

Politika Tavsiyelerinde Adalet Konusundaki Çıkarlar: Suriye Mülteci Krizi Üzerine Felsefi Bir Yaklaşım *

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Öz

Yakın tarihte yaşanan Suriye mülteci krizi, mültecilerin ve sığınmacıların statülerine ve haklarına ilişkin kuram boyutu henüz az gelişmiş göç yasası konusunda bir tartışma başlattı. UNHCR tahminlerine göre Türkiye, Suriye’de çatışmalar başladıktan sonra, bir ülkenin sınırları içerisinde dünyadaki en fazla sayıdaki mülteciyi (2,5 milyon civarında) barındırıyor. Buna mukabil, bu kimselerin hiçbirisi yasal düzlemde mülteci olarak tanınmamıştır. 1951 Cenevre Sözleşmesi’ne imza atan devletlerinden biri olarak Türkiye, hâlâ “coğrafi sınırlamalar” uygulamakta, Avrupa dışından gelen sığınmacılara mülteci statüsü vermeyip onlara “geçici koruma” statüsü sağlamaktadır. Bu makale, Suriye olayının devletlerin mültecileri geldikleri bölge unsuru içinde tutmak üzere önlemler aldıkları tipik bir “tasarlanmış bölgecilik” örneği olduğunu ileri sürmektedir. Bütün bu önlemler, felsefi bir okumayla, doğrudan doğruya mültecilerin yaşamları üzerinde, dolaylı olarak da vatandaşlar üzerinde olumsuz etkilere sahiptir.

Anahtar Kelimeler

Mülteciler • Normatif kuram • Göç yasası • Türkiye • Koruma

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Interests over Justice in Policy Recommendations: A Philosophical Approach on the Syrian Refugee Crisis*

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Abstract

The recent Syrian refugee crisis opened up a debate on the under-theorized issue of migration law regarding the status and the rights of refugees and asylum seekers. According to UNHCR estimates, Turkey has, since the conflict in Syria began, accommodated the most conspicuous number of refugees in the world (around 3 million) within its jurisdictional boundaries. Yet, none of them have been recognized legally as refugees. Turkey, one of the signatory states of the 1951 Geneva Convention, still applies “geographical limitations;” that is, it does not grant refugee status to non-European asylum seekers, but rather extends to them a status of “temporary protection.” This paper argues that the Syrian case is a typical case of “engineered regionalism,” according to which states take measures to keep refugees in their region of origin. All such measures, by a philosophical reading, have pernicious implications directly for the lives of refugees and indirectly for citizens themselves.

Keywords

Refugees • Normative theory • Migration law • Turkey • Protection

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Reports unanimously show that the Syrian conflict has triggered the world's largest humanitarian crisis since World War II. Humanitarian needs and population displacements continue to rise, leaving an entire generation of people exposed to war and violence, deprived of basic services, education, and protection. Since 2011, when the war started in Syria, refugees fleeing to other countries are mostly confined to their region of origin; namely, to Turkey, Lebanon, and Jordan. Turkey currently hosts about 3 million, (UNHCR, 2017) while smaller Lebanon and Jordan have the highest ratios per capita, 26% and 9.8%, respectively. Europe,¹ however, has arranged a bilateral agreement with Turkey, which basically entails stopping the flow of refugees to Europe in return for political and financial concessions made for Turkey (Aljazeera, 2016).

The Syrians welcomed into Turkey by the generous open-doors policies were initially called “guests” (Aljazeera, 2016) by the Turkish government and the media. Turkey's law, under which the largest community of displaced individuals in 2015 is accommodated, however, calls the displaced Syrians “temporarily protected individuals” instead of “refugees” due to the “geographical limitations” that Turkey is still enacting as a policy and a practice.

Calling the Syrians in Turkey “refugees” is morally desirable. By refugee, one means a person who cannot return to his country of origin due to a well-founded fear of persecution and other threats against her human rights (United Nations High Commissioner for Refugees, 1951). This triggers a moral right to assistance, which has been incorporated in the international legal regime.² İçduygu (2015), however, argues that Syrians are being treated by Turkey as *de facto* refugees, even if *de jure*, they are registered under some other legal term, such as “under temporary protection.” I believe İçduygu's statement is mistaken. In what follows, I discuss the pernicious implications of attributing Syrians a temporary status in which defining them as “guests”³ both *legally* and *publicly* might prove to be harmful not only to them, but also to Turkey's own citizens.

