The Limits of an International Burden-sharing Approach: The Syrian Refugee Protection Crisis and Its Consequences on Turkey's Refugee Policy

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Abstract

This article analyses the consequences of the Syrian refugee protection crisis on the development of an effective international burden-sharing approach. It argues that despite the proven necessity of developing effective burden-sharing mechanisms at the EU and international levels, the Syrian refugee protection crisis has shown that limited progress has been achieved both at the international and the regional levels. This article brings these discussions under a systematic framework to show how the Syrian refugee crisis can provide an opportunity and also a challenge for the development of an effective and durable international burden-sharing approach. The primary objective of this research is to review Turkey's experience with the Syrian refugees. The lack of commitment for international burden-sharing puts refugee-receiving countries under immense financial, political and social pressures, which have direct consequences on the humanitarian assistance that refugees can receive. Taking one such refugee hosting country, Turkey, as an example, this research investigates responses given to refugee protection at an international level.

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Key Words

Syrian Refugee Protection Crisis, Syrian War, Refugees, Burden-Sharing, Turkey and Refugees, Refugee Policy.

Introduction

This article analyses the consequences of the Syrian refugee protection crisis[1] on the limits of an effective and durable burden-sharing[2] regime. The 1951 Convention for the Status of Refugees (the 1951 Convention) was developed to protect the individuals applying for refugee status. Under the Convention the right to asylum is considered mainly for individual applications, thus leaving legally binding rules for the signatory states in mass influx situations somewhat unclear. This ambiguity has been a major obstacle in mass movements for the effective protection of refugees in their host countries.

Despite the proven necessity of developing effective burden-sharing mechanisms since the development of the 1951 Convention, the Syrian refugee protection crisis starting

from 2011 has shown that limited progress has been achieved both at the international and the regional levels. The lack of commitment for burden-sharing puts refugee-receiving countries under immense financial, political and social pressures, which have direct consequences on the humanitarian assistance that refugees can receive. One of the receiving countries of such influx refugee movements is Turkey. This article aims to bring these discussions under a systematic analysis and show how the Syrian refugee crisis can provide an opportunity for the development of an effective and durable international burden-sharing regime both at the regional and global level, as well as highlighting the current limitations for developing such an effective system.

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In that respect, the primary objective of this article is to review the importance of refugee burden-sharing and refugee protection as an international public good. Looking at the theory of public good, the first section of this article aims to put forward an approach on burden-sharing for refugee protection under international refugee law and the discussion of "public good" theory. The second section provides an overview of the legal developments on the Syrian crisis in Turkey. The final section investigates the limits of burden-sharing, specifically focusing on Syrian refugees and Turkey. Taking the Syrian refugees as the main focus of discussion, this article presents the need to establish effective burden-sharing mechanisms within the EU. The Syrian civil war and the refugee protection crisis demonstrates that without the existence of a systematic approach to refugee burden-sharing under a global leadership and a global institutional framework promoting a universal perspective, it will be difficult to achieve effective, long-term and durable solutions. This research assesses whether a comprehensive approach to refugee burden-sharing through financial tools, policy coordination or resettlement mechanisms is possible or not.

Burden-sharing for Refugee Protection under International Refugee Law

The main international legal document that outlines the legal framework regarding the status of refugees and the obligations of the states on refugees

is the 1951 UN Convention Relating to the Status of Refugees and the 1967 Additional Protocol. Other international human rights conventions and legal instruments complement the refugee protection provided by these two fundamental legal documents. Although the 1951 Convention formed the main basis of refugee protection, it was not the first international legal instrument to underline the right to seek asylum. After World War II, there was a strong willingness by the international community to support fundamental rights and freedoms universally.

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This willingness was reflected in the adoption of the Universal Declaration of Human Rights (UDHR).[3] The Declaration was proclaimed by the United Nations General Assembly without any geographical or regional specifications in Paris on December 10th, 1948. In addition to the acceptance of international and universal protection of human rights, this milestone declaration has also underlined certain

rights, which would later be focused on or emphasized more specifically in other UN legal documents, convention and declarations. Article 14.1 of the UDHR clarified that "everyone has the right to seek and to enjoy in other countries asylum from persecution." Inclusion of the right of asylum in a declaration with a universal scope set the basis for prospective international legal developments.[4]

Following the UDHR, the 1951 Convention universally described who would be considered as a refugee with a definition provided in Article 1. According to this article "a person owing a well-founded fear of persecution based on his/her race, religion, nationality, and political opinion or membership of a particular social group residing 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."[5] The Convention with this definition did not restrain the application of the refugee definition within a strict geographical or regional setting. Instead, Article 1 tried to provide a definition applicable universally within a specific time frame: "events happening before 1 January 1951." This time limitation was later

recognized as unpractical and was lifted with the 1967 Protocol.

