

# Management of irregular migration: Syrians in Turkey as paradigm shifters for forced migration studies

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## Abstract

In the context of the series of civil wars that have struck the Middle East since the 1980s, the politico-economic changes in the post-Soviet geography of Eastern Europe and the Russian states, and the continuous turmoil in those parts of Africa and Asia where access to Turkish soil has been possible, Turkey emerged as a regional hub for receiving continuous flows of forced migration. As suggested by ample evidence in recent work on migration flows into Turkey, many of these “irregular migrants,” “stateless peoples,” or “asylum seekers” eventually become continuously employed under very unstable circumstances, thus fitting into the definition of the “precariat” or precarious proletariat. This paper examines the context within which such pervasive precarity takes root, directly affecting vulnerable groups such as the Syrian forced migrants arriving in Turkey in successive waves. The marked qualities of the Syrian case in terms of social precarity, combined with the degrees of disenfranchisement and economically precarious conditions for survival, indicates an institutionalized paradigm shift in the Turkish state’s management of irregular migration.

*Keywords:* Precarity; statelessness; forced migration; illegal migration; irregular migration; refugee regime; labor law.

## Introduction

This article aims to posit the concept of social precarity in the midst of forced migration studies. It provides an overview of the legal changes and shifts in Turkey’s migration regulation regime at the nexus of its changing political economy and labor needs. The macroargument presented here concerns how migratory flows actually fit well into the overall neoliberalization of Turkey’s

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political economy with its need for cheap, semi-qualified, and flexible labor. Through adjuvant restructuring of the labor market, Turkey thus took concrete steps towards the legalization of flexible labor and precarity. Over the last three decades, Turkey has increasingly come to be known as a country of transit migration, a figurative bridge between the European Union and Asian countries such as Afghanistan, Bangladesh, Iraq, Iran, and Pakistan, as well as being a magnet for refugees, asylum seekers, stateless people, and “irregular migrants” from Eastern Europe, Russia and its former republics, Africa, and the whole of the Middle East.<sup>1</sup> There is no doubt that the EU accession process has created specific kinds of pressure on the Turkish state to converge with EU policy priorities in terms of “managing” these flows of transit and irregular migration. Meanwhile, the current adoption of a comprehensive law on migration-related issues did not include such critical items as the establishment of a civilian border agency or the lifting of the geographical limitation clause in Turkish asylum procedures.<sup>2</sup> Guided by regional political interests, domestic economic priorities, and state-centric concerns, Turkey’s compliance with EU priorities in regard to migration has many critical aspects to which experts on Turkey-EU relations often fail to pay attention even as they are busy praising EU-related alignments. This paper will discuss a subset of problem-laden issues pertaining to specific public law arrangements integral to the management of transit and irregular migration, including labor laws. The specific case through which these issues will be examined is that of Syrian migrants, asylum seekers, and refugees in Turkey.

In the context of the series of civil wars that have struck the Middle East since the 1980s, the politico-economic changes in the post-Soviet geography of Eastern Europe and the Russian states, and the continuous turmoil in those parts of Africa and Asia where access to Turkish soil has been possible, Turkey emerged as a regional hub for receiving continuous flows of forced migration.<sup>3</sup>

1 In Kemal Kirişçi’s words, “Turkey has long been a country of immigration and asylum. From 1923 to 1997, more than 1.6 million people immigrated to Turkey, mostly from Balkan countries. During the Cold War, thousands of asylum seekers fled to Turkey from Communist states in Eastern Europe and the Soviet Union [...] In the late 1980s, this pattern began to change as increasing numbers of asylum seekers began to arrive from Iran and Iraq, as well as other developing nations. Turkey also experienced a mass influx of almost half a million mostly Kurdish refugees from Iraq in 1988 and 1991, as well as mass influxes of Albanians, Bosnian Muslims, Pomaks (Bulgarian-speaking Muslims), and Turks in 1989, 1992–1995, and 1999.” Kemal Kirişçi, “Turkey: A Transformation from Emigration to Immigration,” *Migration Policy Institute Profile* (November 1, 2003), <http://www.migrationpolicy.org/article/turkey-transformation-emigration-immigration>, accessed May 7, 2015.

2 The full text of the law and all its sections are available online at [http://www.goc.gov.tr/icerik3/turk-vatandasligi-kanunu\\_333\\_334\\_629](http://www.goc.gov.tr/icerik3/turk-vatandasligi-kanunu_333_334_629), accessed May 7, 2015.

3 Ahmet İçduygu, “The Politics of International Migratory Regimes: Transit Migration Flows in Turkey,” *International Social Science Journal* 52, no. 165 (September 2000): 357–367; Ahmet İçduygu, *Irregular Migration in Turkey*, IOM International Organization for Migration, IOM Migration Research Series,

As suggested by ample evidence in recent work on migration flows into Turkey, many of these “irregular migrants,” “stateless peoples,” or “asylum seekers” eventually become continuously employed under very unstable circumstances, thus fitting into the definition of the “precariat” or precarious proletariat. This paper examines the context within which such pervasive precarity takes root, directly affecting vulnerable groups such as the Syrian forced migrants arriving in Turkey in successive waves. The marked qualities of the Syrian case in terms of social precarity, combined with the degrees of disenfranchisement and economically precarious conditions for survival, indicates an institutionalized paradigm shift in the Turkish state’s management of irregular migration. Based on this particular case, there are conclusions to be reached concerning the recalibration of human life and human worth under the aegis of a neoliberal third republic in Turkey.<sup>4</sup> The case examined here constitutes a prime example proving that our current understanding of precarity on a global scale is insufficient to describe the specific challenges facing non-citizens living, surviving, and working in the post-Fordist economies of the Global South. In this sense, the paper offers an alternative, enlarged reading of the concept of “labor precarity.”

