very future is threatened.

I. THE SMUGGLING RESPONSE

As discussed in chapter four, smuggling will continue to become more profitable and dangerous as long as there is a demand. Eliminating this demand would require granting asylum to many more people, either by increasing “good will” number of people states accept from foreign camps, or by facilitating safe entry for those attempting to reach their borders. However, as we have seen, it is clear that (European) states do not wish to welcome migrants, particularly if they are coming from predominantly black or Muslim countries. This could explain why the border militarization tactics discussed in chapters three and four are the favored methods to combat smuggling. From the perspective of Member States, increasing border security allows smuggling to be addressed while simultaneously barring entry for irregular migrants. In regions where such tactics are employed, we see continuously high death rates, revealing the fact that the lives of migrants are worth much less to states than preventing their entry.

Fatalities, abuse, and persecution in countries of origin do not seem to spark empathy among state actors, who are inclined to treat migrants as criminals. States all too often refer to asylum seekers fleeing by crossing borders through irregular means as “illegal” and suggest that those who employ a smuggler are somehow cutting in line.²²⁵ “Illegal” is a misnomer with dangerous consequences. As repeatedly discussed, asylum seekers may not be prosecuted or penalized for irregular entry when fleeing a place where their lives are in danger and cannot be considered criminals for being smuggled.²²⁶ Using this rhetoric promotes a criminal perspective of migrants and xenophobic sentiments

²²⁵ Frontex. *Risk Analysis for 2018*. Frontex. February 2018. Accessed March 13, 2018, 8.

²²⁶ UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, p. 3.

among political actors and the general public, which can transform into harmful policy measures and anti-migrant abuse and discrimination. Furthermore, there is no “line” to be cut. The populations that states resettle from foreign camps are voluntary and based on good will, while they have an obligation to hear claims lodged by asylum seekers entering their borders. Per the 1951 Refugee Convention, asylum seekers have the right to claim asylum and states have an obligation to fairly hear these claims. This is both a moral and legal concern: by refusing to hear their claims, states are violating international law and are putting migrants’ lives in danger in the process.

We have seen that migrants seek smugglers when they are denied access to destination and transit countries, particularly if conditions in transit locations are unsafe or unpromising, or if resettlement takes too long. Asylum seekers often wait years in Turkey in unfavorable conditions before UNHCR finds a location for resettlement. Destination, transit and origin states must work together to provide safe and legal channels to asylum in states that offer sufficient protection, timely resettlement, adequate conditions in locations of temporary residence, and access to sufficient income and basic necessities while awaiting asylum decisions and resettlement. Reception and processing must be swift and legitimate and subsequent resettlement must be timely. Applying for asylum must also be a transparent process, allowing migrants to have a full understanding of each step, as well as their rights and the conditions of their stay.

Destination states must be willing to accept more asylum seekers and should not discriminate based on their identity or country of origin. Language, cultural, and intelligence barriers should not be used as a tool to take advantage of migrants or violate their rights. As research has shown over and over again, when certain populations are

neglected and illegitimately denied asylum, they do not simply return home. Rather, instead of waiting for resettlement, they will attempt to reach destination countries by employing a smuggler, often multiple times, until the receiving state hears their claim.

It is also the shared responsibility of Member States to assist their neighbors on Europe's southern and eastern borders. Northern and western states that experience significantly less migrant traffic should lighten the strain on transit and EU border states by offering asylum to as many migrants as their institutions can support. They should also establish means for safe cross-border movement within the EU, as migrants currently employ smugglers to facilitate this movement for them. Opportunity for legal entry and stay would reduce demand for smuggling. Potential options include greater possibility for family reunification and wider distribution of humanitarian visas, particularly in Turkey. Visa requirements should be made relatively easy to fulfill for persons in distress and could follow similar eligibility requirements as the conditions for refugee status, but include provisions for migrants fleeing climate change, natural and manmade disaster, severe economic crisis, or who suffer medical conditions untreatable in countries of origin.

Should conditions remain the same, irregular migration will continue. Therefore, smuggling will continue, and strict border controls will make operations more lucrative and dangerous. Migrants will continue to die and people will continue to be forced into criminality by evading registration and engaging in irregular labor. Claiming the right to asylum from persecution must not be a deadly obstacle course, particularly when people are already extremely vulnerable after fleeing life-threatening circumstances in their home countries.

II. SAVING LIVES THROUGH INFORMATION SHARING

Addressing the issues stated above should be an immediate priority, but reluctance to rethink policy approaches shows that change will be slow. However, if the commitment to stopping smuggling and addressing humanitarian concerns is genuine, it is imperative that immediate action is taken to reduce the immense human cost of smuggling. Most migrants who employ smugglers are drastically uninformed about the people they are hiring, the details of their journey, and the risks involved that are often unique to each route. Smugglers can easily take advantage of their ignorance and desperation in many different ways including extortion for money or labor, trafficking, and physical and sexual abuse. This also makes it easier to use cheaper and riskier methods of transport. They may lie about the length of the route, their location, or the role of state actors. Migrants are frequently told they are in the EU upon arriving in Turkey. They may be loaded onto an unseaworthy craft without sufficient fuel or flotation devices, and told Europe is only forty five minutes away, when in reality the journey may take days. Migrants are also assured they will be rescued immediately upon entering Greek or Italian waters, when instead they drift for days, refused rescue, turned around, or indefinitely detained in hellish camps without access to urgent medical care, sufficient resources, legal representation, or access to asylum. All of this is considering they do not drown first.