This paper advances a normative inquiry, in which it is argued that states dealing with the humanitarian crisis ought to be persuaded that by acting against the interest of the refugees, they are also (potentially) acting against the interest of their own citizens. One example from the current Syrian refugee crisis and the law and practice enacted by states is that states have prioritized short-sighted political goals, thereby causing,

1 By “Europe” I refer to countries of the European Union (EU).

2 This point is clearer if it is distinguished between principles evaluating policymaking and policymaking *proper*.

3 With the term “guest” publicly used, I shall refer to the overwhelming presence of this term in the media, and in the political discourse from the beginning of the refugee inflow in 2012 until 2015, when this paper was drafted. Most media outlets in Turkey used this term to some extent, and it has become common knowledge.

based on the magnitude of the crisis, policies to become more disruptive solutions than *realistically* assessing the “refugee issue.” Such policies are generally based on the underlying and misguided assumption that the refugee crisis is *temporary*. This paper refers primarily to the Turkish migration law under which refugees receive protection. It is important to evaluate policymaking discourses in light of the fact that they often inform practices more than does the text of the law itself (Korkut, 2007) and further in light of the fact that the policymaking discourse has changed significantly, in different opposing trends, since the beginning of the war in Syria and the subsequent displacement of individuals (Chemin & Gokalp-Aras, 2017). However, this paper seeks to limit the scope to discussing how the policymaking should be framed in order to remain principled while also following suggestions that migration experts and commentators have rightly advanced.

Conceptualization of the Syrian Refugee Case in Turkey versus the World

According to İcduygu, since April 2011, when Syrians started arriving in Turkey, until August 2014, the Turkish state spent 4.5 billion dollars, out of which the international community had contributed only 5% (İcduygu, 2015). This suggests that other states, particularly Western states should contribute more in terms of resource-allocation to the countries in the region who take in most refugees, and re-settle refugees into their territories.⁴ By considering this unbalanced burden-sharing between Turkey and other states,⁵ as shown by the economic investment due to establishing basic services that Turkey has provided to camps and the procedural efficiency proved in registering millions of displaced individuals in such a short time (2011-2016), one might be prompted to view the legal framing of “temporary protection” redundant: that is to consider that Syrians are treated *de facto* like refugees. In light of the financial expenditure of states, with Turkey becoming the world’s biggest refugee hosting country and after having spent more than 6 billion USD on direct assistance to refugees as of 2015, it is tempting to acknowledge that displaced Syrians are receiving *the same* assistance that they would if they were to be granted the legal status of refugee (Divers & Dobbs, 2015). In December 2014, the European Commission also committed 10 million Euros worth of humanitarian

4 Meanwhile, in March 2016, in order to share the responsibility toward the refugees, the EU and Turkey signed a new deal, which has come to be known as the “EU-Turkey deal.” According to this deal, Europe would financially contribute to protect refugees, given that the larger share of refugees still resides (and has only increased since 2011) in Turkey, as of 2016. In this paper, this specific deal is not discussed because it is too soon to evaluate its effects on refugee protection. That is, it is not currently possible to evaluate whether the financial support promised by Europe to Turkey is delivered according to the deal, and whether Turkey will utilize the deal effectively for refugees’ protection. It is worth pointing out that migration experts cast doubt on whether the deal is legal, whether it will work, and finally due to the shaky political situation, whether the deal will be carried out. It depends on the relation between the EU and Turkey and the political reasons that are part of the deal (e.g. on Europe implementing a visa-free travel regime to Europe for Turkish citizens, hastening the accession of Turkey into the EU, etc.) (Collett, 2016).

5 As of 2016, most refugees still reside in their region of origin, mostly in Turkey (UNHCR, 2016).

assistance to Syrians in Turkey (Tolay, 2015), which is a very small contribution compared to Turkey while “the United States, (...) has itself so far resettled a very low number of Syrian refugees” (Tolay, 2015). Europe has also resettled less than 2% of the total number of refugees in 2015, including internally and externally displaced refugees (Tolay, 2015), resulting in repeated criticism and blame from Turkish President Recep Tayyip Erdoğan against Europe for its inaction.

Tolay (2015) criticizes the “differentiated” approach that states seem to have taken with regard to the Syrian humanitarian crisis. By this, she understands that the nature of cooperation, or, more precisely, lack thereof, is itself unhealthy, as it is not based on common values, but rather upon a conjectural convergence of interests (Tolay, 2015). Both proposals, İçduygu’s and Tolay’s, are correctly based on the assumption that the humanitarian crisis affecting refugees is the responsibility of the international community as a whole. In other words, the best solutions and practices will be found in a system in which states cooperate. However, İçduygu and Tolay differ in how they frame the crisis and in the policy recommendations that they give to states. On the one hand, İçduygu claims that Syrians are treated *like* refugees in Turkey, thus overlooking the mistaken “temporariness” assumption. This strategy does not scrutinize states’ *internal* operation (in this case, Turkey’s) and mostly looks at the fact that other states do not do enough to alleviate the humanitarian crisis. On the other hand, Tolay analyzes states’ differentiated responses to the humanitarian crisis, advocating a convergence of values aimed at best protecting refugees’ human rights. Tolay concludes her report:

While domestic concerns tend to dominate the policymaking process, the inherently international nature of migration and asylum requires international cooperation: the EU and Turkey (as well as the United States) have to build a consensus on migration and asylum policies that goes beyond short-sighted political gains and instead favors long-term policy answers to the human and the natural phenomenon of population movement.⁶

The policy recommendations might not be persuasive enough for states to put it into practice. I argue that a clear distinction among the *moral*, *legal*, and *political* spheres is necessary to evaluate such a complex case, and may further point to more compelling policy proposals.