Precarity as a concept emerged within the reconfiguration of political economies in neoliberal regimes forcing flexible and temporary labor contracts, in contrast to the “certainties” of the protected labor markets and adjuvant social arrangements of welfare states. This is a central concept for the analysis presented in the following pages. Accordingly, the contrast between Fordist welfare-state regimes and—at least in principle—protected labor on the one hand and the precarious, flexible, and fluid labor needs of the neoliberal state on the other hand will be emphasized at the very outset.<sup>5</sup> In the latter instance, the state actively legalizes or formalizes informal/precarious labor by intervening in the labor market via legislation that promotes low wages, limitations of labor rights, and the resultant formalization of unstable and unprotected work. Paradoxically, these precarious conditions are often associated with informal labor, where the established theories of political economy do not easily recognize the power of regulation by the state. Therefore, this new framework challenges the established division between formal, regulated labor and

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No. 12 (February 2003); Ahmet İçduygu, “The Irregular Migration Corridor between the EU and Turkey: Is it Possible to Block it with a Readmission Agreement?” *EU-US Immigration Systems*, European University Institute, 2011/14.

4 For a detailed explanation of the term “third republic,” see Andrew Mango, “The Third Turkish Republic,” *The World Today* 39, no. 1 (January 1983): 30–38.

5 For an exemplary debate on the subject, see Maurizio Lazzarato, “Neoliberalism in Action: Inequality, Insecurity and the Reconstitution of the Social,” *Theory, Culture & Society* 26, no. 6 (November 2009): 109–133.

informal, unregulated labor, at the same time that it contradicts the neoliberal/anti-state intervention discourses.

Precarious labor corresponds with the uncertainty, instability, and insecurity of work in which employees bear all the risks of work and receive limited or no social benefits, as well as often lacking statutory entitlements. This is seen in both the formal and informal sectors of growth economies in the Global South.<sup>6</sup> The main organizational strategy that has fed the system of precarious labor is the outsourcing of labor to migrants and displaced peoples who are not citizens or the use of a temporary workforce rather than contracted workers to reduce internal costs. In return, politico-legal arrangements vital to forced migrants' sense of security and well-being, and, at the very minimum, their ability to survive, are severely curtailed under conditions of sociopolitical precarity combined with labor precarity. Thus, for migration hubs that, like Turkey, are situated between the Global North and the Global South, we need to employ a more nuanced notion of precarity conducive to understanding the overall dynamics of irregular migration, and, in particular, the position of stateless peoples, urban refugees, and *sans-papiers* peoples. Most work done in the field of irregular migration thus far has concentrated on the restrictive legislation and reinforced control mechanisms introduced by the Turkish state.<sup>7</sup> In this paper, we venture to the other end of the spectrum and examine how, in effect, the neoliberal Turkish economy imagined by the rising new classes of the Turkish political elite effectively attempts to channel and manage these flows so as to feed into their own versatile economic needs.

### Here today, not gone tomorrow: redefining precarity as a legal precinct

Once a French neologism denoting creative industries, over the last two decades precarity has become the common definition for new forms of labor-capital relations across the globe, describing in equal measure the fate of

6 The term "growth economies in the Global South" connotes countries in Africa, Asia, and Latin America who fare medium to well according to Human Development Index criteria. Whether Turkey is in the Global South or not is open to debate insofar as the Organization for Security and Co-operation in Europe includes Turkey in their traditional description of the "North," otherwise referred to as the first and second worlds. However, from the point of view of critical political economy, Turkey has long been classified as a state within the third world trajectory. For classical examples of this debate, see Jean-Philippe Thérien, "Beyond the North-South Divide: The Two Tales of World Poverty," *Third World Quarterly* 20, no. 4 (August 1999): 723–742 and Rafael X. Reuveny and William R. Thompson, "Introduction: The North-South Divide and International Studies: A Symposium," *International Studies Review* 9, no. 4 (Winter 2007): 556–564.

7 For a thorough study of the regulation of irregular migration in Turkey prior to the Syrian influx, see the IOM special report on Turkey prepared by Ahmet İçduygu at [http://publications.iom.int/system/files/pdf/mrs\\_12\\_2003.pdf](http://publications.iom.int/system/files/pdf/mrs_12_2003.pdf), accessed January 30, 2016.

low-wage, part-time workers in seasonal, marginal, circular, or temporary jobs, many of whom are without legal papers or work permits, and are thus categorically vulnerable and open to abuses of every kind in the big book of capitalist accumulation regimes.<sup>8</sup> At its most basic, the term stands for the economic uncertainty and existential angst associated with the dissolution of fixed employment.<sup>9</sup> However, in a more nuanced take, it suggests much more than economic vulnerability, strongly hinting at the disintegration of stable societal bonds, occupational identities, social protections, and the sense of entitlement and belonging characteristic of the old proletariat, who were at least citizens of some sort.<sup>10</sup> Indeed, precarity is an important dimension of neoliberal, post-Fordist economies and has been a standard feature of the many successive crises of capitalist societies dating back to the 1970s. No amount of privatization, financialization, or austerity measures has been able to make up for the value of precarious labor.<sup>11</sup> Classical Marxist theory suggested that, as capitalist production developed and changed, machines would replace people and the rate of profitability, which is given by the human labor theory of value, would drop, causing sluggish investment and slow growth. There have been many later reiterations of Karl Marx's theory of economic crisis, and these have been used to explain the traps caused by the transition from Fordism to post-Fordism<sup>12</sup> or the transition from profit extraction to rent-becoming-profit.<sup>13</sup> The same frame of reference is also used in Giovanni Arrighi's and David Harvey's theories of accumulation by dispossession.<sup>14</sup> However, these debates

8 Guy Standing, *The Precariat: The New Dangerous Class* (London: Bloomsbury Academic, 2011).

9 Nick Carroll, "Non-standard Employment: A Note on Levels, Trends, and Some Implications," *Labour Market Bulletin* (1999): 101–121; Deborah Tucker, "Precarious" Non-standard Employment: A Review of the Literature, Labour Market Policy Group, Department of Labour, 1999; Leah F. Vosko, *Managing the Margins: Gender, Citizenship, and the International Regulation of Precarious Employment* (Oxford: Oxford University Press, 2009).

