

# ‘Managing’ Irregular Labor Migrants in Turkey

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## Abstract

*The aim of this article is to consider the socio-political construction of irregularity and to discuss how this serves the development of policies and strategies for ‘the management of migration’ and migrant labor. This paper will first provide a short overview of Turkey’s rapid transformation into a country of immigration. Parallel to this, a discussion of the important legal amendments that have been enacted regarding the subject will be introduced. A specific emphasis will be given to measures introduced ‘to combat’ irregular foreign labor migration. An elaboration of the interconnectedness of illegality and irregularity will permit a deconstruction of the concept of irregular foreign labor. The article will attempt to reconsider the dimensions of agency for the migrants themselves and their potential for turning into social movements and/or forming alliances with other social movements, migrant associations, NGOs and labor unions. Addressing the potential of migrants as holders of agency and noting the fact that they are not criminals but part of the labor market, provides an important starting point to reconsider ‘irregularity’ and its relation to labor and human rights.*

**Keywords:** *Irregular labor migrants, migration management, social construction of irregularity, autonomy of migrants, Turkey*

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# Türkiye’de Düzensiz Göçmen İşçileri ‘Yönetmek’

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## Öz

*Bu makalenin amacı düzensizliğin sosyo-politik inşasını dikkate almak ve bunun ‘göç yönetimi’ ve emek göçü politika ve stratejilerinin geliştirilmesine nasıl hizmet edebileceğini tartışmaktır. Makale, öncelikle Türkiye’nin hızla bir göç ülkesine dönüşümüne genel bir bakış getirecek, buna paralel olarak da konuyla ilgili önemli yasal değişiklikleri ele alacaktır. Bu çerçevede, düzensiz yabancı emek göçü ile ‘mücadele’ için geliştirilen yöntemlere özel bir vurgu yapılacaktır. Yasadışı ve düzensizliğin karşılıklı bağımlılığının irdelenmesi, düzensiz yabancı emek kavramının yapı sökiümüne (deconstruction) izin verecektir. Makale aynı zamanda göçmenlerin kendileri için toplumsal aktör (agency) olabilme boyutunun ve bir toplumsal harekete dönüşme velveya başka toplumsal hareketlerle, mülteci dernekleri, STK’lar ve sendikalarla ittifaklar kurma potansiyelinin dikkate alınması çabasıdır. Göçmenlerin toplumsal aktör olma potansiyellerine işaret etmek ve onların suçlular değil de emek pazarının bir parçası olduklarına dikkat çekmek, ‘düzensizliğe’ ve onun işçi ve insan haklarıyla ilişkisine bakmak için önemli bir başlangıç noktası olacaktır.*

**Anahtar Kelimeler:** Düzensiz göçmen işçiler, göç yönetimi, düzensizliğin toplumsal inşası, göçmen otonomisi, Türkiye

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## **Introduction**

Irregular foreign labor migration is a complex field, with many acquiring their information only through the media or urban legend. However, we are largely devoid of reliable data about its scale, while the nature of this social phenomenon makes it difficult to translate into statistics. Though of importance, the aim of this article is not to provide current statistics or delve into the personal tragedies and biographies of foreign migrant laborers, but rather to consider the socio-political and legal construction of irregularity and how this serves the development of policies and strategies for ‘the management of migration’ and migrant labor. In this article, migration is contextualized into ongoing globalization processes that are part of, and experienced as, the restructuring and ‘flexibilization’ of economies. Turkey’s geographical and geo-political position and its EU accession efforts have resulted in major changes in policies related to foreigners and, specifically, foreign labor.

This paper will give a short overview of Turkey’s rapid transformation into a country of immigration by describing and categorizing migration influxes over the last two decades. Parallel to this, I will also provide a discussion of the important legal amendments that have been enacted regarding the subject. Turkey has experienced fundamental changes in the laws regulating foreigners, such as with the introduction of a new Foreigner Law in 2013 and the establishment of the General Directorate of Migration. A specific emphasis will be given to measures introduced ‘to combat’ irregular foreign labor migration.

Furthermore, the article provides an elaboration of the interconnectedness of illegality and irregularity which will permit a deconstruction of the concept of irregular foreign labor. This article can be considered an attempt to debunk hegemonic aspects and reveal the asymmetry of discourses concerning the powers of national and supra-national irregularity. In so doing, it offers various actors the possibility to challenge internalized notions on the subject.

Parallel to the arguments about the importance of a deconstruction of hegemonic narratives developed by Rittersberger-Tilic and Erdemir (2008: 47) in their discussion on securitization as element and process in EU migration policies, it is obligatory to again stress the need for a deconstruction of the concept of irregularity. Deconstruction may facilitate the changing of stereotypical discussions on irregular migrant labor and actually transform it into a global demand for human rights, including the right of free movement and the rights to shelter, work, healthcare and education, among others.

An irregular status can also be frequently understood as undocumented or under-documented, because what makes labor irregular is essentially a lack of proper residence and work permits. This status creates precarious and highly vulnerable situations that force migrants to sell their labor cheaply. The jobs they engage in are largely part of the informal economy and typically involve work in the domestic service, agriculture, textile and construction sectors.