The distinction between the legal, moral, and political can inform us on whether the law itself is morally problematic or whether it is the political interpretation of the law that is questionable. Take, for example, the following:

⁶ Tolay (2015) criticizes the fact that some states would rather invest resources in direct assistance to refugees, that others prefer to allocate resources to states in the region, others do little, and even others prioritize intervening in the political crisis in Syria, itself being the main cause displacing refugees. All those actions should be coordinated and motivated by humanitarian concern.

If we do not differentiate between morality and legality, we cannot criticize the legally enacted norms of democratic majorities even when they refuse to admit refugees to their midst, turn away asylum seekers at the door, and shut off their borders to immigrants. If we do not differentiate between morality and functionality (the political), we cannot challenge practices of immigration, naturalization, or border control for violating our cherished moral, constitutional, and even ethical beliefs.” (Benhabib, 2011, p. 145)

Mole (2014) claimed that what matters most is not the new Turkish law, whose text relies on temporariness, but it is how it will be implemented politically; that is, whether it guarantees protection (Mole, 2014). Nevertheless, the legal definition of a person as being “temporary” or a “guest,” (Çorabatır, 2015, p. 8) itself proves no clarity on whether a person has clear prospects for return, as the term “refugee” would, on the other hand, indicate without ambiguity.⁷

Worse of all, as the (Turkish asylum) law was still in making, Turkey was subjected to an unexpected mass influx of refugees from Syria in April 2011. Turkey pursued an open border policy for Syrians, but the way it responded was not totally in line with international norms. Just as it happened in 1988, 1989, 1991, and 1992, mass influxes from Iraq, Bulgaria, Iraq again, and Bosnia, respectably, Turkey has refrained to call them refugees. (Çorabatır, 2015, p. 8)

Non-recognition is bad for refugees, because potentially they might not receive the appropriate type of assistance in their host country, e.g. they might receive temporary assistance instead of medium or long-term integration into the host country. The distinction allows us to evaluate whether the moral wrong is done at the legal or political level, or both.

In the Syrian case, it seems obvious in all humanitarian UNHCR reports that there are no clear prospects of return in the near future. In principle, migration policies following from a legal status (or political use of it), based on the assumption of *temporariness*, can be *procedurally* and *substantially*⁸ different. Mole (2015), like İçduygu (2015), claims that refugees in Turkey were called “guests” because the government genuinely miscalculated the extent of the conflict in Syria and the mass inflows of refugees it has generated. Such a benevolent intention to welcome *everyone* as a guest, inspired by what some might call “Anatolian hospitality,” carries the risk that the refugees will not have rights *proper* while in Turkey, or as I shall argue, that they will have the *wrong* type of rights. Furthermore, another general concern is that being accommodated as guests entails that the Turkish government can deal with

7 I recall the UNHCR refugee definition, underlying that a person receives refugee status precisely because his return will not take place under present circumstances, which can last for an indefinite period of time (UNHCR, 1951).

8 For the distinction, procedural versus substantial, see Miller (2013). The fact that the Turkish state welcomes the Syrians as “guests” rather than under the status as “refugees” changes the normative (i.e. theoretical) status of the Syrians: what they are owed as a matter of justice/rightness. There is a further problem: whether it is likely that they will receive in practice (as a matter of political implementation) what refugees are owed (regardless of the legal status). These are distinct issues.

refugees as a “domestic issue” and from the position of a host claim that “you stay as (long as) I like it, and on my own terms” (Miller, 2013). Thus, people whose human rights are violated in the country of origin need those rights to be restored, whereas due to the concerns I have raised, in theory and in practice, they might be left at the mercy of hospitality, rather than under the auspices of international law protection concerned with humanitarian protection and empowering individuals to live in the new hosting society.⁹ Although Mole rightly argues that what matters beyond the text of the law is proper political implementation, we cannot dismiss the fact that the legal status of individuals matters as well. The scenario that status can be only *formally*¹⁰ respected (Carens, 2008), which might mean disrespected in practice, does not yet contradict that the first milestone for rights to be realized is their procedural recognition, which ultimately ensures substantive rights.

For example, migrant rights holders are entitled to a different bundle of rights based on their legal status in a given country. Whilst all have human rights, some might benefit from unemployment benefits if they are employed without a termination date, whereas seasonal workers might not be able to claim similar rights. This is because the former have a stronger relationship with the state than the latter.