10 John MacInnes, "Spain: Continuity and Change in Precarious Employment," in *Gender and the Contours of Precarious Employment*, eds. Leah F. Vosko, Martha MacDonald, and Iain Campbell (New York: Routledge, 2009): 159.

11 Andrew Kliman, *Reclaiming Marx's Capital: A Refutation of the Myth of Inconsistency* (Lanham, MD: Lexington Books, 2007); *The Failure of Capitalist Production: Underlying Causes of the Great Recession* (London: Pluto Press, 2012).

12 Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2009).

13 Andrea Fumagalli and Sandro Mezzadra, eds., *Crisis in the Global Economy: Financial Markets, Social Struggles, and New Political Scenarios*, vol. 1 (Cambridge, MA: The MIT Press, 2010); Christian Marazzi, *The Violence of Financial Capitalism* (Cambridge, MA: The MIT Press, 2011).

14 Giovanni Arrighi, "Spatial and Other 'Fixes' of Historical Capitalism," in *Global Social Change: Historical and Comparative Perspectives*, ed. Christopher Chase-Dunn and Salvatore J. Babones (Baltimore: The Johns Hopkins University Press, 2006): 201–219; David Harvey, "Neo-Liberalism as Creative Destruction," *Geografiska Annaler: Series B, Human Geography* 88, no. 2: 145–158; Jim Glassman, "Primitive Accumulation, Accumulation by Dispossession, Accumulation by 'Extra-economic' Means," *Progress in Human Geography* 30, no. 5 (2006): 608–625.

have rarely been concerned with addressing the issue of forced labor and irregular migration within a globally fragmented accumulation process—yet it is precisely at the intersection of forced labor and irregular migration within a globally fragmented accumulation process that a neo-Fordist regime of cheap mass-produced goods is being reconstituted.<sup>15</sup> At this crossroads, forced labor and irregular migration are no longer contingent to the national system of economic growth, but are rather becoming a legitimate and strategic element of national growth. Fragmentation in terms of global capitalist production refers to the geographical slicing up of supply chains in search of low-cost suppliers offshore, which raises questions about where to locate the responsibility for human rights and labor rights abuses. The issue becomes all the more cumbersome if the citizenship of the workers is in question as well.

Many of these debates indicate that, when we shift our focus from capital to labor, we see that the crisis of capitalist productivity is, at least in part, a crisis of work or a crisis of a society built around work as the only legitimate point of access for income, status, and citizenship rights. While socially necessary labor is reduced to a minimum through automation, outsourcing, and financialization, human participation in paid work continues to remain our main measure and source of wealth and the only means through which the markets will keep ticking. Work does not disappear, and neither does our dependency on paid work diminish. However, work does become increasingly fragmented, devalued, unstable, and insecure, ceasing to provide either a cohesive socio-political identity or a collective language of experience.<sup>16</sup> In a nutshell, if this is true, a potential employer would much rather deal with precarious laborers than a solidly formed proletariat demanding rights and making organized claims. Should this new labor force also lack the guarantees and rights attached to citizenship, in effect making them temporary residents, they cannot ask for any form of collective rights and remain at the mercy of government-regulated temporary work schemes and permit renewals.<sup>17</sup> This is a well-known critical debate in the Global North concerning the labor rights of workers in service sectors such as the domestic labor and care-giving industries. However, we have lagged somewhat behind in terms of seeing the parallels between the embodiments of this process in the Global North's post-industrial economies and the Global South's growth economies.

In sum, irregular migration has become something to cherish in semi-peripheral growth economies. This is in contrast with core capitalist economies, where labor

15 Exceptions to this oversight emerge from the new global slavery and human trafficking literature. These, however, are not directly relevant to the Syrian crisis discussed in this paper.

16 Brett Neilson and Ned Rossiter, "Precarity as a Political Concept, or, Fordism as Exception," *Theory, Culture & Society* 25, no. 7–8 (2008): 51–72.

17 Bridget Anderson, "Migration, Immigration Controls and the Fashioning of Precarious Workers," *Work, Employment and Society* 24, no. 2 (2010): 300–317.

market restructuration does not rely so heavily upon an influx of unregulated foreign labor and where the cost of accommodating non-descript labor would be far more than the benefits it would accrue. In the Turkish context—perhaps similar to other regionally central economies of the Global South such as India or Brazil, and contrary to the EU-related rhetoric of how Turkey is suffering under the burden of those arriving at her borders—there is plenty of good use for this sort of cheap, unregulated, flexible labor, which is also docile, tame, afraid, and ready to please, all for the baseline price of survival. It is true that the concept of precarity emerged as the central organizing platform for the series of social struggles that have spread across Europe over the last two decades. However, the emphasis there is on the erosion of the middle classes. In order for us to understand precarity as a sociopolitical concept with significant repercussions for migration studies and in particular in relation to forced migration flows, it is necessary to go beyond such economic approaches that see social conditions as determined by this particular mode of human existence. Social precarity is not a simple add-on to straightforward economic precarity.

Precarity expresses a sense of desperation that the regulatory administrative state has broken its ideological promise for ameliorating the miseries capitalism generates. Historically speaking, the state gradually offloads as much as it can of the responsibility for maintaining a minimum standard of well-being for its citizens, and shifts as much as it can of the economic risk onto workers, while offering little in the way of benefits, pensions, and security. Individuals are expected to bear the burdens imposed by recessions and fend for themselves as much as possible. The pressure of having to constantly compete with co-workers is just another of the burdens that constitute social precarity. According to this larger definition, precarity applies to the lived experience of ambient insecurity and delivers a sense of political urgency related to widespread and multifaceted insecurity. Such a conceptual move of redefining precarity as not just an economic condition but also as a sociopolitical subject position requires us to see Fordist production paradigms as the exception and precarity as the norm. The most efficient version of precarity is directly linked with denizenship or various forms of reduced citizenship. Such a change in focus and perspective would enable us to frame the precarity of labor from a much broader historical and geographical perspective, shedding light on its relation to the concept of “irregular migration,” a concept which has itself been subjected to many forms of contestation.