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Despite the aim to provide a general refugee definition, the 1951 Convention reflected the characteristics of the already emerging Cold War context. Expecting refugees coming especially from the Communist bloc, the Convention provided the signatory states the preference to accept refugees coming from Europe or outside Europe. This geographical limitation was utilized by some signatory countries such as Turkey, but not by all of them. The underlying justification of such a limitation was clear: the refugees and asylum seekers were expected to flee persecution from countries with the Communist regime. As the Convention was signed in the Cold War context, the justification made by Turkey was considered reasonable. With the end of the Cold War the political instabilities of its neighbourhood proved that Turkey was prone to mass refugee movements from non-European states. The crisis experienced after the

end of the Cold War, such as Iraq in 1991, motivated Turkey to keep this geographical limitation. As in the case of Iraqi refugees, the international burden-sharing proved to be minimal, therefore making Turkey not to reconsider lifting the geographical limitation. Without a successful result, the UNHCR, the EU and selected INGOs continue to encourage Turkey to lift it.

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The international legal framework established by the 1951 Convention and the 1967 Protocol supported by the international human rights legislation set the basis for a global refugee protection regime. While the rights of the refugees are defined in the Convention, the obligations of the signatory states are also defined clearly. In that respect, the Convention outlined the obligations of the signatory states after granting refugee status. The obligations included providing rights to refugees including non-discrimination based on race, religion or country of origin, continuity of residence, wage-

earning employment, self-employment, acquisition or movable and immovable property, access to courts, right of association, housing, public education, social security, administrative assistance, freedom of movement, and naturalization. The obligations of the states party to the 1951 Convention are extensive, such as providing rights to the refugees not less than other aliens within their territories. These rights should be almost to the level of citizenship, which meant significant commitment from the contracting states. Acknowledging the difficulty to provide such a high level of commitment from the individual states, the Convention in its Preamble called for cooperation and solidarity among the signatory states.[6]

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The Convention did not have a specific article explaining the context or extent of the international cooperation and solidarity for refugee burden-sharing among states. However, as a general "good-will" principle, the Convention set out the importance of burden-sharing in its Preamble. The last three paragraphs of the Preamble underline the importance of international cooperation among signatory member states and their coordination with the UNHCR. The Preamble underlined that "considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation."[7] It is clear that the states that prepared the Convention recognized that a satisfactory result for the refugee protection would bring burden on certain refugee hosting countries. It was clear that without solidarity and a strong international cooperation among the international community, a "satisfactory solution" would not be possible to achieve. In addition, the Preamble also expressed "the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States."[8] This paragraph was elaborating that in case of a lack of solidarity or international cooperation, the unbalanced burden on one or more states would create tensions within the international community.

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The period following the beginning of the Syrian civil war has proved the foresight of the initial preparatory states' vision on the lack of solidarity bringing tensions on the refugee hosting or receiving states. In this case, the lack of solidarity brought tensions especially to the Middle East and Europe. The 1951 Convention recognized the importance of burden-sharing on refugee protection and the possible dangers to international peace and stability of its lack of existence. It will be difficult to assess the exact reasons why a clear provision on burden-sharing was not included in the main text of the Convention, but it is possible to assume that after WWII even the acceptance of the 1951 Convention as a liberal text in providing universal rights to refugees was a significant achievement. Therefore, adding obligatory articles into the Convention on burden-sharing might have been difficult. Later on, the UNHCR tried to emphasize the importance of refugee burden-sharing among states through its various statements, documents and activities. Despite these efforts, there has not been a strong willingness by the international community since 1951 to establish clear-cut rules, norms or principles on burden-sharing, specifically on asylum and refugee issues.

Burden-sharing as a concept was first used in economics and followed by security and military studies. It was utilized for migration and refugee studies by very few scholars until recently. In economics, burden-sharing is explained by the "public good" concept. Samuelson defined it stating that collective consumer goods "are goods which all benefit jointly; consumption of these goods by one individual does not reduce the consumption of the other."[9] Two main characteristics of public goods have later been distinguished by John Head as "indivisibility" and "non-exclusion."[10] In that respect, "public good" is a good that is available without discrimination and individuals within a community cannot be excluded from its usage. Similarly, usage by one individual does not reduce its availability to others.[11] In a non-economic sense, "public good" can range from air to street lighting or national security. In that respect, individuals can benefit from the public good without being exposed to certain restrictions of its usage. Similar to

individuals, states can also benefit from global public goods or "collective goods"[12] such as international security or stability, if they are members of an international organization.

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The usage of "public good" in military and security studies became apparent with the model presented by Olson and Zeckhauser in their attempt to explain the functioning of NATO and the disproportionate contribution of the USA to this organization. They argue that almost all kinds of organizations provide public or collective goods while an organization can be useful when a group of individuals or states have some common objectives or collective goals. Common objective is accepted as a common good as long as everyone who is a member of this organization can benefit from the achievement of this common goal. According to their model, defense is characterized as a public good as it fulfills two requirements of its definition: non-excludability and non-rivalry. Since the benefits of any action taken by the organization are common and do not exclude any of the members, the

members will be less willing to provide the necessary resources to achieve these goals. Similarly, it is not possible to talk about the diminishing impact on other members just because one of the members benefits from the public good. Even though their model focuses on NATO, it is argued that this model can be applicable to the UN or any other international organization.[13]