Certain regions, such as the Greece-Macedonia border, are known for violent security tactics, while specific countries, such as Greece and Turkey, may have unsafe detention facilities or be less willing to uphold rights. Some borders, like that separating

Serbia and Hungary, are more difficult to cross and will likely result in harmful push-back, detention or deportation, while heading west into Croatia drastically reduces these dangers. There are also certain times of the month or day where crossings are easier and safer. For instance, if traffic is busy, security guards are less likely to check vehicles. Warmer months reduce risk of capsizing or hypothermia at sea, and border or customs officials accepting bribes may be working during a particular time of day. Because the smuggling market is competitive and easy to enter, monopoly of a single network is rare. However, certain groups may be notorious for their connections with a trafficking ring or coercive and dangerous tactics, while others are known for their efforts to offer relatively safe services and protect their clients.²²⁷

Most information on smuggling and trafficking is withheld from migrants and substituted with ominous yet vague warnings from untrusted officials who at most inspire fear but ultimately do not reduce the need to employ a smuggler.²²⁸ Specific, relevant information, however, is of immense value and should be readily available to migrants. They should be allowed to know the nature of local smuggling networks and operations, including routes and potential dangers. Furthermore political, legal, social and economic conditions should not be a surprise. Migrants should be made fully aware of their rights, relevant asylum and registration procedures, how to access resources, and any policies that directly affect them. Dense and complicated material related to rights, policy and

²²⁷ Danilo Mandic, "Trafficking and Syrian Refugee Smuggling: Evidence from the Balkan Route," *Social Inclusion* 5, no. 2 (2017): 36.

²²⁸ Theodore Baird, "Understanding human smuggling as a human rights issue," *Danish Institute for International Studies*, August 2013, 2.

legislation should be translated and simplified to include the most relevant information, and presented clearly with visual aids such as maps and diagrams when possible.²²⁹

Qualitative and comprehensive research is lacking in general, but local data collection and knowledge about smuggling activity is plentiful among authorities and response personnel, especially in Greece, Turkey, and Serbia.²³⁰ Local and national authorities, NGOs, and research institutions alike must be encouraged to investigate smuggling further, not only from criminological, security-based, or organized crime viewpoints, but also in relation to social and organizational structures, human rights, humanitarian need, gender, mobility, population size and demographics, reasons for demand, and economic analysis that takes into market and business aspects.²³¹

Although states are encouraged to take part in this project, they are unlikely to participate as they see that it undermines state power, particularly in relation to security and migration management. State control of information distribution without oversight of an unbiased third party could also turn out to be unhelpful or even harmful as many governments have an anti migration agenda. This is why civil society organizations and humanitarian response personnel active in camps and transit areas are in a unique position to increase safety and awareness when choosing a destination and how to get there. Migrants should have the opportunity to ask questions and share their experiences without fearing punishment, arrest or deportation.²³² For this reason, state actors may not

²²⁹ Danilo Mandic, "Trafficking and Syrian Refugee Smuggling: Evidence from the Balkan Route," *Social Inclusion* 5, no. 2 (2017): 36.

²³⁰ Ibid.

²³¹ Theodore Baird, "Theoretical Approaches to Human Smuggling," Danish Institute for International Studies, 2013, 3.

²³² Danilo Mandic, "Trafficking and Syrian Refugee Smuggling: Evidence from the Balkan Route," *Social Inclusion* 5, no. 2 (2017): 35.

be fit for such a task due to political agendas and the unlikelihood that migrants will trust public officials regardless on their intentions.

Some may criticize increasing transparency of smuggling operations and irregular migration routes, arguing that information sharing only endorses their actions and encourages migrants to seek out smugglers. The reality is, as long as the causes of smuggling are not addressed, the industry will continue to flourish. Improving transparency is not a path to legalization and does not diminish the gravity of the crime. Rather, it allows individuals to make informed decisions about matters that all too often have deadly consequences. Increased knowledge about smuggling will deter migrants from dangerous circumstances or better prepare them to handle such circumstances, drastically reducing fatalities, disrupting more violent operations or trafficking networks, and reducing strain on public institutions such as hospitals, food providers, and law enforcement.

III. DETERRENCE, OFFSHORE PROCESSING AND READMISSION DEALS

“Tough on migrants” stances with strict border security policies that treat asylum seekers as adversaries rather than a humanitarian concern threaten the lives and physical and mental wellbeing of migrants. As we have seen in chapters three and four, ignoring immediate humanitarian needs and rights obligations and using deterrence as a means of stopping arrivals to Europe and smuggling operations does not work and always gives rise to harmful consequences. Border walls and fences, violent actors, treacherous landscapes, unstable countries and unsafe camps do not stop smuggling. More importantly, utilizing these life-threatening circumstances as a tool to scare migrants

away from pursuing Europe through irregular means directly threatens their rights to life, to seek asylum, and in some cases, to non-refoulement. Deterrence methods are a “false and ineffective solution” that drives demand for smugglers and transit migration as migrants refuse to remain confined to perilous conditions and dodge threatening border security officers.²³³ Rather than deterrence, it is imperative that states address the complex causes of forced displacement, the reasons migrants seek asylum through irregular means, and the immediate medical needs of incoming populations. To do so, the criminality of the smuggler should not be transposed onto the victim, which is much more likely if a smuggler is not present when a smuggling operation is disrupted.

Offering financial and political benefits to persuade origin and transit states to prevent migrants from entering Europe is another, newer tactic gaining popularity. The EU-Turkey deal, which is discussed in detail in chapter three, was designed to keep migrants out of Europe by enforcing stricter border controls, sending asylum seekers back to Turkey, and increasing access to essential resources, facilitated by external funding. Member States also promised to offer asylum through regular channels by accepting refugees processed by the UNHCR in Turkey if Turkey kept its borders closed. As we have repeatedly seen, such measures do not stop irregular migration or smuggling and only encourage transit migration.