Immigration controls and overall management schemes for immigration are often presented by governments as a means of ensuring “native jobs for native workers” and protecting migrant workers from exploitation. However, in practice, they create multi-tiered structures of employment with different degrees of access to rights. As well as regulating the regional flow of labor, immigration controls function as a mold, helping to form types of labor with particular relations to



employers and the labor market. Turkey is no exception to this case, and the treatment of Syrians and others coming through its borders—with their numbers amounting to millions in the making—tells a story not of temporary protection-based humanitarianism, but something quite different. The construction of institutionalized uncertainties, together with less formalized and almost fluid forms of migration management, helps produce “precarious workers” over whom employers and other labor users, including private firms subcontracting from the state, have developed particularly effective and lucrative mechanisms of control. Characterized by uncertainty and insecurity, precarity is a social good with strong purchase only amongst the most vulnerable, the disposed and the dispossessed.<sup>18</sup>

In this context, it is high time that we pay attention to the new employment strategy developed and put into effect by the Turkish state over the last decade, a strategy that has the flexible redefinition of working conditions and employment as one of its key tenets. It includes several measures that are standard telltale signs of the formalization of precarity in the labor market: a decrease in the number of days for which severance is paid or transferring severance to a private fund; the legalization of subcontracting in core work and freeing the principle employer from responsibility by way of changes in administrative law oversight regarding workplace regulations; the extension of the time period for flexible working hours from within a two-month period to within a one-year period; the legalization of temp agencies, particularly so as to fulfill labor needs in seasonal employment; and a decrease in the overtime pay premium. The latest chapter of this regime of migration management is the introduction of work permits for Syrians.<sup>19</sup> Accordingly, registered Syrian refugees who have been in Turkey for at least six months will now be allowed to apply for work permits in the province where they were first registered. Syrians with permits would have to be paid at least the minimum wage. Yet how many of the 2.5 million Syrians would be employed above the minimum wage, and in which sectors of the economy, remains to be seen.

### **Çekoslovakyalılaştıramadıklarımızdan mısınız?<sup>20</sup>: the dark side of the Europeanization of Turkish migration regulation regime**

In this section, I will discuss in detail how the Europeanization of migration law in Turkey has failed to address the problem of migrant precarity.

18 Louise Waite, “A Place and Space for a Critical Geography of Precarity?” *Geography Compass* 3, no. 1 (2009): 412–433.

19 For the detailed content of these permits, see <http://www.unhcr.org/569ca19c6.html>, accessed February 18, 2016.

20 This is a politically loaded children’s tongue twister going back to the days of the existence of Czechoslovakia as a united state, literally meaning, “Are you one that we could not render a member



This particular predicament allows us to place Turkey in comparative perspective in terms of the regulation of migration within a regional and global context. Geographically located at the very intersection of several major migration routes across the Near and Middle East, Eastern Europe, and the Mediterranean, Turkey receives a more steady and larger flow of “irregular migrants” *per annum* as compared to its neighbors in the east and west.<sup>21</sup> In addition, since the 1980s a series of critical events engulfing the Middle East—the Iranian Revolution, the Iran-Iraq War, the Gulf War, the Western invasion of Iraq and later Afghanistan, and last but not least the events emanating from the Arab Spring—have turned Turkey into a *de facto* country of first asylum.<sup>22</sup> The recent influx of Syrian asylum seekers and migrants to Turkey is thus part of a long-term flow of vulnerable populations to or through the country.<sup>23</sup>

It is true that Turkey’s EU accession process, which began in 1999, rendered the role of the EU quite central in terms of setting a formal agenda and procedural guidelines regarding migration-related issues. Migration scholars have long pointed out that the Turkish state has been quite keen to align her asylum and migration policies and border control systems with the priorities set by the European Union, particularly in the area of irregular migration.<sup>24</sup> However, the convergence with EU practice and policy priorities shows great variation as

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of the Republic of Czechoslovakia?” I think it is quite apt as a metaphor depicting the EU alignment processes for candidate states, the irony being about how difficult it is to make so many different parts into one unit.

- 21 Ibrahim Kaya, “Legal Aspects of Irregular Migration in Turkey,” Migration Policy Centre; CARIM-South; CARIM Analytic and Synthetic Notes 73 (2008), accessed January 30, 2016, <http://cadmus.eui.eu/handle/1814/10118>; Kemal Kirişçi, “The Question of Asylum and Illegal Migration in European Union-Turkish Relations,” *Turkish Studies* 4, no. 1 (2003): 79–106; Ahmet İçduygu, “EU-ization Matters: Changes in Immigration and Asylum Practises in Turkey,” in *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*, ed. Thomas Faist and Andreas Ette (London: Palgrave Macmillan, 2007): 201–222; Janja Vukašinovic, “Illegal Migration in Turkey-EU Relations: An Issue of Political Bargaining or Political Cooperation?” *Journal on European Perspectives of the Western Balkans* 32, no. 5 (2011): 147–166; Ahmet İçduygu, “The Politics of Demography and International Migration: Implications for the EU–Turkey Relationship,” *Journal of Balkan and Near Eastern Studies* 12, no. 1 (March 2010): 59–71.
- 22 Ahmet İçduygu, “Circular Migration in Turkey: An Overview of Past and Present: Some Demographic Implications,” *Consortium for Applied Research on International Migration (CARIM) Analytical & Synthetic Notes* 10 (2008); Secil Pacacı Elitok, and Thomas Straubhaar, “Turkey: Change from an Emigration to an Immigration and Now to a Transit Migration Country.” *Hamburg Institute of International Economics (HWWI)* 3, no. 16 (2010).
- 23 Alexander Bürgin, “European Commission’s Agency Meets Ankara’s Agenda: Why Turkey is Ready for a Readmission Agreement,” *Journal of European Public Policy* 19, no. 6 (2012): 88–92.
- 24 Kirişçi, “The Question of Asylum”; İçduygu, “EU-ization Matters”; Ayhan Kaya, *Islam, Migration and Integration: The Age of Securitization* (London: Palgrave Macmillan, 2009), 39–61; Türkan Ertuna Lagrand, *Immigration Law and Policy: The EU Acquis and Its Impact on the Turkish Legal Order* (Nijmegen: Wolf Legal Publishers, 2010).