The figures mentioned indicate that Turkey has done more than any other country in terms of assistance to refugees, allocating funds for humanitarian assistance and accepting the highest number of refugees registered and residing on its territories. However, this should not prevent us from analyzing whether Turkey’s political choices of *how* it is accommodating refugees are, in fact, just. The discussion in section two of the paper shows that Turkey’s choices might not be just for refugees. I inquire whether in principle those choices are just for its citizens. I now turn to contextualizing historically the humanitarian crisis. While providing the historical context, I do not aim to clarify whether Tolay’s (2015) proposal to regard the humanitarian intervention as a cooperative enterprise taking priority in states’ agendas, or İçduygu’s (2015) proposal advocating more burden-sharing between states is the desirable moral solution. I shall argue that both proposals are morally desirable (and compatible) insofar as both are based on the assumption that the international community as a whole should find best practices for the current humanitarian crisis. Both proposals point to two moral injustices in the current refugee system that need addressing, which will be made more explicit in the next session. It is beyond the scope of this paper to evaluate these proposals in depth. I will, however, point out a few shortcomings in both.

⁹ See Korkut’s (2017) article for a more in depth discussion on how discourses, rather than concrete policy making, affect the *de facto* protection offered to refugees.

¹⁰ In order for some rights to be “practically” respected or “effective” (rather than rights being formally in place), Carens (2008) comes up with the notion of a “firewall.” Rights may not be merely formal, but *really* (my emphasis) accessible to the interested individuals.

Historicity of the “Engineered Regionalism”

Tolay’s proposal consists of two normative claims. She claims that 1) Common values in the policymaking process are desirable to considerations based on conjectural convergence of states’ interests. 2) Concerns toward preserving human rights and human dignity should prevail over security or other political interests. I argue in what follows that the normative goal (2) should be guiding policy recommendations. However, this is the case only if we understand it (2) as an ideal goal toward which some other premise may best guide policymaking.

States’ policymaking can be in principle based on the common values they might share yet compatible with states also acting in their own interests. In fact, states’ policies are generally justified by the right that states have to act in their own interest (Miller, 2007). Tolay acknowledges this and claims that (1) states’ interests might be reflected in their policies, if (2) other duties and responsibilities toward the refugees are also main considerations at the basis of those policies. In this sense, she is not making a policy recommendation *proper*, but calls for normative principles in which policies might be grounded.

A further distinction between two sets of considerations might prove useful: (a) those informing policymaking, and (b) those judging the policymaking processes, which are normative principles. Consider the following illustration: one might agree at the level of normative principle with gender equality. However, when it comes to policy recommendation, one agrees with something that allows forms of gender inequalities, such as affirmative action¹¹ quotas aiming at hiring primarily women. This apparent contradiction might be read as a contradiction at the level of principles. These are, however, two separate statements, both possibly compatible, each responding to a different theoretical level; namely, normative principles and policymaking, and consistently hold both.

Going back to Tolay’s proposal, I take (2) to be the *ideal moral desideratum*,¹² but I argue that (1) does not imply (2). In fact, by presenting a historical and normative analysis of how the refugee international regime came into place and has been implemented, I make the argument that proposal (1) leads (or might lead) to enforcing the convergence of regional or states’ interests, as opposed to the prevailing humanitarian concerns toward the vulnerable populations. If my argument is correct, I then propose: (3) to look at ways in which states’ interests might converge toward the ideal (2). This means that policy recommendations should be premised on (3) rather than (2).

11 By “affirmative action” I mean such regulations and programs designed to remedy past discriminatory practices, among other things, e.g., by employing fixed quotas of minority group members, or other individuals discriminated on the basis of their race, creed, color, sex, etc.

12 I indicate with this term the normative principles grounding the policymaking process, which I consider without further argument the morally desired principles; put simply, the ideal toward which states should aspire.

The Syrian case in Turkey and in the region is best conceptualized from a historical perspective as an example of “engineered regionalism.” Matthew J. Gibney (2007) argues that there are two conceivable world trends of asylum, the “regionalization of asylum” and the “globalization of asylum,” whereby the second is morally desirable over the former. Yet historically, it is the first one that seems so far to be winning out to the second. The interplay between various factors, mostly political but also *spontaneous*,¹³ is what forecloses the ideal of a global asylum system, resulting in a division of the world’s refugees in particular countries and regions. “Regionalization” can be defined firstly as refugees not seeking asylum in countries outside of their region of origin, and not (entirely) as a choice of their own. The question is, then: “Whose choice is it?”