While irregular migration in the Eastern Mediterranean has decreased, this is only a return to the numbers in 2012 and 2013, when migration and smuggling were already significant concerns for European governments.²³⁴ Offshore processing proves ineffective

²³³ Medecins Sans Frontieres. *Obstacle Course to Europe: A Policy-Made Humanitarian Crisis at EU Borders*. Medecins Sans Frontieres. Medecins Sans Frontieres. January 19, 2016, 50.

²³⁴ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

at curbing irregular migration when processing locations are unsafe and gaining asylum is neither easy nor timely. In Turkey, migrants suffer discrimination, abuse, poverty, and wait years for resettlement. Already slim chances of resettlement are shrinking even further as destination countries cut refugee quotas and exclude certain identity groups. Selective application of the 1951 Refugee Convention is harmful as states have the power to decide who is and is not worthy of protection, thereby determining which lives are worth saving based on narrow definitions and subjective opinions. This leads to overcrowding in camps, slow processing, and long waits for resettlements. We have seen this with the implementation of the EU-Turkey deal: while all migrants are confined to Turkey, only Syrians have the opportunity for resettlement under the agreement's conditions, while non-Syrian migrants do not have access to the same basic resources within Turkey as the larger Syrian population. Although what Syrians do have in Turkey is shamefully limited, this difference could make the difference between life and death for many non-Syrians.

Furthermore, humanitarian funding to offshore processing sites is not a sufficient response if not accompanied by regular, safe, and speedy paths to asylum. The concept of "burden sharing" is fundamental to the EU's design, yet in 2016 Member States only hosted 2.3 million refugees. Compare this to neighboring Turkey, which hosts 3.4 million internationally displaced people while suffering political, social, and economic instability. Furthermore, it has not fully adopted the 1951 Refugee Convention, so non-European migrants are unable to claim asylum from Turkey and are not offered fundamental protections.

The EU's response to population influxes in Turkey has been particularly harmful considering it is an unsafe place for migrants. It is therefore shameful that the EU, a world leader in human rights protections, has made such an agreement with Turkey, thereby implicitly condoning the government's treatment of migrants and denying fundamental rights protections. The EU cannot substitute their responsibility to provide safe asylum with money. Leadership fails to consider the vulnerabilities within Turkey and does not address any immediate concerns that may have arisen during flight.²³⁵ Member States, particularly those in northern Europe, must partake in equitable "burden sharing" by receiving refugees from transit states and in first countries of asylum on Europe's southern borders in a timely manner. Moving forward, it is imperative that states offer all forcefully displaced people equal opportunity to claim asylum and the subsequent right to resettlement should not be transformed into a privilege only to be enjoyed by certain groups.

IV. ROUTE DISPLACEMENT

Some suggest that state responses to asylum seekers in the Eastern Mediterranean have displaced population flows to the Central Mediterranean. However, the number of people from Iraq, Afghanistan and Syria (The primary refugee populations on the Eastern Mediterranean Route) arriving in Europe from Libya did not significantly increase between 2015 and 2016.²³⁶ A small diversion to the Central and Western Mediterranean may be possible, though, especially because smuggling prices on the Eastern

²³⁵ Medecins Sans Frontieres. *Obstacle Course to Europe: A Policy-Made Humanitarian Crisis at EU Borders*. Medecins Sans Frontieres. Medecins Sans Frontieres. January 19, 2016, 50.

²³⁶ Marie-Cecile Darne and Tahar Benattia, *Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges*, UNHCR, IMPACT, Altai Consulting, February 2017, 25.

Mediterranean route are pricier.²³⁷ I argue that routes are displaced, but to a lesser geographical extent. Journeys, however, are no less dangerous. Preventing cross-border movement does not stop irregular migration. Rather, it forces smuggling operations onto riskier pathways utilizing more dangerous methods. These inconvenient methods of transportation allow smugglers to raise the prices they charge, increasing profits.²³⁸ There is a consensus among scholars and political actors alike that smuggling is a constantly evolving business. This is no coincidence; it is the direct result of state action. When a border closes, operations shift to less familiar terrains with landscapes difficult to traverse, violent actors, or border controls. Smugglers may not have the materials necessary to safely transport migrants over these routes. Furthermore, intensified border security initiatives that neglect humanitarian needs encourage more clandestine and threatening methods of transport, such as overheated vehicles with little air circulation.

Examples of this phenomenon are numerous. Border fences between Turkey and Greece displaced smuggling operations to Bulgaria or to the sea route to Greece in 2012. Each of these routes are substantially more treacherous than reaching Greece by land. The next year the border fence on Turkey's border with Bulgaria was completed, encouraging an even greater number to take the boat route. When the Western Balkan Route "closed," Macedonian border guards used violent tactics to repel migrants, including rubber bullets, stun grenades and tear gas. On the Hungarian border, similar tactics were used. Migrants and refugees diverted their path westward to Croatia until that border was closed one month later, after which the Slovenian route was pursued and migrants were forced to cross icy rivers and were left stranded for days at a time in the

²³⁷ Ayslin Yildiz, *Perception of "Smuggling Business" and Decision Making Processes of Migrants*, Norwegian Government, June 2017, 25.

²³⁸ Ibid.

cold without shelter or medical assistance.²³⁹ During this time there also was an increase in arrivals by boat from Turkey to Greece, Cyprus, Italy, and on the extremely dangerous route to Romania. Boat arrivals to Greece subsequently decreased when migrants discovered they would likely end up in the country's notorious camps. On the western border with Syria, armed guards and an extensive wall have also prompted Syrian refugees to pursue Turkey through Iraq.²⁴⁰

V. CONDITIONS IN TURKEY

State responses that keep migrants out are particularly harmful considering Turkey is neither safe for migrants nor does it offer refugee protection to almost any of the 3.4 forcefully displaced people seeking refuge within its borders. As I have discussed in chapter three, the Law on Foreigners and International Protection and the EU-Turkey Deal exacerbate already precarious circumstances. To improve these conditions, Turkey must first and foremost adopt the 1951 Refugee Convention in full. In the case that this does not happen, the EU should not confine asylum seekers to a territory where they are denied fundamental and where their lives are in danger, as doing so violates the principle of *non-refoulement*. Turkey must also renegotiate the contents of the LFIP and ensure the promises they make to migrants are carried out to the extent that they claim.