With this overview acting as a foundation, this article will attempt to reconsider the dimensions of agency for the migrants themselves and their potential for turning into social movements and/or forming alliances with other social movements, migrant associations, NGOs and labor unions. Turkey, at present, heads the Global Forum on Migration and Development, which aims to intensify the dialogue with various agents of 'civil society.' However, the Global Forum largely fulfills an advisory role. Addressing the potential of migrants as holders of agency, in spite of their highly disadvantaged position, and noting the fact that they are not criminals but part of the labor market, provides an important starting point to reconsider 'irregularity' and its relation to labor and human rights.

## **Restructuring the Global Economy and Labor Migration**

Discussing regular as well as irregular contemporary labor migration necessitates an overview of neoliberal ideas and policies introduced

over the last two decades. Structural adjustment programs and the influx of foreign direct investments have resulted in different migration streams. The main goal of these adjustments has been the flexibilization of labor markets in an attempt to guarantee profits (Harvey, 2005). Flexibilization of the labor market is generally concomitant with a large informal economy.

Frequently, a need for migrant labor is expressed and governments create entry systems encouraging the legal entry of highly skilled workers while restricting or tacitly permitting irregular lower-skilled migrant labor. But as Castles states (2013: 129): “Rather than a need for migrant labor, we should therefore be analyzing a demand promoted by powerful economic and political interests.” He continues, referring to another study of his (Castles, 2011), stressing that publicly declared objectives and actual policies do not necessarily match each other (Castles, 2011: 131), “...the interplay between the market forces demanding freedom of movement and the political forces demanding control can be seen as highly effective in creating a global labour market stratified not only according to ‘human capital’ (possession of education, training of work skills), but also according to gender, race, ethnicity, origin and legal status.”

## Defining Irregularity

The definition of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW, UN, 1990, Art.5) states that migrant workers and members of their families are considered to be in a non-documented or irregular situation if “they are [not] authorized to enter, to stay and to engage in a remunerated activity in the state of employment pursuant to the law of that State and to international agreements to which that State is a party.”

There are different ways to fall into irregularity, and some authors<sup>1</sup> prefer to use concepts such as ‘unauthorized or undocumented’

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1 See Christal Morehouse and Michael Blomfield (2011), *Irregular Migration in*

migrants.<sup>2</sup> Irregular migrants enter a country, for example, through clandestine entry and/or entry with fraudulent documents. Or, they remain in a country in contravention of their authority (for example by overstaying after the expiry of a visa or work permit, fake marriages or as fake students, etc.). Others apply to smuggling networks or may be victims of human traffickers; again others use asylum channels as a way to stay in the country or transit through. The division between irregular migrants and economic migrants or asylum seekers and refugees has become blurred.

The attempt to provide a definition of irregular migration/migrant is actually not easy, as Düvell affirms (2011: 292): "... migrants' statuses are often a mix of regular and irregular aspects ... For instance, migrants might have a residence status but work without permission, might work with a permit though on another job than the one reported, or longer hours than agreed."

Nation-states label certain forms of migration as legal, and others as illegal. While doing this, there is a strong tendency to emphasize the 'criminal' dimensions, such as the smuggling and trafficking of humans, which are invoked to legitimize stricter controls and selection criteria. We may add here also the criminalization and securitization processes addressing irregular migrants, which are used for the justification of stricter immigration control and/or deportation measures.<sup>3</sup>

That sovereign states have the right to control entry to their territory is a common argument, but as Düvell (2006: 21-29) shows, the

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*Europe, Migration Policy Institute.* See also Amanda Levinson, 2005, *The Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies*, COMPAS Oxford.

2 The concept of undocumented is not very well established in migration discussions in Turkey but frequently used by critical migration scholars. See Parla (2011: 74).

3 For an interesting study on the criminalization of migrants in the US, see Inda (2013).

concept of illegal migration was rarely used prior to World War II, only becoming common in Europe after countries halted the recruitment of migrant labor in the 1970s.

Düvell (2011: 276), in a study in which he analyzes different national legislations and investigates the preconditions for irregular migration, while also discussing policies and practices that contribute to the emergence of irregular migration, summarizes the two main approaches on who is to blame for irregular migration: (1) Individual immigrants, because they violate the law; (2) Economic forces and unfair immigration regimes. Düvell stresses and contextualizes irregular migration as a social phenomenon which cannot be analyzed without addressing its social, political and legal construction.

One of Düvell's (2011: 293) most important conclusions is that despite political intentions to prevent and reduce irregular migration, legislation frequently contributes to its emergence. Düvell (2011: 278) highlights developments that are also important to understand in the discussions on irregular migration in Turkey: the breakdown of the 'Iron Curtain' in 1989, the EU accession process and visa-free travel for citizens from Central and Eastern European (CEE) countries. "...new migration paths from the East and South through CEE and Commonwealth of Independent States (CIS) to the EU emerged," he states, while also arguing that economic growth in European countries increased the demand for both skilled and unskilled migrant labor. These developments found further support through the political and economic transformation in Central and Eastern Europe. Thus, the conditions for irregular migration and irregular transit migration were set, and Turkey started to play an important role in these migration movements directed towards Europe. In time, the phenomenon also developed into patterns directed at Turkey.