Understanding the production of the public good is important in understanding why and how some states will be more willing to contribute to the production of certain public goods. It is assumed that there is a tendency for some "larger" members in an organization to place a higher value on the public good and bear a disproportionate share of the burden. This will be usually not strictly related to moral or political terms but rather based on respective national interests.[14] That also explains the "free rider" problem in these kinds of alliances. Free riders are those individuals who benefit from a public good without contributing (or contributing to a lesser extent) to the cost of production of this public good.[15] Mare argues that the bigger the group there will be a greater potential for free riding. If the group is smaller then the identification of the free rider will be easier.[16] This free rider problem is located at the heart of the burden-sharing issue. Within NATO the US and other large countries provide more

effort and financial resources and other smaller countries benefit as free riders and can exploit the larger states.[17] This is called "exploitation of the big by the small".[18]

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Free riders have been an important aspect of burden-sharing at different policy areas including economics, environment, security and more recently in refugee studies. With respect to migration studies, the issue of burden-sharing has gained importance initially in 1970s when legal scholars aimed at promoting global sharing to assign refugees worldwide by matching refugee preferences with host countries ranked with an index of wealth and population density.[19] This system could have been operational when asylum applications were small during the Cold War period. However, the end of the Cold War significantly increased the number of refugees after the 1990s. Especially with the ethnic conflicts and internal wars in Yugoslavia, Bosnia, Kosovo and Haiti, mass refuge movements increased and influenced individual state responses.

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Mass movements of the 1990s brought worldwide restrictions on asylum, which had reflected on developing tools for refugee burden-sharing among states. While burden-sharing mechanisms with collective actions on security and the environment brought positive outcomes for finding enduring solutions to international crisis rather than unilateral actions, in the refugee policy area this success has been very limited.[20] Suhrke argues that most states will have to deal with refugee issues at one time. In that respect, it will be in their benefit to develop common responses. Jointly held responses will be due to moral duty as well as an obligation under international law creating certainty, better protection, and assistance.[21] In other words, organized sharing means more predictable responses, greater international order, and lower transaction costs during a refugee emergency, which can be obtained through organized international order.[22] However, the practical implications do not always reflect this straightforward logic, as states occasionally opt for

unilateral action in order to avoid costs and choose restrictions on asylum rather than entering into cooperative arrangements.[23]

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The complexity of burden-sharing on refugee issues comes from the fact that refugees as a social phenomenon have a long-term impact on the host societies. This might lead to some of the states avoiding taking further responsibility in providing protection and aiming for other states to contribute to the refugee protection scheme at a higher rate. This might lead to unilateral action taking precedence over collective action while benefiting free riders. Overall, the benefits of collective actions in mass influx situations on refugee protection standards or international peace and stability is clear. This makes refugee burden-sharing a net public good at a global scale. States' decisions on choosing collective action over unilateral are usually shaped by their calculation of private costs with the threats resulting from mass influx situations. The next section investigates the characteristics of the Syrian refugee protection crisis in one of these particular mass influx cases, Turkey.

Turkey, Refugee Protection and the Syrian Refugees

The civil war in Syria has led to the displacement of nearly half of the Syrian population, creating more than 5 million refugees, 6.3 million internally displaced persons, and 13.5 million in need in Syria.[24] Most of the Syrian refugees stayed within the region in the neighbouring countries such as Turkey, Lebanon, Jordan, Egypt and Iraq. It is also estimated that around 380,000 people, including civilians, have been killed in this civil war.[25] The UN Office for the Coordination of Humanitarian Affairs estimates that half of the Syrian population who remained in the country is in need of humanitarian assistance and protection.[26] The scale of the destruction, the number of people affected in this civil war, and the spill-over affects make the Syrian civil war a concern of almost every country in the region.

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Since the beginning of the Syrian civil war in 2011, Turkey has adopted an "open door policy" for the Syrian refugees. This was the direct result of Turkey's new neoliberal approach to its foreign policy that utilized foreign policy activism, trade, humanitarian aid, and soft power capabilities. The foreign policy approach of the former Minister of Foreign Affairs, Ahmet Davutoğlu, aimed at enhancing collaboration and cooperation with the neighbouring countries through various mechanisms including utilizing Turkey's soft power capabilities.[27] A neo-liberal approach to trade and economic relations promoting a liberal visa policy with Turkey's neighbors aimed at achieving increased economic, political and social interactions. This liberal visa policy, on the other hand, was contradicting with the EU's approach of strict border controls and the implementation of the Schengen negative list by an accession country. However, as Turkey's EU accession was perceived to be a long-term objective, divergence from accession goals on visa policy was seen possible or even dismissible.[28] In the short-term, a more pragmatic approach of promoting visa liberalization with neighbouring countries was adopted. Reciprocal visa abolishment with various countries including Syria became a common procedure.

The open door policy was also necessary due to Turkey's international commitments naturally arising from the 1951 Convention. As stated in the previous section, Turkey has kept a geographical limitation on the application of the 1951 Convention, which means that refugees coming from outside Europe are considered as "conditional refugees" according to Turkey's new Law on Foreigners and International Protection (LFIP).[29] Turkey implements the 1951 Convention in a way that non-European refugees' applications are processed, but if refugee status is granted they are resettled to third countries.