Conditional protection is a problematic aspect of the LFIP. It is justified as a substitute for the articles within the 1951 Convention, but conditional protection often does more harm than good. By separating non-Syrians and denying them often life-

²³⁹ Medecins Sans Frontieres. *Obstacle Course to Europe: A Policy-Made Humanitarian Crisis at EU Borders*. Medecins Sans Frontieres. Medecins Sans Frontieres. January 19, 2016, 43.

²⁴⁰ Ida Marie Vammin and Hans Lucht, "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration," ReliefWeb, December 18, 2017.

saving resources with the argument that they are not coming from situations of mass displacement, the Turkish government is acting in a discriminatory way. They are effectively saying that their suffering is lesser, and therefore worth less than those arriving en masse; that because they are not arriving to Turkey by the millions they hold a lesser claim to access food, shelter, income, education, and medical care. Turkey must reevaluate the provisions offered conditional refugees and ensure that food, shelter, medical care, income, and education will be guaranteed.

Right now, ninety percent of Turkey's refugees are working in the informal sector.²⁴¹ If migrants cannot work for the first six months of their stay, they must at least have access to cash assistance that is sufficient to afford rent, transportation, food and basic necessities. If not, irregular work will continue and competition for low wage, low skill jobs will keep on affecting the experiences of citizens and non-citizens alike. Only allowing migrants to work for employers that have more citizens than non citizens further encourages irregular work. It also disproportionately affects migrants, who already have trouble finding safe, regular work and bars them from working for small-scale employers.

Migrants in Turkey are denied freedom of movement, a right offered by the 1951 Refugee Convention. Restrictions to movement, which prevent access to opportunity, safety, and resources, encourages informal work, irregular residence, and other violations to the conditions of one's stay. In other words, the Turkish government is causing forced criminality. Migrants are set up for failure when they must choose between remaining in satellite cities or pursuing basic resources and safety. Freedom of movement is essential for social mobility, integration and reducing arrests.

²⁴¹ Ibid.

The Turkish authorities also must support civil society, response personnel, and local authorities, particularly in large cities, to reduce strain on public services and increase the country's capacity to respond to the incredible amount of displaced people. Political actors should also realize the repercussions of anti-migrant campaign platforms as they only create further societal fragmentation. Politicians will only lose support if they continue to neglect public institutions, to the detriment of their constituents. Purposefully preventing integration will do nothing for national growth or community cohesion and public institutions will remain weak. Instead, Turkey should increase civil society participation in its integration and outreach efforts and equip these groups to make their work more effective.

The provisions outlined in the LFIP are useless if they are unobtainable. Enrolling children in school should be made easy. Barriers to information and complicated procedures should not be used as a tool to keep attendance low. Transport to registration centers should be facilitated so as to reduce the need for smugglers. Personal identification cards (*kimlik*) should be distributed immediately upon registration so that migrants can access health care and enroll their children in school.

Migration to Turkey is a long term and perhaps permanent phenomenon. It should not be treated as a temporary issue or a brief humanitarian emergency. By failing to support migrants, the Turkish government is failing to support society as a whole. Purposefully marginalizing displaced people will only cause economic chaos, crime, unregistered populations, social fragmentation, and life threatening conditions for migrants. Each of these factors are sources of transit migration to Europe, yet the increased border security that came with the EU-Turkey deal forces migrants into the

hands of smugglers. Therefore, stopping irregular migration and smuggling to Europe requires Turkey to protect migrants and equip them for success and integration, and a realistic opportunity to seek asylum in third countries.

VI. HUMAN RIGHTS AND THE FUTURE OF THE EUROPEAN UNION

I do not deny that border and population surveillance are important for national security. However, they should be balanced with a humanitarian migration strategy that upholds human rights and the safety of migrants. The European Union identity is grounded in protecting human rights. For this reason, Member States should take border security abuses seriously. Creating the EU was a post WWII project against fascism and xenophobia, yet in its treatment of asylum seekers, political leaders are returning to the very principles it so vehemently condemns. As I have repeatedly demonstrated, crossing borders to seek refuge from persecution is not a crime, yet current approaches to smuggling and irregular cross-border movement criminalize migrants, with direct impacts on mental and physical health and the ability to claim rights. Operations Triton, Poseidon and EUNAVFOR MED each demonstrated a conscious decision to switch from search and rescue to border security after leadership saw that search and rescue, while saving lives, did not stop migration. In doing so they denied thousands of migrants their right to seek asylum, to life, and to not be returned to dangerous territory.

When addressing irregular arrivals, the crime of smuggling must be separated from the immediate and long-term needs of the victim. It is imperative that states adopt a less militarized response to migration and prioritize protecting the rights of migrants. Not only are militarized border controls and restrictive immigration policies ineffective

responses for stopping irregular migration and smuggling, they harm migrants and empower larger criminal syndicates and traffickers within the smuggling industry. Member States must hold themselves accountable to the principles their regime was founded on and adopt a rights based, humanitarian perspective. Smuggled migrants must be treated as a population in need of protection and immediate aid, both as a result of the conditions of their flight and for any additional traumas that have taken place during their journey.