Without losing the reader in statistics, it might prove beneficial to provide a short overview of migrant numbers in Turkey. İçduygu (2014: 5) summarizes Turkey's migration experience of the last two

decades. More than half a million transit migrants on their way to the EU have lived in the country, with most of them hailing from Middle Eastern, Asian and African countries. Another five hundred thousand irregular migrants have come from former Soviet countries and, at the same time, more than a hundred thousand asylum seekers have arrived individually, not to mention the half a million Kurds from Iraq during the first Gulf War. Most recently, UNHCR statistics speak of almost 2 million Syrian refugees<sup>4</sup> having entered Turkey. İçduygu (2014: 5) continues that furthermore, about half a million foreigners hold residence permits in Turkey, with most of them 'professionals, students, and retired 'sun migrants.' He thus differentiates the newcomers into four categories: '(1) irregular labour migrants; (2) transit migrants; (3) asylum seekers and refugees and (4) regular migrants. The irregular migrants (labour/shuttle and transit migrants) are those who either use Turkey as a way to cross into a third country, or stay or work in the country without the necessary permits. The asylum seekers and refugees are considered in parallel with the irregular border crossings. Regular migrants are composed of the immigrants and their family members who arrive in Turkey for employment, education, settlement or long-term living and recreational purposes.' To provide a complete picture, we may add also the categories of trafficked individuals and undocumented minors/migrant children.<sup>5</sup> Some of the most vulnerable groups of irregular migrants are those who arrive in Turkey through human trafficking<sup>6</sup> networks and are forced to work

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4 Number updated by author, <http://data.unhcr.org/syrianrefugees/country.php?id=224>, 18.08. 2015.

5 Reyhan Atasü-Topçuoğlu (2012) conducted pioneering research profiling migrant children in Turkey. Here, she also addresses the highly vulnerable position of undocumented migrant children and how they may become part of labor exploitation. See [http://www.turkey.iom.int/documents/Child/IOM\\_GocmenCocukRaporu\\_tr\\_03062013.pdf](http://www.turkey.iom.int/documents/Child/IOM_GocmenCocukRaporu_tr_03062013.pdf), 23.08.2015.

6 The Turkish state is in close cooperation with the International Organisation for Migration (IOM), <http://www.turkey.iom.int/pa2.htm>, 23.08. 2015. See also: Ayata, A; Acar, F.; Rittersberger-Tılıç, H.; Beşpınar, U.; Çelik, K. (2008), who



as sex workers, as well as undocumented migrant children, who may also engage in child labor.<sup>7</sup>

## **Deconstructing Irregularity/Illegality**

Critical scholars of migration have deconstructed the rhetoric of combating illegal migration. Some argue that it is part of the system and a certain number of ‘irregular’ migrants answer the demands of the economy. Scholars like De Genova (2004) analyze how the law (re-) produces the regularity/irregularity of migrants. De Genova argues in his study on Mexican migrant labor to the US (2004: 167) the following:

“Yet, with respect to the ‘illegality’ of undocumented migrants, a viable critical scholarship is frankly unthinkable without an informed interrogation of immigration law. In effect, by not examining the actual operations of immigration law in generating the categories of differentiation among migrants’ legal statuses, this scholarship largely takes the law for granted...”

He also argues in his study (2004: 179) that disciplinary measures directed at ‘illegal’ migrants are “...never simply reducible to a presumed quest to achieve the putative goal of deportation. It is deportability, and not deportation per se, that has historically rendered Mexican labor as a distinctly disposable commodity.”

This status of living under a constant threat can also be considered a powerful tool to ‘regulate’ migrant labor. The temporariness of migrant life, while the sense of ‘making a migrant wait’ constitutes another element of control.<sup>8</sup>

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studied the demand side of human trafficking in Turkey.

7 See: Karataş, Kasım; Rittersberger-Tılıç, Helga; Atasü-Topçuoğlu, Reyhan and Oğuzhan, Ömer Demir (2014). The authors evaluated the situation of undocumented migrant children, again stressing the potential for foreign child labor. See [http://cocukhizmetleri.aile.gov.tr/data/552bb0a4369dc57140fda44f/rapor\\_tr\\_08122014.pdf](http://cocukhizmetleri.aile.gov.tr/data/552bb0a4369dc57140fda44f/rapor_tr_08122014.pdf), 23.08.2015.

8 For an interesting discussion of time and how the waiting process easily leads

In the official discourse, irregularity is substituted with illegality to become the *raison d'être* for security measures at a state level. Irregular migrants are often differentiated into 'legitimate' ones, such as refugees and asylum seekers, and illegitimate, illegal and criminal migrants. Irregular migrants, however, should actually be considered most importantly as labor migrants who are without or possess only very limited rights, but also constitute a flexible workforce that can easily integrate or disintegrate into the labor market. To understand the precarity of irregular/regular migrants, their labor market position has to be understood in relation to their immigration status and their rights to housing, health and social welfare.<sup>9</sup>

Mezzadra (2011: 10) argues that irregular migrants are produced as insiders and outsiders, stating: "Notwithstanding the fact that the most immediate effects of a politics of control is the fortification of borders and the refinement of detention/expulsion dispositifs, it is thus clear that contemporary regimes of migration management are not geared towards the *exclusion* of migrants. Rather, such regimes function to value, to measure in economic terms, and hence to exploit ..."