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The UNHCR and to a certain extent the IOM are involved in the resettlement of non-European refugees. Various partner countries with specific annual quotas accept refugees each year from Turkey. The main refugee accepting countries traditionally have been the USA, Canada, Australia, the UK, Sweden, France, Germany and the Netherlands.[30] Since the

announcement of the ban for Muslim refugees from seven different countries by the Trump Administration, the refugee resettlement scheme has been put into jeopardy.[31] The future of the resettlement scheme for non-European refugees will be seriously challenged if the Trump Administration promotes similar courses of action with respect to other countries in the Middle East including Turkey.[32]

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Although Syrians can be considered as non-European refugees or "conditional refugees" according to the new Turkish law, the Turkish government decided not to open the asylum route for the Syrians. Assuming that the crisis in Syria would be resolved immediately, the Turkish government did not necessarily feel the urge to have a long-term plan on Syrians crossing the Turkish border. The first group of Syrians, who were approximately 250 in number, crossed the Turkish border in 2011.[33] The Turkish government declared that they were prepared to host the small groups crossing the borders, thinking that the Assad regime

would fall. As the numbers crossing the borders gradually increased, the first refugee camps were established and their operation was given over to the Disaster and Emergency Management Presidency (AFAD).

In these initial stages of the Syrian conflict the Turkish government did not have a priority to seek for international burden-sharing.[34] First of all, Turkey assumed Syrians would be in Turkey temporarily and seeking international assistance and cooperation would not be essential. Secondly, financial or other types of international assistance would require sharing sensitive information or opening camps to international organizations. Taking into consideration these two main reasons, Turkey aimed to respond to this crisis unilaterally.

In the beginning of 2018, the number of Syrians increased to approximately 3.5 million in Turkey. This number includes 3,485,644 Syrians registered by the Turkish Directorate General of Migration Management (DGMM).[35] There are also approximately 350,000 non-Syrian asylum seekers and refugees living in Turkey.[36] The DGMM declares that there were 66,167 asylum applications in 2016.[37] Adding to these numbers, there are also a number of pre-registered Syrians waiting for approval of their registry. Their numbers are not officially declared.

Syrians and non-Syrian refugees added together make up approximately 4 million asylum seekers and refugees in Turkey. This makes Turkey the number one refugee hosting country in the world. When the numbers of Syrians increased dramatically, the numbers of refugee camps - which are referred to as "temporary accommodation centers" by the Turkish government - increased accordingly.[38] Despite this increase in the number of camps, only 8% of the Syrians are accommodated in them. The rest of the refugees (92%) are living in cities or urban areas. Camp and urban refugees make up the Syrian population in need of protection in Turkey.[39] The needs of the urban refugees are dramatically different than refugees accommodated in the camps.[40]

Turkey's policy towards the Syrian refugees either accommodated in the camps or in the cities is based on Turkey's traditional conceptualization of refugees as "temporary guests."[41] This conceptualization resulted in an ambiguous legal status for the Syrians. As explained above, non-European asylum seekers can only be given "conditional refugee" status. In the case of Syrians, Turkey neither allowed them to apply for refugee status nor allowed them the possibility to stay in the country permanently and integrate into Turkish society.[42] The Turkish government's expectations on the temporariness of the crisis was reflected in the assumed possible return of the Syrians. On the other hand, soon enough the escalated conflict turned into a civil war with ethnic and religious components that meant the "guest" rhetoric was no longer applicable for the aggravated humanitarian situation.

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From 2012 onward, without a clear legal basis, Syrians were considered by the Turkish authorities to be under the "temporary protection status". This status was not defined legally, as the Law on Foreigners and International Protection (LFIP) was still in the process of preparation and acceptance by the Turkish Grand National Assembly. The legal specifications of the "temporary protection" status were defined by Article 91 of the LFIP. Article 91 clarified that the application and the particularities of this status would be defined by a specific regulation.[43] Temporary protection status was included in the new law due to the influence of the EU *acquis*. This status was developed by the EU member states in 2001 after the crisis in Bosnia and Kosovo in the 1990s.[44] Turkey

also hosted refugees from Bosnia and Kosovo and the temporary protection was utilized to host these refugees both in Turkey and the EU member states. Following these earlier practices, Syrian refugees were also considered to be temporarily protected persons under this status. The legal framework was developed with the acceptance of the Temporary Protection Regulation in 2014.[45] Under this status, Syrians are allowed to stay in Turkey and they are not returned back to Syria. However, they are not allowed to apply for asylum. This creates resettlement or voluntary repatriation as the only durable solution options.[46]

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The escalation of the war in Syria from 2014 onward further increased the number of uprooted populations from Syria. In addition, not being able to work or have a livelihood in the host countries caused Syrians living in the neighbouring countries to search for better opportunities in Western European countries. In the summer of 2015, thousands of Syrians and also other irregular migrants aimed at crossing the land and sea borders to reach the EU territories. Immediately, Europe became overwhelmed with these mass population movements and irregular borders crossings. According to the EU's border agency FRONTEX, more than 700,000 refugees and irregular migrants crossed the land and sea borders of the EU in 2015.[47] The high number of irregular arrivals signified nearly a three-fold increase over the previous year. This caused the member states to react with panic and despair, with some closing their borders and others demanding an end to the free movement of persons in the Schengen system.