It is crucial that response personnel keep in mind that each case is unique and complex and therefore a comprehensive evaluation is necessary. Maritime surveillance should be equally dedicated to search and rescue with enough personnel readily available for deployment in case of emergency. Their mission should be to seek out distressed vessels in order to limit the time migrants are on the water and therefore reduce fatalities. Border agents should be held accountable for their treatment of migrants and monitoring and reporting systems should be in place to reduce corruption and abuse. Conditions in camps and transit areas must be improved to prioritize the safety of residents and provide access to essential resources such as shelter, food, water, medical care, electricity, sanitation facilities, clear and transparent access to crucial information, and legal advice and protection.

If the EU wishes to remain the EU it must reverse this speedy shift towards ultranationalism, xenophobia, and fascism, which are acted out through violent and discriminatory practices and policies. Such actions are not only politically illegitimate and morally unsound, they are an existential threat to the European Union, which was constructed in response to similar conditions in WWII. If the conversation does not shift

from keeping migrants out to upholding the rights frameworks leaders and their predecessors have constructed and are accountable to, the European Union is undermining its very existence.

BIBLIOGRAPHY

- Allsopp, Jennifer. "Contesting Fraternité: Vulnerable Migrants and the Politics of Protection in Contemporary France ." *Refugee Studies Centre*, 82nd ser. (July 2012). Accessed March 12, 2018. <https://www.rsc.ox.ac.uk/files/files-1/wp82-contesting-fraternite-2012.pdf>.
- Amnesty International. "No Safe Refuge: Asylum-Seekers and Refugees Denied Effective Protection in Turkey." 2016. Accessed March 13, 2018. <https://reliefweb.int/sites/reliefweb.int/files/resources/EUR4438252016ENGLISH.pdf>.
- Baird, Theodore. "Human Smuggling and Violence in the Eastern Mediterranean." *International Journal of Migration, Health and Social Care* 10, no. 3 (2014). Accessed March 13, 2018.
- Baird, Theodore. "Theoretical Approaches to Human Smuggling." *Danish Institute for International Studies*, 2013. Accessed March 13, 2018. http://pure.diis.dk/ws/files/56032/WP2013_10_ted_baird_human_smuggling_web.pdf.
- Baird, Theodore. "Understanding human smuggling as a human rights issue." *Danish Institute for International Studies*, August 2013. Accessed March 13, 2018.
- Bhabha, Jacqueline. "Internationalist Gatekeepers?: The Tension Between Asylum Advocacy and Human Rights." *Harvard Human Rights Journal*, 2002nd ser., 15:22n8. www.mcrg.ac.in/AddReading/2008/C_Bhaba.pdf.
- Boswell, Christina, and Andrew Geddes. *Migration and Mobility in the European Union*. Basingstoke: Palgrave Macmillan, 2011.
- Brown, Kyle G. "France Prosecuting Citizens for 'Crimes of Solidarity'." France | Al Jazeera. January 25, 2017. Accessed March 13, 2018. <http://www.aljazeera.com/indepth/features/2017/01/france-prosecuting-citizens-crimes-solidarity-170122064151841.html>.
- Brysk, Alison, and Austin Choi-Fitzpatrick. *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*. Philadelphia, PA: Univ Of Pennsylvania Pr, 2013.

- Canefe, Nergis. "Management of Irregular Migration: Syrians in Turkey as Paradigm Shifters for Forced Migration Studies." *New Perspectives on Turkey* 54 (2016): 9-32. Accessed March 13, 2018. doi:10.1017/npt.2016.6. CBS News. "More than 200 bodies recovered from ill-fated ship." CBS News. July 07, 2016. Accessed March 12, 2018. <https://www.cbsnews.com/news/italy-migrant-bodies-recovered-ship-sunken-libya-mediterranean-refugee-crisis/>.
- Corder, Mike. "Migrants mass in Turkey to take shortest route to Europe." San Diego Union-Tribune. August 24, 2016. Accessed March 13, 2018. <http://www.sandiegouniontribune.com/sdut-migrants-mass-in-turkey-to-take-shortest-route-to-2015aug16-story.html>.
- Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html> [accessed 13 March 2018]
- Crabb, Annabel. "Tampa Enters Australian Waters With 433 Asylum Seekers Onboard." ABC. June 17, 2012. Accessed March 12, 2018. <http://www.abc.net.au/archives/80days/stories/2012/01/19/3412121.htm>.
- Dardağan Kibar, Esra. "An Overview and Discussion of the New Turkish Law on Foreigners and International Protection." *Perceptions* XVIII, no. 3 (Autumn 2-13). <http://sam.gov.tr/wp-content/uploads/2014/02/Esra-Darda%C4%9Fan-Kibar.pdf>.
- Darme, Marie-Cecile, and Tahar Benattia. *Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges*. UNHCR, IMPACT, Altai Consulting. February 2017. Accessed March 13, 2018. http://www.altaiconsulting.com/wp-content/uploads/2017/08/2017_Mixed-Migration-Trends-in-Libya-Final-Report-Web.pdf.
- Dearden, Lizzie. "Two children among at least 16 refugees killed in boat disaster between Turkey and Greece." The Independent. April 25, 2017. Accessed March 13, 2018. <http://www.independent.co.uk/news/world/europe/refugee-boat-disaster-pregnant-woman-children-drowning-deaths-asylum-seekers-migrants-crisis-greece-a7701971.html>.
- De León, Jason. *Land of Open Graves: Living and Dying on the Migrant Trail*. University of California Press, 2015.

Demir, Oguzhan Omer, Murat Sever, and Yavuz Kahya. "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions." *European Journal of Criminal Policy and Research* 23 (August 6, 2016). Accessed March 13, 2018. doi:10.1007/s10610-016-9326-x.

Dernbach, Andrea. "Balkan migration route is 'not closed'." March 13, 2017. Accessed March 13, 2018. <https://www.euractiv.com/section/justice-home-affairs/news/balkan-migration-route-is-not-closed/>.