Krenn, et al. (2009), investigated the interrelation between migrant labor and the conditions and characteristics of the EU labor markets. The research team concludes that (ir-)regular migrant labor is the outcome of socio-economic and political-legal processes and regulations and that regularity and irregularity are not fixed – they are the outcome of historical processes. Parallel to a more restrictive immigration management and the tightening of foreign labor laws,

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migrants into illegality, see Ruben Andersson (2014).

9 The origins of the concept 'precarity' can be traced back to French theorist Pierre Bourdieu, who described it as a 'new mode of dominance' resulting from the restructuring of the economy. Bourdieu argued that globalization and the fragmentation of the labor market had created a new and permanent state of insecurity for workers. The idea has been taken further by Guy Standing (2011), who argues in his recent book, *The Precariat: The New Dangerous Class*, that precarious workers now form a distinct social class.

(ir-)regular migrants become part of global/national labor markets. Another important argument is the entanglement of regular and irregular employment. The authors also discuss the self-perception of migrants, as they frequently say they have 'become slaves,' which has to be considered an extremely powerful expression of their feelings of total dependence on their employers.

### **'Management of Irregular (Labor) Migration' in Turkey: A Short Overview**

There is a growing preference to attract and incorporate highly skilled labor in Turkey, and serious attempts have been introduced to provide employment options to asylum seekers and persons under 'temporary protection.' According to figures from the Ministry for Labor and Social Security, 379,804 foreigners held a residence permit<sup>10</sup> and 52,304 a work permit in 2014.<sup>11</sup> The official statistics on apprehended irregular migrants were 57,428 in 2005 and 39,890 in 2013.<sup>12</sup> In 2014, the numbers reached 58,647. These numbers only provide a limited idea about the scale of irregular labor migration in Turkey. Many people with residence permits, as well as large numbers without residence permits, together with asylum seekers or those with temporary protection, often work but do not hold a work permit. Irregular work status is often combined with irregular residence status, but not always. The worst form of irregular labor migration is also a part of human trafficking. In personal talks with staff of the emergency call center for Victims in Human Trafficking (157 İnsan Ticareti Mağdurları Acil Yardım Hattı), personnel frequently noted that the emergency line could be considered a laboratory for irregular migration analysis.

10 [http://www.goc.gov.tr/icerik6/ikamet-izinleri\\_363\\_378\\_4709\\_icerik](http://www.goc.gov.tr/icerik6/ikamet-izinleri_363_378_4709_icerik), 24.08.2015.

11 <http://www.csqb.gov.tr/csqbPortal/ShowProperty/WLP%20Repository/csqb/dosyalar/istatistikler/Yabanci-Izinleri-2014: 6, 24.08. 2015>.

12 [http://www.goc.gov.tr/files/files/2013\\_Y%C4%B0L%C4%B0\\_TURK%C4%B0YE\\_GOC\\_RAPORU%281%29.pdf](http://www.goc.gov.tr/files/files/2013_Y%C4%B0L%C4%B0_TURK%C4%B0YE_GOC_RAPORU%281%29.pdf), 56, 24.08.2015.

They consistently receive calls from migrants without work permits who report their exploitation by their employers. These persons work under exceedingly unhealthy and difficult working conditions.

Turkey is in an ongoing restructuring and reform process to improve the existing legal and institutional framework in the area of regular and irregular migration, and substantial national legislative changes were introduced in the post-2000 period.<sup>13</sup>

The Ministry of Labor and Social Security, according to the Law on Work Permits for Foreigners (No. 4817, 2003, articles 20 and 21), is responsible for dealing with foreign regular labor migration and is also responsible for overseeing work permits.

For our purposes, it is most pertinent to mention the National Action Plan for Asylum and Migration introduced in 2005. The EU accession process has been a major driving force for these changes.<sup>14</sup> In 2010, the Coordination Board for the Fight against Illegal Migration was established under the supervision of the General Directorate of Migration Management of the Ministry of the Interior. In 2011, the board began to work towards preparing a Strategy Document and Action Plan on Combating Illegal Migration (Düzensiz Göçle İlgili Strateji ve Ulusal Eylem Planı).

Together with Law No. 6217 (2011), irregular migrants are no longer considered criminals, but are instead subjected to monetary fines. Regularization practices in handling irregular migration are also

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13 For earlier legislation, see Regulation No. 1994/6169 on the *Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum From Another Country* (last Amendment 2006), <http://refworld.org/docid/49746cc62.html>, 26.08. 2015.