During this mass flow, Turkey has been criticized for not managing its borders effectively and becoming a "highway" for transit passage of refugees and irregular migrants to the EU. This claim needs to be assessed very carefully to see whether or not it is a reasonable criticism to specifically pinpoint Turkey for its inability to control its land and sea borders. Essentially, Turkey did not become a "highway" for irregular crossings, but mostly acted as a "dam" that was overburdened, overloaded and flooded towards the EU.[48] Without a significant international support or burden-sharing, Turkey was hosting more than 2.5 million Syrians in 2015. Without having an established long-term asylum and refugee policy, it was

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complicated and challenging for Turkey to develop a structured and institutional approach to handle the needs of the refugees while safeguarding their rights and livelihoods. Although the new law was developed with the influence of the EU accession process with a surprisingly open-minded and liberal approach since 2008, the arrival of more than 2 million refugees in the course of less than 3 years had a direct influence on the development of Turkey's migration, refugee and integration policies.[49] It is safe to assume that the Syrian war and the mass arrival of Syrian refugees have transformed the development of Turkey's refugee and migration policies. It is not an easy task for any country to handle a mass influx situation in such a limited time frame. The next section looks at the impact of international burden-sharing on Turkey's asylum and refugee policies.

The Limits of an International Burden-sharing Approach

Turkey's initial approach to international burden-sharing was rather critical and distant. The escalation of the Syrian conflict brought complicated political, social and security challenges to Turkey. In addition to these challenges, the financial impact of hosting refugees was also mounting. After realizing that the promoted "no fly zone" would not be established by the international community, Turkey gradually recognized the need for international support.[50] Turkey's former experience in mass influx situations, especially with Iraq, was misleading, because in the Iraqi case, hundreds of thousands of Iraqi Kurdish refugees were able to return to their country after the establishment of a no-fly zone. This was also observed in the case of Kosovar refugees in the 1990s. Not being able to get the international support for a no-fly zone, the Turkish government developed an uneasy relationship with the international community.[51]

The implications of the Syrian civil war on international security and stability became more visible for the international community especially after 2015. The world was able to see the consequences of instability and insurgence in Syria through the rise of fundamentalist movements, escalated ethnic divisions, and mass human displacements.[52] The spillover effect of ISIS activities intensified the international security concerns while hundreds and thousands of people were uplifted from their homelands.

The international community's late response to the Syrian civil war resulted in the spread of ISIS and other fundamentalist movements around Syria and Iraq. Without the existence of a comprehensive solution to the civil war or having an effective containment policy towards fundamentalist organizations, the forced displacement of the Syrians continued both within and outside Syria. The mass movement of Syrians in the region and in the neighbouring counties developed into a refugee protection crisis.

The implications of the Syrian civil war on international security and stability became more visible for the international community especially after 2015.

While the civil war was intensifying, more Syrians were crossing international borders. Syrians who were already living in the neighbouring countries had two important sources of frustration: (i) seeing that the civil war in Syria was deepening and a prospective return to their home country would not be possible in the near future; (ii) the rights provided in the host countries were not sufficient enough to provide an expected livelihood. Two countries

hosting the highest number of Syrian refugees other than Turkey, Jordan and Lebanon, are not even signatories to the 1951 Convention. As explained in the previous section, while Turkey is a signatory state to the said Convention, the geographic limitation does not provide the necessary legal conditions for settling in the country and receiving the refugee status. Despite the advocacy of the UNHCR for durable solutions for refugees in the long-term, which can be listed as integration, return, and voluntary repatriation, the first two options of return and integration did not look viable for the Syrian refugees in Jordan, Lebanon or Turkey. Therefore, resettlement appeared to be the only option available for the Syrian refugees. However, the resettlement numbers are usually very low globally. When compared to the magnitude of the resettlement needs from the region, the resettlement numbers cannot be regarded as sufficient. In 2015, 52,583 Syrians were resettled in total from the region with the support of the UNHCR.[53] Although this number is relatively high compared to the previous years, it is still representing a small fraction of the total refugees hosted in the region.

Lebanon, Jordan, Turkey, Egypt and Iraq are providing a "public good" for the international community by hosting the majority of Syrian refugees. This public good entails providing

safety and shelter for approximately 5 million registered Syrians.[54] If Syria's neighbors did not host these refugees, then they would have to flee further distances, causing global and international consequences. In the Syrian refugee case, the common public good, which is supporting international peace, stability and security, provided by these host countries is an important contribution to the international community. A public good approach in security studies highlights that large countries provide more effort and financial resources while other smaller countries benefit as free riders and exploit the larger states ("exploitation of the big by the small").[55] The Syrian case, however, specifically shows the opposite. Syria's neighbouring countries, especially Jordan and Lebanon, have limited resources to host these refugees on such a large scale. As the civil war escalated the refugee crisis worsened, and deepened the social, economic, and political problems of the host countries.[56] When the refugee camps became inadequate and the numbers outside camps increased, "the lack of adequate assistance policies towards them aggravated a range of social problems…the initially generous welcome has worn thin, public opinion toward refugees is becoming increasingly negative."[57] Especially in the urban areas, the sudden increase in the population generated a competition over public services both by the locals and the refugees.[58] Considering the serious challenges faced by the host communities, the UN's Regional Refugee and Resilience Plan for 2015-2016 recognized that local communities also deserve assistance. However, so far the UN's pledges under different programs has fallen seriously under the desired amount.[59] In this case, it is clear that Syria's neighbouring countries are carrying the financial, political, social and economic burden while most of the international community has been acting as the free-riders.