Destefano, Anthony M. "1993 Ship Grounding Affected Immigration Policy." *Newsday*. June 02, 2013. Accessed March 12, 2018. <https://www.newsday.com/news/new-york/1993-ship-grounding-affected-immigration-policy-1.5387547>.

Durukan, Oktay. *Country Report: Turkey*. Issue brief. Asylum Information Database. European Programme for Integration and Migration, 2015.

The Economist. "Europe has a deal with Turkey, but migrants will keep coming." *The Economist*. November 30, 2015. Accessed March 13, 2018. <https://www.economist.com/news/europe/21679333-refugees-misery-still-drives-them-leave-europe-has-deal-turkey-migrants-will-keep>.

Ekşi, Nuray. "Turkey's Asylum Profile: An Overview." Accessed March 13, 2018. <http://www.bpb.de/gesellschaft/migration/laenderprofile/229968/turkeys-asylum-policy>.

Emergency Response Coordination Centre. "Western Balkans Route." *Getdailymap*. 2015. Accessed March 13, 2018. <http://erccportal.jrc.ec.europa.eu/getdailymap/docId/1285>.

Emmott, Robin. "NATO launches sea mission against migrant traffickers." *Reuters*. February 11, 2016. Accessed March 13, 2018. <https://www.reuters.com/article/us-europe-migrants-nato/nato-launches-sea-mission-against-migrant-traffickers-idUSKCN0VK0TT>.

European Commission, "Common European Asylum System." *Migration and Home Affairs - European Commission*. March 13, 2018. Accessed March 12, 2018. https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en.

- European Commission, "EU Charter of Fundamental Rights," March 07, 2018. Accessed March 12, 2018. http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm.
- European Commission, *Evaluation of the Dublin III Regulation*, 4 December 2015, p. 3. available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/asylum/examination-of-applicants/docs/evaluation_of_the_dublin_iii_regulation_en.pdf
- European Council of the European Union. "EU-Turkey Statement." European Council of the European Union. October 23, 2017. Accessed March 13, 2018. <http://www.consilium.europa.eu/en/policies/migratory-pressures/countries-origin-transit/eu-turkey-statement/>.
- European Union. "A decade of opportunities and challenges - European Union - European Commission." European Union. October 24, 2017. Accessed March 13, 2018. https://europa.eu/european-union/about-eu/history/2010-today_en.
- Finkenauer, J. O. "Russian Transnational Organised crime." In D. Kyle & R. Koslowski (Eds.), *Global Human Smuggling: Comparative Perspectives* BaltiCore-London: Johns Hopkins University Press, 2001.
- Fox, Peter D. "International Asylum and Boat People: The Tampa Affair and Australia's 'Pacific Solution.'" *Maryland Journal of International Law* 25, no. 1 (2010): 356. Accessed March 12, 2018. digitalcommons.law.umaryland.edu/mjil/vol25/iss1/17.
- Frenzen, Niels. "10th Anniversary of Australia's Tampa Affair." Migrants at Sea. August 26, 2011. Accessed October 13, 2018. <https://migrantsatsea.org/tag/mv-tampa/>.
- Frontex, "Frontex's Role in the EU Turkey Statement," FRONTEX. Accessed March 12, 2018. <http://frontex.europa.eu/pressroom/faq/frontex-s-role-in-eu-turkey-statement/>.
- Frontex. "Migratory Routes." Eastern Mediterranean Route. Accessed March 13, 2018. <https://frontex.europa.eu/along-eu-borders/migratory-routes/eastern-mediterranean-route/>.
- Frontex, "Migratory Routes Map." FRONTEX. Accessed March 12, 2018. <http://frontex.europa.eu/trends-and-routes/migratory-routes-map/>.

- Frontex. "Rapid Intervention." 2017. Accessed March 13, 2018.
<http://frontex.europa.eu/operations/rapid-intervention/>.
- Frontex. *Risk Analysis for 2018*. Frontex. February 2018. Accessed March 13, 2018.
- Frontex, "Third Countries," FRONTEX. Accessed March 12, 2018.
<http://frontex.europa.eu/partners/third-countries/>.
- Gharib, Malaka. "CHART: Where The World's Refugees Are." NPR. March 27, 2017.
 Accessed March 12, 2018.
<http://www.npr.org/sections/goatsandsoda/2017/03/27/518217052/chart-where-the-worlds-refugees-are>.
- Gogou, Kondylia. "The EU-Turkey deal: Europe's year of shame." Amnesty International. March 20, 2017. Accessed March 13, 2018.
<https://www.amnesty.org/en/latest/news/2017/03/the-eu-turkey-deal-europes-year-of-shame/>.
- Grandi, Filippo, and Achim Steiner. "3RP Regional Refugee & Resilience Plan 2018-2019: Regional Strategic Overview." *UNHCR*, December 2017. Accessed March 13, 2018. <http://reporting.unhcr.org/node/19889>.
- Great Britain. Parliament. House of Lords. *Operation Sophia: a failed mission: 2nd Report of Session 2017-19*. The Authority of the House of the Lords, 2017.
- Gündoğdu, Ayten. *Rightlessness in an Age of Rights*. S.I.: Oxford University Press Inc, 2015.
- Hawramy, Fazel. "Migrant truck deaths: the untold story of one man's desperate voyage to Europe." *The Guardian*. October 07, 2015. Accessed March 13, 2018.
<https://www.theguardian.com/world/2015/oct/07/migrant-truck-deaths-untold-story-mans-desperate-voyage-europe>.
- Heller, Charles, and Lorenzo Pezzani. "Death By Rescue: Main Narrative." *Death by Rescue*. Accessed March 13, 2018. <https://deathbyrescue.org/report/narrative/>.
- Herman, Emma. "Migration as a Family Business: The Role of Personal Networks in the Mobility Phase of Migration." *International Migration* 44, no. 4 (2006): 195.
 doi:10.1111/j.1468-2435.2006.00384.x.