14 For an analysis of EU irregular migration policies and delocalization strategies specific for Turkey, see Gökalp Aras (2013). In her study, she investigates different levels: national policies, as well as the local specificities of İzmir and Edirne in relation to irregular transit migration. Furthermore, she addresses the experiences of irregular transit migrants at the micro level.

important. Exemplary of such practices is an amnesty which was introduced in 2012 under which foreigners in Turkey without a valid residence permit could apply for a valid one.<sup>15</sup>

In 2001, Turkey began to sign and negotiate readmission agreements with the source countries of irregular migrants who transit through Turkey.<sup>16</sup> As such, Turkey is following a bilateral strategy in its readmission practices.

The April 2013 introduction of the new Law for Foreigners and International Protection (No. 6458)<sup>17</sup> must be perceived as an important milestone in the management of migration.<sup>18</sup> According to the new law, the management of the asylum system has been ceded to a civilian authority, the Directorate General of Migration Management (DGMM) under the Ministry of the Interior.<sup>19</sup> Prior to this, most migration issues were dealt with via secondary legislation and regulations.

This new law comprises the management of legal migration and irregular (undocumented and refugee/ asylum) migration. It also ad-

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15 See the webpage of the Ministry of Labor and Social Security, [www.csgb.gov.tr/csgbPortal/csgb.portal](http://www.csgb.gov.tr/csgbPortal/csgb.portal), 24.8.2015, for the legal regulations related to foreigner's residence/working permits.

16 Turkey signed readmission agreements with Syria (2001), Greece (2003), Kyrgyzstan (2003), Romania (2004), Ukraine (2005), Pakistan (2010), Moldova (2012), Nigeria (2011), Russia (2011), Yemen (2012) and Bosnia-Herzegovina (2012), Belarus (2013), Montenegro (2013) and the European Union (2013) [http://www.goc.gov.tr/files/files/2013\\_Y%C4%B0L%C4%B0\\_TURK%C4%B0YE\\_GOC\\_RAPORU.pdf](http://www.goc.gov.tr/files/files/2013_Y%C4%B0L%C4%B0_TURK%C4%B0YE_GOC_RAPORU.pdf), p.61, 11.07.2015. See also Özçürümez and Şenses (2011).

17 <http://www.resmigazete.gov.tr/eskiler/2013/04/20130411-2.htm>.

18 As Article 1 of this law states, the main aim is to regulate the entry, exit and stay of foreigners in Turkey. It provides guidelines for those who seek protection. This law defines who is entitled to remain on the basis of refugee status, subsidiary protection and humanitarian grounds. It also refers to human trafficking victims, unaccompanied minors, stateless persons, and persons with special needs seeking international protection (such as people with disabilities, single women, single mothers and the victims of torture or sexual harassment).

19 See also Cavidan Soykan (2012), <http://oxmofm.com/wp-content/uploads/2012/11/Cavidan-FİNAL.pdf>, 18.8.2015.

dresses immigrant integration policymaking and introduces fines for illegal entrance and residence and asks air carriers to be responsible for returning unauthorized migrants if the airlines were responsible for their entrance into Turkey.

With respect to refugee<sup>20</sup>/asylum migration, it places foreigners seeking international protection into three categories: refugees, conditional refugees (to be resettled in a third country), and individuals under subsidiary protection.<sup>21</sup>

Administrative detention is used only as an exceptional measure, and it pledges residence in reception and accommodation centers to people who have applied for international protection, while also providing non-refoulement guarantees that asylum seekers and refugees will not be returned to a country where they face danger. The law also includes provisions for dealing with unaccompanied minors and stateless persons.<sup>22</sup>

Most recently, in February 2015, a new draft Law on the Employment of Foreign Labor was submitted to the parliament and is still awaiting approval.<sup>23</sup> This draft law must be considered as an attempt to attract skilled foreign labor and investors by easing work permit

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20 Turkey is among the original signatories of the 1951 Geneva Convention. However, Turkey ratified the 1951 Convention and its Protocol in 1967 with a limitation related to their geographical application (Kirişçi, 1996). The geographical limitation means Turkey does not have to grant refugee status to asylum seekers coming from outside Europe. Turkey grants temporary stay to non-European refugees with a view to enabling them to resettle in a third state. They are called asylum seekers or conditional refugees. Asylum seekers can obtain work permits and work legally in Turkey. Irregular migrants from Africa have become a visible part of the informal economy in metropolises, such as Istanbul. Brewer and Yüksekler (2006) describe how African migrants engage in petty trade and find employment in small shops to make a living in Turkey.

21 The majority of UNHCR-classified Syrian refugees are subjected to subsidiary, 'temporary' protection status.

22 For a short overview in English, see: <http://www.migrationpolicy.org/article/turkeys-evolving-migration-identity>, 12.07.2015.

23 [https://www.tbmm.gov.tr/develop/owa/tasari\\_teklif\\_sd.onerge\\_bilgileri?kanunlar\\_sira\\_no=176457](https://www.tbmm.gov.tr/develop/owa/tasari_teklif_sd.onerge_bilgileri?kanunlar_sira_no=176457), 23.08.2015; see also: <http://www.alomaliye.com/2015/yabanci-istihdami-kanun-tasarisi.pdf>, 23.08. 2015.

applications. It also proposes changes concerning work permits for individuals who have applied for international protection, conditional refugees, as well as individuals who are under temporary protection.