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In the host countries, the lack of long-term durable solutions or productive refugee livelihoods, limited financial resources, the challenges brought to the host countries' economic, political, social policies or administrative structures, mounting infrastructure problems, and rising security concerns have brought difficulties not only to the host countries but also to the refugees themselves. This lack of prospective

long-term solutions opened the way for the Syrian refugees to look for alternative options including leaving their host countries to reach the EU member states.[60] The summer of 2015 was specifically critical for the mass number of irregular arrivals to Europe.[61] The majority of the arrivals were Syrians, followed by other nationalities such as Afghanis, Somalis, Iraqis, and nationals from sub-Saharan African countries.[62]

The number of the mixed migrants was the main challenge for most of the EU member states. The European states labeled this increased number of arrivals as a "refugee crisis," calling out for strengthening border patrolling and better responses to humanitarian needs. It was clear that until 2015 the European states did not recognize the scope and consequences of the humanitarian crisis resulting from the Syrian civil war. After 2015, the EU member states specifically felt threatened and frightened by security concerns. They were, however, too late to produce an efficient, rapid and effective response to this humanitarian crisis. Soon afterwards, the humanitarian crisis evolved into a political crisis deeply affecting the foundations of the European integration.[63]

The EU has been trying to develop over the decades a system of refugee and asylum policies that would support an even burden-sharing mechanism among the member states. This was a need which became apparent especially after the launch of the common market and the abolishment of internal borders.[64] The 1990s brought events showing that the EU had to develop common responses to common international crisis on foreign policy, security as well as internal security matters - including migration and refugee policies. The Balkan crisis in the 1990s demonstrated that the European continent is no longer immune from a mass arrival of refugees. Although the Schengen Agreement and the Dublin Convention of the 1990s did not aim at the harmonization of migration and asylum policies within the Union, they constituted the basis of an intergovernmental cooperation leading towards gradual externalization of certain aspect of these policies.

> It was clear that until 2015 the European states did not recognize the scope and consequences of the humanitarian crisis resulting from the Syrian civil war.

Intergovernmental cooperation on migration and asylum issues over the years turned into a cooperation

promoted within the Union. From the Maastricht Treaty to the Amsterdam Treaty, in a couple of years, the need for stronger cooperation became evident. The Amsterdam Treaty aimed at simplifying certain procedures falling under the Justice and Home Affairs (JHA) area and communitarization of some of its parts. In 1999 the EU started working on the creation of a Common European Asylum System (CEAS) to improve the legislative framework on protection matters. There were a couple of critical points in the development of a common asylum system including development of legislative measures to harmonize common minimum standards for asylum,[65] strengthening of financial solidarity, and finding a common EU response to mass influx of displaced persons, which set the basic principles of a common policy. In order to coordinate financial solidarity, the European Refugee Fund (ERF) was established in 2000. The ERF was designed with the aim of facilitating the sharing of financial costs for the reception, integration, and voluntary repatriation of refugees amongst the member states. Following the development of the ERF, other types of fiscal redistribution mechanisms were later developed, such as the European Integration Fund and the European Return Fund, which were all replaced by the Asylum, Migration and Integration Fund (AMIF) in 2014. All

these funds and fiscal mechanisms were aiming at an equal fiscal redistribution of the financial burden in order to give some relief to the member states, which need to host unequal numbers of asylum seekers and refugees within the Union.

Looking at the developments at the EU level starting from the 1990s, it was possible to observe within the EU (i) policy harmonization tools with the development of the legislative framework, (ii) financial tools for fiscal redistribution and (iii) physical burden-sharing with the redistribution of asylum seekers and refugees. These burden-sharing tools and mechanisms were created primarily to respond to the needs of member states followed by the needs of refugees. At the core of the burden-sharing of the EU lies the issue of solidarity among the member states. This solidarity has to be achieved with the redistribution of the burden and responsibility among members with relation to their GDP, population and size of territory. In that respect, if the public goods theory was applied to EU's burden-sharing principles, one would have to expect that the bigger, the richer and more populous member states would host more refugees. In reality, this was not the case and the practice of the EU proved that the smaller countries bear more responsibility than the larger countries. Thielemann and Dewan presented

in their study that a disproportionate asylum and refugee burden is borne by smaller states.[66] The data on "average accepted refugee protection burden" shows that countries such as Denmark, the Netherlands or Sweden shoulder relatively more burden than France, Germany, the UK or Italy.[67]

This problem of the EU's burden-sharing presented itself very clearly in the summer of 2015 when refugees and irregular migrants started to arrive in mass numbers. The member states clearly demonstrated a lack of solidarity and could not come up with an effective response to the mass movement. The southern and eastern member states with land and sea borders exposed to the movement were overwhelmed with the arrivals. Human smuggling and deaths at sea also became an everyday fact.[68] While the EU had difficulty in coming together to act in solidarity, German Chancellor Angela Merkel took the initiative and decided to tackle the issue at its transit route, which was Turkey.