applied to irregular and transit migration and to the rights of migrants and asylum seekers arriving from different regions to Turkish soil.

In the migration literature, 2003 is often identified as a milestone in “coping with” irregular migration, since most of the key legislation pertaining to migrants was adopted in that year or immediately afterwards. An equally critical date is 2014, and the changes introduced in that year will be discussed here in detail in connection to the integration of a new labor management regime with migration controls. The latter date corresponds to the new law on migration coming into full effect.<sup>25</sup> In this context, it is apt to suggest that, although Turkish authorities did recently agree on a common text with the European Commission in regard to a readmission agreement obliging Turkey to take back large numbers of irregular immigrants who had “spilled over” into Europe, and although they did introduce a comprehensive law on migration, they nevertheless delayed establishing a civilian border agency for border management, and remain markedly reluctant to lift the geographical limitation clause in Turkish asylum procedures.<sup>26</sup> The changes introduced by the new law span a wide variety of issues, including the requirements for residing and working in Turkey, the protection of victims of human trafficking, procedures and categories of residence status, grounds for deportation, and the processing of asylum applications. Most significant for “irregular migrants” is the fact that new categories of resident permit eligibilities have been created. These new categories of permit include short-term and long-term residencies as well as family-, student-, and humanitarian-based residencies and residencies for victims of human trafficking. According to the new law, a foreigner must seek a residence permit in an appropriate category if he or she intends to remain in Turkey for more than 90 days. This is an expansion of the previous 30-day rule. Short-term residence permits will be valid for up to one year, while the new long-term permit appears to have some similarities to a United States green card or Canadian permanent residence status. These latter types of permit require that the person has already resided legally and continuously in Turkey for at least eight years, shown that he or she has not required public assistance for the last three years, provided evidence of financial self-support

25 On April 11, 2013, Law No. 6458 (Law on Foreigners and International Protection) was published in the official gazette of Turkey, going into effect in 2014. For the full text of the law, see [http://www.goc.gov.tr/files/files/eng\\_minikanun\\_5\\_son.pdf](http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf), accessed May 7, 2015.

26 Turkey is among the original signatories of the 1951 Convention relating to the Status of Refugees. Yet the country ratified the 1951 convention and its 1967 protocol with a limitation related to their geographical application, which makes it one of the last remaining countries—along with Monaco, the Democratic Republic of the Congo, and Madagascar—to maintain this limitation. Kemal Kirişçi, “Is Turkey Lifting the Geographical Limitation: The November 1994 Regulation on Asylum in Turkey,” *International Journal of Refugee Law* 8, no. 3 (1996): 293–318.

(including health insurance), and not been a threat to public order or security. In that sense, they make a promise that may be quite difficult to keep in the case of large numbers of irregular migrants, but nonetheless they do offer a future resolution to precarious existences, at least on paper.

Procedurally, the new law indicates that those applying for new residence permits must do so at a Turkish consular post in the applicant's home country. Again, this clause brings no relief for those running from war, misery, and destruction, often with no papers or proof of identity. It is thus quite easy to see that the Turkish authorities would like to engage in a kind of dissuasion in order to curtail the regular build-up of stateless peoples or people in need of humanitarian accommodation in border areas. There is no doubt that this is *pro forma* state behavior and if European countries are providing a blueprint for anything related to migration, they surely constitute excellent examples for "keeping people in need out."<sup>27</sup> Meanwhile, for those who already have a current, valid residence permit, extensions must be filed with the new directorate officials at the local governor's office. The new law also stipulates that if a person is granted a work permit, he or she no longer must obtain a separate residence permit. This will be a relief to international assignees, who have dealt with tremendous delays in residence permit issuance due to massive backlogs of applications at the local police departments in many municipal locations. This is one of the key points of intersection between the new labor regime assiduously endorsed by the conservative, neoliberal governments of the Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP) and the management of immigration into the country. The qualifier to the "openness" of this law is that it also creates harsher procedures and penalties for deportation and a ban on the re-entry of foreigners who are out of status or not abiding by the terms of their stay. This ban may last up to five

27 There is a vast literature on how Europe suffers from various forms of deeply rooted and institutionalized borderland anxieties and to what lengths European societies would go just to keep "unwanted peoples" out, either literally or figuratively. Of the more recent vintage with a bite, see Liza Schuster, "Common Sense or Racism? The Treatment of Asylum-seekers in Europe," *Patterns of Prejudice* 37, no. 3 (2003): 233–256; Jon Stratton, "Borderline Anxieties: What Whitening the Irish Has to Do with Keeping out Asylum Seekers," in *Whitening Race: Essays in Social and Cultural Criticism*, ed. Aileen Moreton-Robinson (Canberra: Aboriginal Studies Press, 2004): 222–238; Eric Neumayer, "Bogus Refugees? The Determinants of Asylum Migration to Western Europe," *International Studies Quarterly* 49, no. 3 (September 2005): 389–410; Helen Hintjens, "'Like Leaves in the Wind': Desperately Seeking Asylum in the UK," *Race & Class* 48, no. 1 (July 2006): 79–85; Jennifer Hyndman and Alison Mountz, "Another Brick in the Wall? Neo-Refoulement and the Externalization of Asylum by Australia and Europe," *Government and Opposition* 43, no. 2 (Spring 2008): 249–269; Anthony Burke, "Borderphobias: The Politics of Insecurity Post-9/11," *Borderlands* 1, no. 1 (2002), [http://www.borderlands.net.au/vol1no1\\_2002/burke\\_phobias.html](http://www.borderlands.net.au/vol1no1_2002/burke_phobias.html), accessed January 20, 2016; and Teresa Piacentini, "Missing from the Picture? Migrant and Refugee Community Organizations' Responses to Poverty and Destitution in Glasgow," *Community Development Journal* 50, no. 3 (2014): 433–447.