In 2012, Turkey also signed a Memorandum of Understanding on Cooperation with FRONTEX to prevent irregular migration. Cooperation with international organizations such as the IOM, UN-HCR and ICMPD (International Centre for Migration Policy Development) and civil society organizations are also part of the new migration policy/management understanding. As such, Turkey is also part of the Mediterranean Dialogue on Transit Migration. Turkey also plays an important role in global discussions on migration and development and currently chairs the Global Forum on Migration and Development (GFMD). From a concept note of the GFMD,<sup>24</sup> we can learn the three main objectives of the Turkish chair: 1) Enhancing migrant-focused migration; 2) Recognizing the development impact of migration in public policies, and 3) Engaging relevant stakeholders in strengthening the linkages between migration and development.

In the same note, we note the intention to work jointly with civil society actors in managing migration: “While preserving the State-led character of the GFMD, Turkey will continue to gather all relevant actors in an inclusive, transparent and transformative dialogue while maintaining the focus on development and encouraging more input from development actors. Elements of the GFMD will enable dialogue among states as well as between states and a broad range of civil society actors (including migrants and migrant organizations), the private sector, international organizations, and other stakeholders,” (GFMD: 2).<sup>25</sup>

In addition to these developments, the Ministry of Development has been actively engaged in developing special reports on migration

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24 [https://www.gfmd.org/files/.../gfmd\\_turkey2014-2015\\_concept\\_note.pdf](https://www.gfmd.org/files/.../gfmd_turkey2014-2015_concept_note.pdf), 12.07.2015.

25 For a short elaboration on the role of GDFM, see Toksöz (2015).

in the framework of developing a 10<sup>th</sup> Five-Year Development Plan.<sup>26</sup> Important efforts have been made to attract skilled labor to work in Turkey.

The aforementioned changes and measures in the field of migration were also supported by regularization procedures and amnesties introduced to promote the integration of foreign domestic care workers (mainly from the former Soviet Union) into the formal labor market. In a report on domestic women workers in Turkey prepared for the ILO, Toksöz and Erdoğan (2012a: 11)<sup>27</sup> noted that the common practice for migrant women in domestic services remains to work without any work permit. Thus, the authors conclude that (Toksöz & Erdoğan, 2012a: 5) the legislative arrangements introduced to regularize the situation of migrants have only been partially successful. Some of these women stay in Turkey legally with tourist visas while others stay illegally without any visa at all or remain after having exceeded the term of their visas. The abuse of visa-free entrance and/or of overstaying the period of legal stay is common. Many irregular migrants actually enter irregularity after periods of legal residence and stays.

Özçürümez and Yetkin (2014) studied unregistered foreign workers in the textile industry in İstanbul and identify some reasons for the failure of contemporary policies on foreigners to halt irregular migration and the unregistered employment of foreigners: Policies have not been sufficiently adapted to the needs of the local context, while policies such as amnesties are focused on the short term. Inherent problems such as the dispersed nature of the legislation prior to the introduction of the new Foreigner Law “left room for administrative

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26 In this context, it may be of interest to stress some articles from the 10<sup>th</sup> Five-Year Development Plan. See articles 46, 47 and pages 54-55, articles 348, 353, 354 and 356, [http://tarim.kalkinma.gov.tr/wp-content/uploads/2014/12/Onuncu\\_Kalkinma\\_Plani.pdf](http://tarim.kalkinma.gov.tr/wp-content/uploads/2014/12/Onuncu_Kalkinma_Plani.pdf), 14.07.2015.

27 Toksöz, G. and Erdoğan, S., 2012a, *The Visible Face of Women's Invisible Labour. Domestic Workers in Turkey*, ILO, Draft Report.



discretion [that rendered] the policy objective of combating irregular migration almost unattainable,” (Özçürümez & Yetkin, 2014: 454).

The decision of persons to move to Turkey, work and make a better living is the result of bad economic conditions, poverty and unemployment, as well as war and political unrest in their own countries. In choosing Turkey for employment, these people consider diverse factors, including the availability of informal jobs, the prospects of earnings well above what they can earn in their own countries, geographical proximity/cheap and comfortable ways of transportation and the social networks provided by their relatives or friends. The demand for labor in the informal sector particularly encourages irregular migration.<sup>28</sup>

Elaborating on the ‘hyper-precarious’ working lives of migrants, Lewis, et al. (2014: 13), astutely state that the position in the labor market cannot be understood focusing on isolated nation-states as “insecurities span pre-migration and journeying experiences (such as poverty, indebtedness, obligations to support family back home, low education/social position, control by trafficker/smuggler/labor recruiter).”

Close to a decade ago, Toksöz (2007: 197-198) argued that irregular migrant workers enter the highly informalized labor markets of Turkey and thus contribute to wage competition.