The spontaneous factor contributing to the regionalization of the asylum seeker is due to refugees’ first opportunity to settle elsewhere existing within *feasible* reach, which generally means neighboring countries. Recently, outflows of the largest numbers of refugees were toward the immediate geographical vicinity: Iran and Pakistan for Afghans; Macedonia and Albania for Kosovars; and Tanzania, Uganda, and Zaire for Burundians and Rwandans (Gibney, 2007). Considering the “geographical vicinity factor” as the main factor determining regionalization is, however, imprecise, as regionalization would be looked at as the interplay between refugees’ decision and the decision of the neighboring states, which supposedly are accepting refugees because the porosity of their borders could not prevent them from entering, or because states sincerely respect the 1951 Convention. If we think of the current Syrian crisis, only some general knowledge would show that this view is a naïve one for two main reasons. Firstly, in an increasingly globalized world, geographical distance is at least virtually overcome in the sense that refugees are more informed via media about other countries in the world where they would rather settle,¹⁴ as well as because it is practically conceivable that they cross into the first country, which upon status registration could (re)settle them in wealthier states (Brubaker, 1990).¹⁵ Brubaker refers to globalization “eclipsing” the distance, meaning that with limited means, e.g. the amount of information to which everyone has access, refugees could *easily* flee elsewhere farther from their own region. Furthermore, the “location of refugees in their region of origin reflects the effort of Western states to block, discourage, and increase the costs of intercontinental movement by refugees and asylum seekers,” (Brubaker, 1990, p. 58) resulting in confining the refugee burden to the poorest states in the world (Castles & Loughna, 2003; Chimmi 2000).

13 By “spontaneous” I mean that refugees *easily* outflow into neighboring countries due to geographical proximity.

14 Media unanimously reports that refugees prefer Germany or Sweden as a destination when they undertake dangerous trips and have the technological means, such as smart phones and maps, to arrive to destination.

15 Also see Saul (2015). Syrian refugees attempting to cross the Mediterranean, and before Turkey opened fire on the refugee vessel, shouted “either to Italy or death.” This statement suggests that refugees’ preference to specific destinations is well informed and strongly held.

As the Syrian refugee crises is described (Brubaker, 1990, note 3, 4, 11, and 12) in the most recent literature and media, it seems to fulfill the above criteria of engineered regionalism, namely it seems that the relocation of most Syrians in the region of their own origins is the result of the interplay of both the domestic and foreign policy interests of various important political actors (here are mentioned most often Turkey, the EU, and the USA). One question is particularly relevant in this case, as Tolay notes: If there were common shared values among the main countries and donors to the Syrian crises to lead the policymaking process, would it change the nature of the regionalism in a morally desirable way, namely towards the ideal (2)? That is, states should prioritize preserving human rights and human dignity of refugees, a commitment that should prevail over security or other political interests.

The most straightforward response is that regionalism is bad insofar as it poses two types of problems: justice to refugees and justice between states. The model of regionalism, either “spontaneous” or “engineered” (or an interplay of both), is one of the main problems in the way of the globalized refugee regime of burden sharing. From a justice perspective, regionalist models suffer from the limitation of deterring refugees via policies (visa and other measures) from reaching states where their rights would better be protected, therefore diminishing access of refugees to a (more) just treatment.¹⁶ Besides justice to refugees, the second problem regards justice among states, in that poorer and worse equipped states in the world bear the highest costs¹⁷ of the world’s displaced. As a result, these countries, which simply happen to be in the same region, are forced to take disproportionate asylum burdens and may become even more politically unstable, commit more human rights violations (consider for example the comparison between Canada and Lebanon), or have lesser capacity to offer minimal security and protection to asylum seekers. Injustice therefore seems to be twofold, toward worse-off countries and toward refugees themselves. It is worth noting that there is a third sense in which regionalist models are bad: for the citizens of some countries (in the region) and out of the responsibility of the given states’ policies (for Turkish citizens and due to Turkish policymaking).

If the current world arrangements lead to such paradigms of injustice, other models should be considered as better candidates to substitute regional models. It is not my task here to establish all ethical considerations that are at stake to current or possible new models. However, if the conceptualization of regionalism and its problems from a justice perspective are well set, İçduygu is right in his claim that

16 The argument of what justice demands can be made in accordance with to the UNHCR interpretation of the Geneva Conventions. See article on non-refoulement when action corresponds to its breach (UNHCR, 2011).

17 The table indicates that the total refugee population is divided disproportionately among states, both in terms of countries’ GDP and of refugees per inhabitants. Even more striking is the fact that the world’s poorest states carry the heaviest burdens, whereas the world’s wealthiest states are absent (except Sweden) from the list of burden-taking countries (Gibney, 2007, p. 65). See also Bets (2013) discussion on burden sharing.

Turkey has a justice-based claim toward other states, particularly wealthier states that, comparatively, have helped little, if at all, in tackling the humanitarian crisis. In other words, other states are morally obliged to take in more refugees, or to send more financial aid to those countries that have received many refugees. This is what İçduygu calls burden sharing between states (İçduygu, 2015).