years in some circumstances, such as overstaying, and up to ten years if the person is deemed a “security threat.” Again, all this is in line with the long trajectory of migration management in the EU and other places with a steady influx of foreigners, and as such there are no big surprises in examining the Turkish regime of migration management and regulation. What does, however, seem to be quite unique in the Turkish case is the readiness of the Turkish authorities to turn irregular migrants into precarious workers and the careful management of their slotting into chosen sectors of the Turkish economy where there is a great demand for cheap and semi-qualified circular and flexible labor, such as construction, care industries, seasonal agriculture, and tourism infrastructure work.<sup>28</sup>

### “Birds of a feather flock together”: patterns of irregular migration in Turkey

Existing studies on irregular migration in Turkey have commonly categorized irregular migrants under three groups: transit migration (illegal entries),

28 On the changing labor needs of the neoliberal, semi-peripheral Turkish economy, see the canonical works by Çağlar Keyder, *Türkiye’de Devlet ve Sınıflar* (İstanbul: İletişim Yayınları, 1989); Korkut Boratav, “Inter-Class and Intra-Class Relations of Distribution under ‘Structural Adjustment’: Turkey during the 1980s,” in *The Political Economy of Turkey: Debt, Adjustment and Sustainability*, ed. Tosun Arıcanlı and Dani Rodrik (New York: Palgrave Macmillan, 1990): 199–229; Demetrios G. Papademetriou and Philip L. Martin, eds. *The Unsettled Relationship: Labor Migration and Economic Development* (Westport, CT: Greenwood Publishing Group, 1991); Fikret Şenses, “Labour Market Response to Structural Adjustment and Institutional Pressures: The Turkish Case,” *METU Studies in Development* 21, no. 3 (1994): 405–448; and also, covering the spectrum of interpretations from right to left, Joel Beinin, “The Working Class and Peasantry in the Middle East: From Economic Nationalism to Neoliberalism,” *Middle East Report* 210 (Spring 1999): 18–22; Aysit Tansel, “Effects of Privatization on Labor in Turkey,” *METU Economic Research Center Working Paper* No. 2002-5 (March 2002); Ayşe Buğra, “Labour, Capital, and Religion: Harmony and Conflict among the Constituency of Political Islam in Turkey,” *Middle Eastern Studies* 38, no. 2 (2002): 187–204; Ziya Öniş and Barry Rubin, eds., *The Turkish Economy in Crisis* (London: Frank Cass, 2003); Şule Özler and Erol Taymaz, “Does Foreign Ownership Matter for Survival and Growth? Dynamics of Competition and Foreign Direct Investment,” Economic Research Center, ERC Working Paper in Economics, No. 04/06 (Middle East Technical University, March 2004); Pierre-Richard Agénor, Mustapha K. Nabli, and Tarik M. Yousef, “Public Infrastructure and Private Investment in the Middle East and North Africa,” World Bank Policy Research Working Paper 3661 (July 2005); Robert E.B. Lucas, *International Migration and Economic Development: Lessons from Low-Income Countries* (Cheltenham: Edward Elgar Publishing, 2005); Hülya Demirdirek, “New Modes of Capitalist Domination: Transnational Space Between Turkey and Moldova,” *The Anthropology of East Europe Review* 25, no. 1 (2007): 15–20; Dani Rodrik, “The Turkish Economy after the Crisis,” Turkish Economic Association Discussion Paper 2009/9 (December 2009), <http://www.tek.org.tr/dosyalar/RODRİK-TEK.paper.pdf>, accessed March 7, 2016; Cynthia Benzing, Hung Manh Chu, and Orhan Kara, “Entrepreneurs in Turkey: A Factor Analysis of Motivations, Success Factors, and Problems,” *Journal of Small Business Management* 47, no. 1 (January 2009): 58–91; Adrian Smith, Alison Stenning, and Katie Willis, eds., *Social Justice and Neoliberalism: Global Perspectives* (London: Springer, 2009); Umüt Bozkurt, “Neoliberalism with a Human Face: Making Sense of the Justice and Development Party’s Neoliberal Populism in Turkey,” *Science & Society* 77, no. 3 (2013): 372–396.

circular migration (overstays), and asylum seeker and refugee movements.<sup>29</sup> Until the Syrians came, the largest group of irregular migrants in Turkey were always stated to be those transit migrants who often enter Turkey “illegally”—meaning without border checks or papers—and attempt to leave with the help of human smugglers. They are also the ones with the highest rate of casualties in the Mediterranean, the mountainous regions of eastern Turkey, and other difficult terrains along Turkey’s borderlands.

With the arrival of the Syrians, however, we see a shift in the legal and political discourse concerning the treatment of illegality and its accommodation. In the Turkish legal context, an “illegal migrant” is anyone who enters Turkey or is present in Turkey while breaching immigration law pertaining to passport, visa, residence, and work permit legislation. Although the number of “illegal transit migrants” arrested by state and border authorities fluctuates from year to year, there has been a considerable decrease in recent years. In the first half of the 2000s, the highest numbers of “illegal migrants” came from Iraq (114,000), Pakistan (51,000), Afghanistan (38,000), Iran (25,000), and Bangladesh (20,000). After 2007, the numbers of “illegal migrants” coming from Palestine (35,000), Burma (25,000), and Somalia (25,000) have considerably increased.<sup>30</sup> In parallel, many of the entries from the Middle East no longer fit the format of “illegal migration.” They are organized and managed by the Turkish state authorities.