- Howard, Douglas A. *The History of Turkey, 2nd Edition*. Santa Barbara, CA: ABC-CLIO, 2016.
- Human Rights Watch. "Protecting Refugees." Turkey. Accessed March 13, 2018. <https://www.hrw.org/reports/2000/turkey2/Turk009-10.htm>.
- Human Rights Watch. "Turkey/Syria: Border Guards Shoot, Block Fleeing Syrians." Human Rights Watch. February 09, 2018. Accessed March 13, 2018. <https://www.hrw.org/news/2018/02/03/turkey/syria-border-guards-shoot-block-fleeing-syrians>.
- International Crisis Group. "Integrating Syrian Refugees in Istanbul's "District of Victimhood"." February 15, 2018. Accessed March 13, 2018. <https://www.crisisgroup.org/europe-central-asia/western-europemediterranean/turkey/integrating-syrian-refugees-istanbuls-district-victimhood>.
- International Crisis Group. *Turkey's Syrian Refugees: Defusing Metropolitan Tensions*. Report no. Europe Report no. 248. Brussels: International Crisis Group, 2018.
- International Organization for Migration. "IOM Displacement Tracking Matrix (DTM) - Europe." Migration.iom.int. Accessed March 13, 2018. <http://migration.iom.int/europe/>.
- International Organization for Migration. *Analysis: Flow Monitoring Surveys in the Eastern Mediterranean, 2016/2017 Comparison*. International Organization for Migration (IOM). International Organization For Migration. July 2017. Accessed March 13, 2018.
- International Organization for Migration. "Mediterranean." Missing Migrants Project. Accessed March 13, 2018. <https://missingmigrants.iom.int/region/mediterranean>.
- International Organization for Migration. "Tracks deaths of migrants, including refugees." Missing Migrants Project. Accessed March 13, 2018. <http://missingmigrants.iom.int/>.
- International Organization for Migration. "Mediterranean Migrant Arrivals Reach 171,635 in 2017; Deaths Reach 3,116." ReliefWeb. January 5, 2018. Accessed March 13, 2018. <https://reliefweb.int/report/italy/mediterranean-migrant-arrivals-reach-171635-2017-deaths-reach-3116>.

- Kingsley, Patrick. "Tens of thousands migrate through Balkans since route declared shut." *The Guardian*. August 30, 2016. Accessed March 13, 2018.
<https://www.theguardian.com/world/2016/aug/30/tens-of-thousands-migrate-through-balkans-since-route-declared-shut>.
- Kyle, David, and Rey Koslowski. *Global Human Smuggling: Comparative Perspectives*. Baltimore: Johns Hopkins University Press, 2011.
- Leghtas, Izza, and Daniel Sullivan. "Except God, We Have No One: Lack of Durable Solutions for Non-Syrian Refugees in Turkey." *Refugees International*, February 2016.
- Mandic, Danilo. "Trafficking and Syrian Refugee Smuggling: Evidence from the Balkan Route." *Social Inclusion*5, no. 2 (2017). Accessed March 13, 2018.
 doi:10.17645/si.v5i2.917.
- Marcus, Imanuel. "A year after Balkan Route closure: Thousands of refugees are stuck." *The Sofia Globe*. March 10, 2017. Accessed March 13, 2018.
<https://sofiaglobe.com/2017/03/10/a-year-after-balkan-route-closure-thousands-of-refugees-are-stuck/>.
- McAuliffe, M.L., and F. Laczó. "Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base." 2016. Accessed March 12, 2018.
 doi:10.18356/5347a578-en.
- Medecins Sans Frontieres. *Obstacle Course to Europe: A Policy-Made Humanitarian Crisis at EU Borders*. Medecins Sans Frontieres. Medecins Sans Frontieres. January 19, 2016. Accessed March 13, 2018.
<http://www.doctorswithoutborders.org/article/obstacle-course-europe-policy-made-humanitarian-crisis-eu-borders>.
- Oxfam and Partners. A Dangerous 'Game': The pushback of migrants, including refugees, at Europe's borders. Oxfam. April 2017. Accessed March 13, 2018.
https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-dangerous-game-pushback-migrants-refugees-060417-en_0.pdf.
- Ozcurumez, Saime, and Deniz Yetkin. "Limits to Regulating Irregular Migration in Turkey: What Constrains Public Policy and Why?" *Turkish Studies*15, no. 3 (2014). doi:10.1080/14683849.2014.954746.

Papademetriou, Theresa. Refugee Law and Policy: European Union. March 01, 2016. Accessed March 13, 2018. <https://www.loc.gov/law/help/refugee-law/europeanunion.php>.

Pastore, C. *Refugees in Orbit (The Problem of Refugees without a Country of Asylum)*. New Haven (CT): Yale Law School. Lowenstein Human Rights Law Project, 1986.

Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime, New York, 15 November 2000, United Nations, *Treaty Series*, vol. 2241, No. 39574, p. 2, https://www.unodc.org/documents/southeastasiaandpacific/2011/04/som-indonesia/convention_smug_eng.pdf.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, New York, 15 November 2000, United Nations, *Treaty Series*, vol. 2237, No. 39574, p. 2, <https://www.osce.org/odihr/19223?download=true>.

Refugee Solidarity Network. "Refugees and Asylum in Turkey." Refugee Solidarity Network. Accessed March 13, 2018. <https://www.refugeesolidaritynetwork.org/about-refugees-in-turkey/>.

Republic of Turkey Ministry of Foreign Affairs. "Visa Information for Foreigners." Republic of Turkey Ministry of Foreign Affairs. Accessed March 13, 2018. <http://www.mfa.gov.tr/visa-information-for-foreigners.en.mfa>.