After settling the claim that Turkey has the moral right to demand support from other states, I turn to contextualizing the Syrian regionalization. Tolay suggests that “shared values” among states might account for a better coordination in assisting refugees. In what follows, I will argue that this was the case historically, but that here, suggestions might not apply to the Syrian refugee crisis.

Historically, the refugee and asylum regime arose first as a necessity to address the post WWII “European crises” during which millions were displaced, and second, to address the protection of refugees fleeing communist regimes in Central and Eastern Europe. This first type of regionalism that precedes and perhaps both shapes and informs the new Syrian regionalism functioned for a number of reasons. In the European context, its objective was to provide protection to the vulnerable. Among such reasons, Gibney (2007) first cites the fact that Western states were committed to common values expressed in their shared hostility to communism during the period between the late 1940s and 1960s, and second, that admitting refugees matched the foreign policy agendas of Western states, whose economies were in need of unskilled labor. Last, an important detail was the fact that the “iron curtain” between communist and Western states enacted a tight control of citizens’ exit, and therefore the number of refugees to the Western states was mostly contained. For argument sake, we can cite these reasons as contributing to the success of intra-European asylum seekers’ management as *political* reasons, as they seem to be concerned with the domestic and political goals and agenda of particular states that happened to share mutual goals. Legally, the 1951 Convention enforced this trend by limiting the responsibility of (Western and non-Western states) to events occurring *within* Europe. Morally, these political and legal aspects are questionable. In fact, in sharp contrast to the efficient intra-European assistance, the enormous number of displaced persons generated by the partition of India and Pakistan after 1947 were neglected not only by European states, but also by the UNHCR (Oberoi, 2005). One might claim that they were no less neglected than how the current Syrian refugee crisis has so far been neglected by Western states.¹⁸ The event of the partition together with new refugee *regionalisms*, characterizing in turn Asia and Africa¹⁹ throughout the decolonization period and various wars of independence, not only questions the

18 The Syrian crisis is difficult to assess, as the events continue to unfold up to and during the writing of this paper.

19 Other events producing refugees in the past half century are the Vietnam War, the Algerian War of Independence, and the struggles in Rwanda, Sudan, and Kenya during the 1970s.

assumption that the refugee issue is an intra-European issue, but it also lays ground for the moral idea that who counts as a refugee is not someone from a specific region (nonetheless *within* Europe), but *anyone* whose basic human rights are violated, and their demand for asylum goes to the international community as a whole. To this end, the 1967 Protocol added to the 1951 Refugee Convention affirmed a legal obligation on Western States to grant asylum to non-Europeans and a refugee status to whoever qualifies for it, regardless of their region of origin and place of application. The legal system to which most countries in the world subscribe, with the notable exception of Turkey and a few others, recognizes that a law protecting refugees from “within Europe” only discriminates unfairly between refugees, granting to some (i.e. those from Europe) full legal protection.

We turn to Tolay’s moral impetus urging states to embrace a cohesive plan motivated by humanitarian concerns rather than political interests (e.g. agendas related to domestic and international affairs) as the highest moral desideratum. The reason the humanitarian concern has never been the primary motivation of states is precisely because states act *politically* (Miller, 2007), and have the right to do so. In the European model, one among many predecessors of the Syrian one, we saw that the convergence of values was *de facto* a convergence of political interest, shared economic need of skilled labor, and reasons to estimate a very low number of inflows of refugees from the Eastern Block. Today, our scenario is different in all of these aspects, and that explains why states might find themselves in less agreement than ever on shared values of humanitarian assistance.

This is not to say that this should not be the highest moral goal endorsed by states. Recall the illustration on how we might deal with the affirmative action in gender equality, according to which we might advocate for inequality at the policy level in order to reach or enhance equality at the normative level. Policy recommendations might be best acted on if framed as being in the interest of states’ citizens, rather than refugees only. This will be the last point made in the conclusions of this paper, but before doing so, let us see in which relevant way Turkey and the region is dealing with the Syrian case differently or similarly when compared to the European model described above.

It seems from the outset that the model of regionalism is not much different from the European one. In the Turkish law, the refugee is:

A person who (*as a result of events occurring in European countries*) and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his citizenship, and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return

to it, shall be granted refugee status upon completion of the refugee status determination process (Republic of Turkey Ministry of Interior Directorate General of Migration Management, 2014, Art. 61).²⁰

Refugees seeking asylum in Turkey “as a result of events *from outside* European countries” (Republic of Turkey Ministry of Interior Directorate General of Migration Management, 2014)²¹ only receive a “conditional refugee” or “temporary protection” legal status, like the status Syrians receive currently. It is unclear which criteria are used to define which of the latter two categories non-European refugees will be part of; however, the answer to this issue is beyond the scope of this paper. What we can claim about Turkey’s law is that it seems to resemble the “classical” European model of regionalization when we look at the law itself. Yet, due to its open-door policies for Syrians, unlike Europe in the immediate decades after the World Wars, for which inflows were calculated to be low and the European states were sharing the burden of refugees, Turkey (and other countries in the region) has received millions of refugees in a few years who have not been granted refugee status. To recall that the UNHCR has declared Turkey to have become the world’s largest refugee hosting country, spending 6 billion USD on direct assistance to refugees (Divers & Dobbs, 2015), out of which the international community has provided only a small percentage as of 2015 (Divers & Dobbs, 2015, note 3).