Then there are the “circular migrants,” who include suitcase traders, “illegal” labor migrants (especially on construction sites and in the tourist sector), and trafficked persons who work as household help and sex workers. Suitcase trade to Turkey started in the late 1980s, after the collapse of the Soviet Union, but over the last few years the main actors organizing it have been coming more and more from North Africa rather than the former Soviet republics. Meanwhile, irregular circular labor migrants hail from Romania, Bulgaria, Russia, Moldova, Ukraine, Azerbaijan, Armenia, Georgia, Turkmenistan, and Uzbekistan.<sup>31</sup>

29 İçduygu, “Circular Migration in Turkey”; Kemal Kirişçi, “Managing Irregular Migration in Turkey: A Political-Bureaucratic Perspective,” *Consortium for Applied Research on International Migration (CARIM) Analytical & Synthetic Notes* 61 (2008); Kaya, “Legal Aspects of Irregular Migration in Turkey”; Hamit Akbaş, “Türkiye’de İltica ve Sığınma Amaçlı İnsan Hareketlerinin Yasadışı Göç Boyutu,” *Kriminoloji* 3, no. 1 (2011): 2–21.

30 For the numbers, see United Nations High Commissioner for Refugees, *UNHCR Statistical Yearbook 2011: Trends in Displacement, Protection and Solutions* (UNHCR, 2012); Ahmet İçduygu and Deniz Yüksek, “Rethinking Transit Migration in Turkey: Reality and Re-presentation in the Creation of a Migratory Phenomenon,” *Population, Space and Place* 18, no. 4 (July/August 2012): 441–456.

31 Ahmet İçduygu, “Transit Migration in Turkey: Trends, Patterns and Issues,” *European University Institute Research Report* 4 (2005); Brenda Chalfin, “Global Customs Regimes and the Traffic in Sovereignty: Enlarging the Anthropology of the State,” *Current Anthropology* 47, no. 2 (April 2006): 243–276; Kaya, “Legal Aspects”; Mine Eder, “Retreating State? Political Economy of Welfare Regime Change in Turkey,” *Middle East Law and Governance* 2, no. 2 (2010): 152–184; Özlem Öz and Mine Eder,

Adding to this mixture the asylum seeker and refugee movements running from war, genocide, mass violence, terrorism, political irregularities, and massive economic instabilities, we come up with a picture of Turkey as a regular immigrant receiving country. What, then, is irregular about these regular flows?

At least as far as the Syrians are concerned, it might be argued that they have been “irregular” due to the general assumption being that they are asylum seekers or refugees. However, in legal terms at least, that is a presupposition that is impossible to uphold. Due to the geographical limitation clause, Turkey does not grant refugee status to asylum seekers coming from outside Europe.<sup>32</sup> According to the Turkish legal rendition of the 1951 Convention relating to the Status of Refugees, categorically Syrians cannot be declared as refugees (*mülteci*) in Turkey. This is despite the fact that the Office of the United Nations High Commissioner for Refugees (UNHCR) is entitled to identify them as refugees and settle them in select third countries. Instead, if staying in Turkey, they have been termed asylum seekers (*sığınmacı*) or conditional refugees (*şartlı mülteci*). As such, they have initially been given temporary protection and stay.<sup>33</sup> Should they wish to be considered a refugee as such and settle in a third country, both the task of determining their legal status according to international refugee law and of finding resettlement places falls squarely on UNHCR. An overview of Syrian migration to Turkey since the start of the revolt in Syria in March 2011 reveals that the number of displaced Syrians crossing the border into Turkey has dramatically risen with the escalating use of violence employed by the Syrian regime, and is currently estimated to be close to 3 million people. However, no foreseeable sign indicates their communal return, and it is therefore quite telling that the Turkish government enacted its new immigration law in this changed context of a “Syrians everywhere” discourse.

Returning to the EU focus of academic and policy research on Turkey, the management of what is branded as irregular migration has been one of the top

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“Rendering Istanbul’s Periodic Bazaars Invisible: Reflections on Urban Transformation and Contested Space,” *International Journal of Urban and Regional Research* 36, no. 2 (March 2012): 297–314.

32 The geographical limitation clause is an anomaly that is nonetheless legally justifiable in the context of a state’s rights when becoming a signatory to an international convention. Turkey holds a geographic limitation concerning its ratification of the 1951 Convention relating to the Status of Refugees, as a result of which only those fleeing from “events occurring in Europe” can be given legal refugee status and related protections. But irrespective of any geographical limitation clause, Turkey must still abide by the principle of non-*refoulement*, meaning that no asylum seeker may be returned to a country in which he/she may face persecution or grave danger to their livelihood. For a detailed summary of the implications of the clause, see the Human Rights Watch report on Turkey (2000) at <https://www.hrw.org/reports/2000/turkey2/Turk009-10.htm>, accessed January 30, 2016.