“In spite of these negative consequences, instead of adopting the restrictive migration regimes of the Union, what seems to be of primary importance in Turkey is to implement measures to control and downsize the informal economy in different sectors. There is need to develop support policies for small-scale manufacturing, services and agricultural enterprises that sustain themselves on unprotected labour

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28 Dağdelen, Görkem studied how Moldovan immigrants’ cultural patterns, as well as the cultural preferences of Turkish employers, create economic inequalities among immigrants but at the same time enable immigrants to cope with the problems in working life. See <http://www.inter-disciplinary.net/wp-content/uploads/2010/08/gdagdelenpaper.pdf>, 11.07.2015.

in order to transform them into economically sustainable enterprises providing social protection to their workers. It is also essential to strengthen auditing to provide social protection to workers in manufacturing and construction sectors. This seems the only way to prevent the employment of unregistered migrants by enterprises whose survival is dependent on cheap labour.”

### **Do Migrants Have Autonomy?**

The attempt to deconstruct irregular migration as a concept in contemporary migration management discourses also necessitates an evaluation not only of the structural conditions, national or otherwise, but also to pose the questions of how migrants as agents take part in this process of constructing the discourse on irregularity. It would be inappropriate to classify migrants simply as ‘victims’ or ‘villains.’ Emphasizing the autonomy of migration may be considered an attempt to make the struggle of migrants visible and ultimately view migration as a new type of social movement.

The autonomy of migration/migrants was mentioned by Castles, et al., (2003: 278), more than a decade ago

“...international migrations may also possess a relative autonomy and be impervious to governmental policies. [...] Official policies often fail to achieve their objectives, and may even bring about the opposite of what is intended. People as well as governments shape international migration. Decisions made by individuals, families, and communities – often with imperfect information and constrained options – play a vital role in determining migration and settlement.”

In a recent report on irregular migration in Turkey (Toksöz; Erdoğan & Kaşka, 2012b: 151), the role of informal/formal networks in the recruitment of (irregular) labor migrants and the great potential of migrants to end up in exploitative relations is discussed. However, institutions, organizations and enterprises taking part in facilitating and arranging legal as well as irregular immigration, as Massey, Aran-

go, Hugo, Kouaouci, and Taylor, (1993: 451), state, are difficult to control:

“Governments have difficulty controlling migration flows once they have begun because the process of institutionalization is difficult to regulate. Given the profits to be made by meeting the demand for immigrant entry, police efforts only serve to create a black market in international movements, and stricter immigration policies are met with resistance from humanitarian groups.”

Mezzadra (2011) supports the autonomy of migration approach, stressing the agency of labor migrants as constitutive as well as a contradictory element of capital relations. Following this approach, the legal and policy framework which targets irregular migrants is decisive, but the movements and struggles of irregular migrants should also constitute part of any study on irregular migrants. The agency, autonomy or activism of migrants is under-studied in academic research on irregular labor migration in Turkey. Parla (2011) is skeptical about the potential for migrant activism in Turkey. She argues that there exists a high level of indifference, most importantly among trade unions and professional associations in Turkey. Parla, (2011: 76) argues:

“In probing the limits of migrant activism, one needs to attend to the near indifference of existing oppositional groups, such as trade unions and occupational groups like the doctors’ association, to the question of undocumented migrants. In fact, trade unions and occupational groups have occasionally partaken in nationalist protectionist rhetoric, perceiving migrant labor as a threat to the local labor force.”

In their study on trade union responses to irregular migration, Gökbayrak and Erdoğan (2010: 100) stress the lack of support by non-governmental organizations, as well as institutional and social networks. Irregular labor migrants remain an issue not overly discussed by trade unions and civil society organizations in Turkey. The main strategy of unions can be described as contextualizing the solution to irregular migrant labor together with the problem of unregistered employment

when the state is considered the main actor responsible for fighting unregistered employment, (Gökbayrak & Erdoğan, 2010: 111).

Gökbayrak and Erdoğan conclude that (2010: 111) "... no negative attitude has been developed against migrant workers. While getting organized is not suggested as a strategy, this amiable stance for migrant workers emerges as a result of various factors including the non-competing character of most irregular migrant work with the union jobs... Besides the absence of trade union strategy in relation to the issue of irregular migrant labour, neither is there a policy of becoming a pressure group to influence relevant legislative processes."

In addition to labor unions, we should also give attention to national as well as international NGOs, migrant associations and social initiatives. İçduygu and Aksel (2012) conclude their study on irregular migration in Turkey with a section stressing the importance of cooperation with NGOs and the state. They list a number of active organizations,<sup>29</sup> but most are engaged in asylum and refugee politics, as the problems of foreign irregular labor migrants are not of serious concern. Parla (2011: 82) importantly stresses the fact that existing associations and NGOs for migrants in Turkey generally "develop their rights discourse either on the basis of ethnic privilege or on the basis of potential refugee status that bars labor migrants from the outset." She mentions two exceptions: an initiative called Hudutsuz Dünya (World without Borders) and Migrant Solidarity Network (Göçmen Dayanışma Ağı).