Strikingly, the main difference therefore between the European case; namely, during the period between 1940 and 1960, and the Syrian crisis, is numerical. The displacement of Syrian refugees between the 2011-2016 period is significantly larger in a much shorter period of time. Some, including İçduygu (2015), claim that Turkey had miscalculated the mass inflow it was to receive when, at the beginning of the Syrian conflict, Turkey declared its open-door policy. However, the behavior of all other important actors proves this case to be “engineered regionalism,” with the US choosing not to resettle refugees onto its territory,²² and with the EU also settling a very trivial number of refugees compared to countries in the region, including Turkey. Sufficient research has yet to be done to settle which interests Turkey has, and whether these interests are regional, domestic, or foreign policy related in addition to its seemingly benevolent open-door policies. Yet, most scholars studying the case suspect that the policies are driven primarily by interests, rather than humanitarian concern (İçduygu, 2015).

20 This text, ARTICLE 61 (1), is from the Law of Foreigners and International Protection of Turkey. The text within brackets and italic (my emphasis) shows the geographical limitations that Turkey still maintains, together with two more states in the world. All other states in the world have lifted these limitations.

21 The law also lists the two statuses.

22 Things have been changing recently, in that some tens of thousands refugees are promised to be resettled in the United States of America. However, the tens of thousands of refugees admitted is incomparably smaller to the millions that are in their region of origin, between Turkey, Lebanon, and Jordan, all countries that display a level of economic (and otherwise) development inferior to the former (Morello, 2016).

Returning to Tolay's question: Had the main countries played a more robust role (USA, EU, and Turkey in our case) in tackling the crises based on shared values of humanitarian concern, would that have best served the Syrian humanitarian crisis? In an ideal world it would have. However, in the non-ideal world, in which states (typically) act on humanitarian concerns (only) when it is also in their own interest to do so, her suggestion would remain a moral one, which, as a policy recommendation, it might fail to motivate a state's actions.

The same goes for the burden sharing justice-claim, which Turkey might legitimately hold against Western states: It would perhaps help worse-off states if the burden were fairly shared between states, and therefore, contingently it would have helped refugees, who would receive better assistance from better equipped countries with affluent economies. In the European case described, shared values antagonizing communism fueled a great amount of intra-European collaboration, which made that regional model efficient. But this was also the case because the number of refugees was smaller. We do not have enough evidence to show that Western countries currently have similar antagonizing attitudes toward the conflict in Syria that displaces Syrians. Even if this were the case, morally, these hypothetical shared interests are too far from the ideal of states being mobilized by the primary humanitarian concern of refugees. As argued before, states' acting on shared values is, and has historically been compatible with actually remaining indifferent to refugees' destiny (or at least to some of them, discriminating based on one's region), as the European case has proved toward refugees outside of Europe.

A Third Way

In light of the brief assessment of the Syrian refugee crisis and the main issues at stake, it seems that for states to act in the most morally desirable way, we might persuade them in doing so with other means than recommending them a policy driven primarily by moral concern toward the humanitarian crisis. In order to achieve this goal, which as stated above, I support as the ultimate *moral desideratum*, we might recommend to states those policies that are good for their own citizens, bearing in mind what it is good for the refugees. Due to space limit, I have provided a few examples to illustrate the idea.

Firstly, I criticized İçduygu's position for not distinguishing between the *legal* and *public* definition of the Syrians' temporariness on the territory of Turkey. This is a mistake because UNHCR reports declare that Syrians will not be able to return to their home country in the near future. A state genuinely operating on the mistaken premise that a few million refugees currently living in its territories are a temporary issue for its country is operating politically on an assumption that might prove

counterproductive in several ways.²³ Firstly, it carries pernicious implications for refugees, as they are themselves finding precarious solutions for living and traveling to countries where they want to settle, before those countries have even made plans to settle and accommodate them.

However, it is also bad because, due to the assumed temporariness, there will not be a plan of *integration* for the refugees in Turkey, and neither for those who make the dangerous crossings to Europe. While states hope that the *temporariness* on which they operate will reach an end, refugees will be left in a state of *limbo*, which is recognized as a human right violation. These arguments, morally compelling in their demand for better and faster humanitarian intervention, would even lead to stronger policy recommendations if they are also proven to counterproductively affect citizens. One might claim that citizens' taxes are wasted in the economically amiss planning of temporary shelters falling apart before completing their task, in useless fences built at the borders to keep refugees outside, etc. Based on the fact that they are *temporarily* residing on its territory, states might not provide Syrians the right to work, thereby adding to the demand of social welfare to support families who have no chance to work legally to support themselves.