Republic of Turkey Ministry of Interior Directorate General of Migration Management. "Law on Foreigners and International Protection." April 2014. Accessed March 13, 2018. http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf.

Schengen Visa Information, "The Schengen Agreement: Countries, Map and the Definition." Schengen VISA Information. Accessed March 13, 2018. <https://www.schengenvisa.info.com/schengen-agreement/>.

Shelley, Louise. *Human Trafficking and Smuggling in Europe: A Comparative Perspective*. Migration Policy Institute. February 2014. Accessed March 13, 2018.

- Stone, Jon. "Turkey says it would reject any deal with EU other than full membership." *The Independent*. January 19, 2018. Accessed March 13, 2018. <http://www.independent.co.uk/news/world/europe/turkey-join-eu-membership-erdogan-reject-association-deal-a8168361.html>.
- Tazreiter, Claudia. "Asylum-Seekers As Pariahs In The Australian State: Security Against The Few." *UNU-WIDER*, 2003.
- Tharoor, Ishaan. "A Dead Baby Becomes the Most Tragic Symbol Yet of the Mediterranean Refugee Crisis." *The Washington Post*. September 02, 2015. Accessed March 13, 2018. https://www.washingtonpost.com/news/worldviews/wp/2015/09/02/a-dead-baby-becomes-the-most-tragic-symbol-yet-of-the-mediterranean-refugee-crisis/?utm_term=.9ed66e6c1151.
- Toktas, Sule, and Hande Selimoglu. "Smuggling and Trafficking in Turkey: An Analysis of EU–Turkey Cooperation in Combating Transnational Organized Crime." *Journal of Balkan and Near Eastern Studies* 14, no. 1 (March 2012). Accessed March 13, 2018. doi:10.1080/19448953.2012.656970.
- Triandafyllidou, Anna, and Thanos Maroukis. *Migrant Smuggling: Irregular Migration from Asia and Africa to Europe*. Basingstoke: Palgrave Macmillan, 2012.
- Turkey. *Turkey: Criminal Code* [Turkey], Law No. 5237 , 26 September 2004, available at: <http://www.refworld.org/docid/4c447a5f2.html> [accessed 13 March 2018].
- Turkey. *Supporting Turkey's efforts to combat human trafficking and promote access to justice for all trafficked persons*. Justice, Freedom, and Security. January 06, 2007. Accessed March 13, 2018. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/fiche-projet/turkey/2006/part2/tr-06-01-07-combatting-human-trafficking.pdf>.
- Turkey. *Temporary Protection Regulation of Article 91 of the Law No. 6458 on Foreigners and International Protection*, (2013), 3.
- UN Ad Hoc Committee on Refugees and Stateless Persons, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings*, 6 June 2017, A/HRC/35/23, available at: <http://www.refworld.org/docid/59393c5a4.html> [accessed 13 March 2018].

- UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, available at: <http://www.refworld.org/docid/3be01b964.html> [accessed 13 March 2018].
- UN General Assembly, *New York Declaration for Refugees and Migrants : resolution / adopted by the General Assembly*, 3 October 2016, A/RES/71/1, available at: <http://www.refworld.org/docid/57ceb74a4.html> [accessed 13 March 2018].
- UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, available at: <http://www.refworld.org/docid/479dee062.html> [accessed 13 March 2018].
- UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, available at: <http://www.refworld.org/docid/4720706c0.html> [accessed 13 March 2018].
- UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html> [accessed 13 March 2018]
- UN General Assembly, *Unlawful death of refugees and migrants*, 15 August 2017, A/72/335, available at <http://www.refworld.org/docid/59b923524.html> [accessed 13 March 2018]
- UNHCR. *Turkey: UNHCR Global Appeal 2007*. Report. UNHCR, 2007.
UNHCR. "Turkey." *Global Focus*. October 2017. Accessed March 13, 2018.
http://reporting.unhcr.org/node/2544#_ga=2.85033114.2089225789.1519747747-1337686476.1519495823.
- UN High Commissioner for Refugees (UNHCR), *UNHCR Regional Winter Assistance Plan 2017-2018 (Syria, Turkey, Lebanon, Jordan, Iraq, and Egypt)*, September 2017, available at: <http://www.refworld.org/docid/59df26024.html> [accessed 13 March 2018]
- United States. Office of the Undersecretary for Civilian Security, Democracy, and Human Rights. *Trafficking in Persons Report: June 2017*. Washington, D.C.: Office of the Under Secretary for Civilian Security, Democracy, and Human Rights, 2017.

- Vammin, Ida Marie, and Hans Lucht. "Refugees in Turkey struggle as border walls grow higher: The EU-Turkey deal on migration." ReliefWeb. December 18, 2017. Accessed March 13, 2018. <https://reliefweb.int/report/turkey/refugees-turkey-struggle-border-walls-grow-higher-eu-turkey-deal-migration>.
- Wainwright, Rob, and Jürgen Stock. *Migrant Smuggling Networks: Joint Europol-INTERPOL Report*. Europol, INTERPOL. May 2016. Accessed March 13, 2018.
- Wallace, W. (1983) 'Less than a Federation, More than a Regime: The Community as a Political System'. In Wallace, H. et al. (eds) *Policy-Making in the European Community* (Chichester: John Wiley).
- Torbati, Yeganeh. "Trump lifts refugee ban, but admissions still plummet, data shows." Reuters. December 09, 2017. Accessed March 13, 2018. <https://www.reuters.com/article/us-trump-effect-refugees/trump-lifts-refugee-ban-but-admissions-still-plummet-data-shows-idUSKBN1E21CR>.
- Yildiz, Ayslin. *Perception of "Smuggling Business" and Decision Making Processes of Migrants*. Norwegian Government. June 2017. Accessed March 13, 2018.