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29 İçduygu and Aksel (2012: 58 - 59) list the following NGOs active in refugee politics: Sığınmacılar ve Göçmenler Danışma Derneği/Association for Solidarity with Asylum Seekers and Migrants (SGDD), İnsan Hakları ve Mazlumlar için Dayanışma Derneği /The Association for Human Rights and Solidarity for the Oppressed (Mazlum-Der), Caritas, İstanbul Inter-Parish Göçmen Programı (IPMP), Helsinki Yurttaşlar Derneği/Helsinki Citizens Assembly (HYD), Göçmen Dayanışma Ağı/Migrant Solidarity Network (GDA), Mültecilerle Dayanışma Derneği/Association for Solidarity with Refugees (Mülteci-Der), İnsan Kaynağını Geliştirme Vakfı/Human Resource Development Foundation (İKGV), İnsan Hakları Derneği/Human Rights Association (IHD), İnsani Yardım Vakfı/Foundation for Humanitarian Aid (IHH). For more detail, see İçduygu, Aksel (2012: 58-59).

Interestingly, Erdođdu and Kařka (2012b: 119) also mention the cooperation and the potential for alliances between migrant associations and other civil society organizations dealing with migrant affairs. Among their results, they also state that representatives of NGOs dealing with asylum seekers and refugees have stressed that irregular migrants have to work in informal work relations (Erdođdu & Kařka, 2012b: 120) to make a living. Thus, as mentioned earlier, asylum seekers and refugees are usually placed in the category of forced migration, although the causes for their migration are largely due to war conditions and/or political unrest. To survive they have to work to make a living.

The interplay of deregulated labor markets, the demand for flexible labor and migration policies and welfare policies is stressed by Lewis, et al. (2014). These authors come to the conclusion that for migrants "...a period of highly exploitative employment in the formal or informal economy may be the only viable option for meeting basic needs or may be seen as a required first step to establishing themselves within a host society" (Lewis, et al., 2014: 15).

Migration is a new type of social movement, which occupies and opens up a new social space and new fields of conflict. Manuela Bojadzijeve (2006) addresses the specificity of migrant social struggles and their ultimate importance for contemporary social movement analysis. "Maybe it is the lack of political steadiness and continuation, maybe it is the temporary aspect of migrants' organizing which helps us towards a different understanding of social struggles, of their history and their future history."

The autonomy of migration approach gains importance precisely because the migrants actually act as citizens without holding the status of citizenship. Still, we may keep in mind, as Parla (2011: 82) reminds us that "arguing that migrant workers should receive the same treatment as 'citizen' workers in the labor force has its ironies in the absence of adequate labor rights for citizens..."

## **Some Conclusions**

As I write these conclusions in light of the escalating human tragedy of thousands of persons drowning in the Mediterranean Sea, fleeing their war-torn home countries and trying to reach the 'safe havens of the West,' the immediate need is for humanitarian aid; however, there is also an urgent need to deconstruct the 'political-economic causes and mechanisms' of irregular migration.

Whether somebody is considered illegal, irregular or undocumented is to be understood as a socio-political construct. This asks for a historical contextualization. The 'construction of irregularity,' we may briefly conclude, is strongly linked to a discussion of citizenship and human rights and how societies are governed and disciplined. The irregular status of foreign labor may have very different causes, with some entering as a tourist or student and acquiring no work permit, while others might enter the country through a fake marriage, as an asylum seeker without a work permit or as the victim of human trafficking. There are a number of further ways to enter irregularity. What all of such people have in common is that they are legally not allowed to work.

The criminalization and securitization of irregular foreign labor are common strategies employed by governments and political agents. These strategies are then used to legitimize further restrictions of labor markets, visa regulations and border controls. A vicious circle of how 'irregular migration is managed' is formed.

The construction of irregularity, we may further argue, is strongly linked to discussions on citizenship and human rights and how societies are governed and disciplined. Focusing on these aspects may blind us to how the construction of irregularity also carries a functional goal to integrate cheap foreign labor into national economies. Most often, this labor becomes part of the so-called informal economy; typically for Turkey, such work occurs in the sectors of domestic services, agriculture, construction and tourism.

The terminology ‘management of migration’ therefore carries dangers: What is managed? By whom? And can abuses of cheap foreign labor be considered as a ‘lack’ of management?

While focusing on the ‘management of migration,’ there is also a tendency to forget the migrants themselves, and, if addressed at all, they are frequently seen as individual lawbreakers or as victims, but what about their agency? When studied, their agency is usually delimited to social networks and how these ease the initiation and perpetuation of migration processes. Another trap impeding our analysis is a tendency to consider foreign irregular labor as homogenous in terms of gender, race, national origin, religion, skills, education and other social characteristics.

However, there is also potential for social opposition, as the ‘sans papiers’ movement in France shows. Migrants may ‘behave as citizens without being citizens’ while asking for better living and working conditions.

Alliances with NGOs and labor unions or other social movements may be considered as ways to improve the lives of irregular workers, foreign or native.

I would like to conclude with a passage from Munck, et al. (2011: 258): “We do not need to romanticize migrants as a new revolutionary subject to understand that they can and do play a role in undermining the status quo... Migrants both express globalization through their movement but also promote it through their internationalization of social and cultural practices. Migrants and their social and political organizations have agency and impact on the dominant order.”

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