Secondly, another way to phrase the humanitarian concern into policy recommendations is to say that many countries, such as the United States²⁴ or Canada have historically benefited from waves of migration and refugees, becoming some of the most flourishing countries that we know currently. The argument might be phrased in terms of *instrumentality*, by which I mean to say that it is not *bad* (understood as economically disadvantageous) for countries to receive refugees, that it has not been bad historically, and that it might be beneficial in many important ways in the long

23 The claim that Turkey may *de facto* operate on the mistaken assumption of “temporariness” may be problematic in light of the most recent developments of the discourses and policy making around the refugee crises in Turkey (see Chemin & Gokalp-Aras, 2017). The authors argue that Turkey seems to be shifting, as of 2016, its policy toward permanent integration of Syrians, by offering citizenship to those currently on the territory. If Turkey does offer, as it recently claims, citizenship to Syrian refugees currently under temporary protection, it invites serious assessment, which – in taking into account the current theoretical recommendations in this article – will have to consider the following: (1) whether such step is genuinely motivated by the *moral desideratum* – that is the primary concern of humanitarian aid; or reasons that might exacerbate the vulnerability of refugees, situations, e.g. placing them in a situation of “the tyranny of the majority over minorities,” as J.S. Mill’s (1999) quote is appreciated. Offering citizenship without *the facta* rights and protections may be the wrong instrument if it results in exacerbating conditions of life that are knowingly precarious for refugees, or change nothing in terms of their basic human rights protection; (2) whether this policy is in the interest of citizens, that is, it is not politically instrumental in benefitting a particular group of people, such as a political party (against the interest of citizens, or many of them), or a group of interest, such as an economic group by exacerbating the position of other citizens, e.g. the poorer classes who may be dispossessed of already meager conditions of employment and rights, (see Fine & Sangiovanni, 2014). The normative assessment will further have to rely on empirical knowledge of the case and its effect on both citizen and refugees’ lives. This assessment is best appreciated in full detail in a future occasion, as it surpasses the scope of this article.

24 Pope Francis’ discourse in the United States’ Congress: “As the son of an immigrant family, I am happy to be a guest in this country, which was largely built by such families” (Baker & Yardley, 2015).

term. If this argument strikes as plausible, one should advocate policy integrating the newcomers as quickly as possible, enabling them to work and properly live in the host society, to produce and flourish instead of leaving them in administrative limbos or restricting their entrance altogether.

These examples may provide good incentives²⁵ for states to act both in their own interests and toward alleviating the humanitarian crisis. We are familiar with the limitations of instrumental arguments, but this is why I have advocated maintaining the ideal moral desideratum to address the crisis more seriously while also advocating policies in the best interests of a specific country. My proposal therefore heads in the same direction of the *moral desideratum* (2), albeit with different measures.

Concluding Remarks

In this paper, I have conceptualized the Syrian refugee crisis as a typical case of engineered regionalism, according to which most refugees seek and receive some form of asylum (often temporary) in the region of their origin. From a comparative perspective between the European regionalism (late 1940-1960) and the contemporary Syrian case, the latter case is significantly different in terms of the magnitude of the phenomenon of displacement of individuals (within few years, it had become the biggest refugee crisis after World War II [UNHCR, 2015]).²⁶ Due to the strong restrictions placed by the “iron curtain” in the European case there was little East-West migration of Geneva Convention refugees. With the European and the contemporary Syrian cases in mind, I argued that contemporary states should respond to the crisis in accordance with the following *moral desiderata*: (1) share the intake of refugees between states in a fair manner and (2) act motivated primarily by moral concern toward the humanitarian crisis. However, states might not seek morality, unless it is shown to them that acting on the moral desiderata also benefits citizens. For example, a Syrian refugee having the right to work will allow him the ability to contribute socially and economically to the society as a whole (through paying taxes and putting his skills, talents, etc to use), while also supporting his family. Finally, social scientists, being backed with empirical evidence, are better equipped than philosophers to advance with more precision descriptive claims regarding the benefits of absorbing refugees. A constructive contribution to understanding complex scenarios such as humanitarian crisis, like the Syrian case, may therefore invite pragmatic fact-dependent concerns into normative reasoning. This paper has critically assessed the underlying normative assumptions currently populating the policy debate, without which contribution it would have remained vague as to which policy path we should privilege and why.

²⁵ It is assumed that legitimate states act on their duty to serve citizens' interest.

²⁶ The main reason behind the spike in refugees (up to a current worldwide total of 60 million) is four years of brutal war in Syria.

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