Chancellor Merkel visited Turkey on 16 October 2015 just before the 1 November general elections to offer an Action Plan to limit the irregular border crossings in exchange for visa liberalization to Turks. The Plan also aimed at a revitalization of Turkey-EU relations by promising to open several accession negotiation chapters

that had been previously blocked. This was a strategic and pragmatic EU approach embraced enthusiastically by the Turkish government. The proposed Action Plan aimed to contribute initially 1 billion Euros, later increased to 3 billion Euros under different funding schemes to support Turkey's efforts. It was later mentioned that the financial support would be increased another 3 billion Euros. In August, before Merkel's visit, a new unit under the coordination of the Prime Ministry was established to advise then Prime Minister Davutoğlu on issues regarding migration and humanitarian aid.[69] The details of this collaboration and cooperation were clarified on 18 March 2016 with the EU-Turkey Statement (EU-Turkey Deal).[70]

The Deal was criticized immediately for being too pragmatic, unethical, and overly strategic. This was mainly because there were concerns about the moral and legal basis of the agreement. Thus, it has been argued that the deal be put into practice with a "genuine spirit of cooperation whereby the welfare of the refugees comes first".[71] Another discussion point was on the issue of burden-sharing. It was not clear if the EU was putting forward effective burden-sharing mechanisms that would not simply shift further burden on countries that were already handling more than their share in this crisis. It later became clear that

burden shifting would make refugees pay the price, with overburdened states not being able to provide necessary services to refugees.[72] Although the Plan called for the coordination of responses with "solidarity, togetherness and efficiency",[73] it was critical that its application should not undermine the current status of Turkey-EU relations, changing it into a strategic partnership[74] or simply making Turkey a migrant buffer zone or a border guard of the EU.[75]

Those in favor of this arrangement argued that this deal was a sincere effort by the EU to provide financial and other sorts of assistance to countries handling the needs of the refugees disproportionately. The burden-sharing mechanisms between Turkey and the EU were to be as follows: Providing financial support (sharing money), resettlement through a 1 to 1 approach (sharing people), and policy harmonization (visa liberalization and revitalizing EU accession negotiations). The Deal proposed different "benefits" for Turkey in return for its cooperation.[76] In return for financial support and visa liberalization for Turkish citizens, the Deal targeted Turkey to accept the return of irregular migrants from Greece. The timing of the Deal coincided with the agenda when the Cyprus negotiations were being reopened, which could have potentially revitalized the stalemate

of Turkey-EU relations. With several issues requiring common solutions both for the EU and Turkey, it was possible to argue that the cooperation on border controls to manage irregular migration and assistance to refugees could have led to a win-win situation for both sides at the negotiation table.[77] Despite criticisms on the essence of this statement, during this period both Turkey and EU were able to advance on a fruitful dialog to manage a functional area (asylum policy) and it was possible to see EU-Turkey cooperation at an advanced technical level.[78]

> While keeping moral and ethical issues at the core, the EU could have pushed for higher protection standards for refugees with an altruistic approach.

While keeping moral and ethical issues at the core, the EU could have pushed for higher protection standards for refugees with an altruistic approach. Instead, a more pragmatic approach and a security-based burden-sharing was put forward in this agreement. In order to reduce the security costs for the EU member states, a security oriented protection policy, which aims to contain the flow of refugees and irregular migrants outside the borders of the

EU, was adopted. In addition to the concerns about the number of arriving irregular migrants, the public opinion in most of the member states were turning negative toward mass arrivals. These concerns were aggravated when the war intensified and clashes between different actors caused more security concerns and forced displacements. The clashes between ISIS and PYD forces made more refugees flee the conflict, and Russia's intervention complicated the political and security situation in the region even further.[79] The spillover effects of the Syrian civil war were clearly visible in and around the region. This risk of spillover proved to be a real threat demonstrated by the terrorist incidents that occurred both around the region and in the EU in 2016. Looking at the developments in 2015, it would not be wrong to conclude that containing the civil war in Syria could have had positive consequences for the international community. Especially the developments in the summer of 2015 demonstrated how critical it was to provide an effective protection policy in order to maintain international peace, stability and security. Regional stability has been a very clear public good provided to the international community by the host countries. The challenges faced by the host counties, the rise of fundamentalist movements, and the increased safety concerns of the refugees caused secondary sudden

flights. It was clear that if the host countries were not able to provide safety, rights and livelihoods for the refugees, then these refugees under serious threats would continue to search for better conditions within or around the region.

> The spillover effects of the Syrian civil war were clearly visible in and around the region.

When the Syrian case is examined, it is possible to observe that the biggest shortcoming that the EU faced in terms of developing a comprehensive burden-sharing policy was not including "legitimacy" into its public good approach. Legitimacy with an altruistic stance meant the EU with its commitment of promotion of human rights, fundamental freedoms and democracy could have pushed for durable solutions for the Syrian crisis and offered protection to most of the refugees. Setting an example to the world and taking its share of refugee protection could have enhanced the intra-EU burden-sharing mechanisms. This would have strengthened the EU's commitment to the values of democracy, protection and promotion of human rights while setting an

> It was clear that if the host countries were not able to provide safety, rights and livelihoods for the refugees, then these refugees under serious threats would continue to search for better conditions within or around the region.

example for effective global burden-sharing practices. A more ethical and altruistic approach would be beneficial in various ways. First of all, the EU can overcome the criticisms for its externalization of migration and asylum policies. Secondly, addressing the root causes would tackle the likelihood of the spillover effects of ethnic and religious conflicts. Finally, in this way, solidarity within regional or international organizations could be accomplished. Instead the international community and particularly the EU have been hesitant in developing a burden-sharing approach with elements tackling all these points covered above. The EU within itself tried to create a redistribution mechanism for sharing the refugees with quotas.[80] Previously, the quota trading for refugees has been criticized for commoditizing refugee protection.[81] The Syrian refugee protection crisis highlighted that the EU's decades-long efforts to establish a burden-sharing mechanism within

itself have their weaknesses and ethical problems.

> The Syrian refugee protection crisis highlighted that the EU's decades-long efforts to establish a burden-sharing mechanism within itself have their weaknesses and ethical problems.

Conclusion

The Syrian civil war and the refugee protection crisis demonstrate that without the existence of a systematic universalistic approach to refugee burden-sharing, such as one operating through global leadership within a global institutional framework, it will be difficult to achieve effective, long-term and durable solutions. Currently, a comprehensive approach to refugee burden-sharing through financial tools, policy coordination or resettlement mechanisms[82] with a global solidarity spirit both at the global and regional levels is almost non-existent. This comprehensive framework can only be established with an enhanced mechanism of burden-sharing and addressing the root causes of refugee movements through the establishment

of durable solutions for safe return.[83] In that respect, burden-sharing requires countries to address the causes that made the refugees flee in the first place, assisting the countries who are hosting the refugees with financial and technical aid mechanisms, regulating an effective distribution of humanitarian aid, sharing responsibilities by resettling refugees, and addressing the causes of insecurity such as the fight against fundamentalist and terrorist activities while supporting durable solutions. Otherwise, without a provider of a "public good", the movements of the refugees will continue with a high risk of instability spillover in and around the region.

This article aimed at analyzing the importance of refugee burden-sharing and refugee protection as an international public good. Looking at the theory of public good, the first part of this article analyzed the development of this concept in relation to migration and refugee studies. Taking the Syrian refugees as the main focus of discussion, this article presented the need to establish effective burden-sharing mechanisms within the EU. There have been long-term efforts by the Union and its member states to establish an effective and efficient burden-sharing policy that will equip itself to respond effectively to mass refugee movement situations. However, the events of 2015 proved that there are still very serious

obstacles to the achievement of this goal. The increased number of arrivals to the borders of the Union has even challenged the EU's solidarity.

> The response given by the EU to the mass movements of refugees and irregular migrants was the development of the EU-Turkey Deal, which was clearly not perfect.

The response given by the EU to the mass movements of refugees and irregular migrants was the development of the EU-Turkey Deal, which was clearly not perfect. These challenges highlighted once more the importance of developing a global system for refugee burden-sharing based on moral, ethical and altruistic principles in order to achieve and maintain international peace, stability and security. The Syrian civil war showed that Syria's neighbouring countries that host the majority of the Syrian refugees are contributing to international peace, security and stability from the perspective of a public good approach. In this specific case, by focusing on the Syrian refugees, the larger and richer countries have acted as free riders benefiting from the provided "public good" by the refugee hosting countries.

In the last couple of years, Turkey has been acting as a provider of public good without any significant contribution from the EU or elsewhere. So far, financial and physical burden-sharing offered by the international community or by the EU has been quite limited. This absence has supported a negative public opinion in Turkey towards the EU and its member states. The lack of solidarity between the international community and Turkey has also limited the standards of protection that could have been offered to the Syrian refugees hosted by the Turkish state. Hence, a more equitable, effective and efficient refugee burden-sharing is absolutely necessary and critical not only to safeguard international stability and security but also to provide an effective and efficient refugee protection. This article presented these discussions on the establishment of an effective burden-sharing on refugee protection. Looking at the steps that have been taken by the EU and the possible steps that could have been taken, it is important to keep in mind that at the core of refugee protection lays the concept of the protection of human rights and fundamental freedoms. Discussions on refugee protection should be based on this fundamental principle in order to be efficient, effective and durable.

In the last couple of years, Turkey has been acting as a provider of public good without any significant contribution from the EU or elsewhere.

Endnotes

1   This article does not utilize the common usage of the term the "Syrian refugee crisis". Asylum seekers or refugees themselves did not cause the crisis in 2015. I argue that the crisis was a direct result of the inability or ineffectiveness of the states to provide international protection to persons in need of protection. This research therefore adopts the term "refugee protection crisis".

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