33 Şenay Özden, “Syrian Refugees in Turkey,” Migration Policy Centre Research Report 05 (2013); Ahmet İçduygu, “Syrian Refugees in Turkey: The Long Road Ahead,” Migration Policy Institute (April 2015).



priorities set in Turkey's accession partnership documents.<sup>34</sup> After Turkey obtained an accession perspective in December 1999, successive governments have made substantial efforts to reconstruct asylum and migration policies and border control systems in line with the EU's priorities on irregular migration.<sup>35</sup> These measures fall under chapter 24 (Justice, Security, and Freedom) of the EU *acquis* and include regularizing illegal immigrants, establishing a penal framework for the supporters of irregular migration, tackling illegal employment, cooperating with third countries on issues such as joint patrols and surveillance, strengthening external borders, and concluding international agreements on readmission and human trafficking.<sup>36</sup> What is of specific interest for our purposes here is Turkey's trajectory of alignment with EU policies in regard to the "prevention of illegal migration and work." For instance, after a brief initial period of compliance and commitment with EU criteria on this issue, Turkey began abolishing visas with countries on the EU's blacklist, such as Syria, Jordan, Lebanon, Russia, and Serbia. The process of visa opening now includes Qatar, Malaysia, Bahrain, and Kyrgyzstan. These developments suggest something quite different than an anxiety to please the EU in order to better benefit from membership in its outer sanctum.<sup>37</sup> Indeed, it is quite plausible to argue that Turkey is emulating what the European integration project has achieved in Europe, except that this time it is a project of greater economic integration and interdependence with the country's neighbors as it comes to occupy the center stage.<sup>38</sup> In other words, acceptance of the displaced has become a kind of Maginot Line, with Turkey acting as a sponge to absorb those economic migrants, asylum seekers, and so on that Europe has no desire to absorb. Turkey is gradually creating its own regional network of alliances on the shoulders of the displaced.

34 Özlem Terzi, *The Influence of the European Union on Turkish Foreign Policy* (Burlington, VT: Ashgate, 2010); Meltem Müftüler-Baç, "Turkish Foreign Policy, its Domestic Determinants and the Role of the European Union," *South European Society and Politics* 16, no. 2 (2011): 279–291.

35 Murat Sever, Oğuzhan Ömer Demir, and Yavuz Kahya, *Assessing the Identification Processes of Trafficked Persons in Turkey* (Ankara: Turkish National Police Academy's International Center for Terrorism and Transnational Crime [UTSAM], October 2012).

36 Kemal Kirişçi, "Turkey's Demonstrative Effect and the Transformation of the Middle East," *Insight Turkey* 13, no. 2 (2011): 33–55; Juliette Tolay, "Turkey's 'Critical Europeanization': Evidence from Turkey's Immigration Policies," in *Turkey, Migration and the EU: Potentials, Challenges and Opportunities*, ed. Seçil Paçacı Elitok and Thomas Straubhaar (Hamburg: Hamburg University Press, 2012): 39–62.

37 Ziya Öniş, "The New Wave of Foreign Policy Activism in Turkey: Drifting away from Europeanization?" DIIS Report 2009:05 (Copenhagen: Danish Institute for International Studies, January 2009); Terzi, *The Influence of the European Union on Turkish Foreign Policy*.

38 Johanna Nykänen, "Turkey's Middle East Policy," in *Hard Choices: The EU's Options in a Changing Middle East*, ed. Timo Behr, FIIA Report 28 (Helsinki: The Finnish Institute of International Affairs, 2011): 13–14; Tanja A. Börzel and Digidem Soyaltin, "Europeanization in Turkey: Stretching a Concept to its Limits?" KFG Working Paper Series, no. 36 (Berlin: Freie Universität Berlin, February 2012).



Indeed, by November 2015, the EU reached a new deal with Turkey such that the country would receive €3 billion and political concessions in return for clamping down on its borders and keeping refugees in. A promise was also made that talks on Turkey's accession to the EU would also be revived, provided that Turkey keep its promise. Under the deal, by October 2016 Turkish citizens may be able to travel without visas in Europe's Schengen zone, which allows free movement between many European countries.

This appears to be a panic reaction by the EU as it comes to realize that more than 720,000 asylum seekers and immigrants arrived on Greek shores in 2015 alone, with the majority using Turkey as the in-between point between Europe and the Middle East. It remains to be seen whether this new deal will help curtail the overflow into Europe of the Middle East's dispossessed. But there is growing skepticism on the ground, given the fact that, at least so far, Turkey is offering little more than work and residence permits for precarious lives afloat.<sup>39</sup> Although there is new legislation that addresses all issues pertaining to Syrians and others arriving in Turkey as "irregular migrants," it would be quite a stretch of the imagination to think that measures such as the temporary protection regulations will provide anything akin to what was purported by the 1951 refugee convention or subsequent protocols.<sup>40</sup>

### Reforming the Turkish labor code; or, legalizing precarity just in time...

A brief look at reform attempts in the Turkish labor market by changes to the labor code (Law No. 4857) reveals a wealth of information regarding the needs, demands, and objectives of the stakeholders of the labor law. When the results of the most recent reforms are considered, it becomes obvious that the most important goal of the policy changes introduced in tandem with the new labor law is the creation of a "more flexible labor market" in the name of increasing Turkey's competitive edge for domestic and foreign private investment.<sup>41</sup> As such, the new law has had undeniable negative effects on worker citizens, while simultaneously opening up spaces for foreign precarious, temporary, and flexible employment.

39 "Europe Has a Deal with Turkey, But Migrants Will Keep Coming," *The Economist*, November 30, 2015, <http://www.economist.com/news/europe/21679333-refugees-misery-still-drives-them-leave-europe-has-deal-turkey-migrants-will-keep>, accessed January 30, 2016.

40 For the full text of the legislation, see [http://www.goc.gov.tr/files/\\_dokuman28.pdf](http://www.goc.gov.tr/files/_dokuman28.pdf), accessed January 30, 2016.

41 Ibrahim Öker, "Reform in Labor Code in Turkey: Changing the Nature of Labor Market?", Centre for Policy and Research on Turkey (Research Turkey) 3, no. 9, London, *ResearchTurkey*: 16–43, accessed May 7, 2015. <http://researchturkey.org/?p=6831>.

Statutory regulations concerning employment and labor are an important tool of public policy and they help the state to implement institutional interventions in shaping and reshaping the labor market, whether as supporters or, at times, the initiators of such reforms. Law No. 3008 was the first labor code in Turkey, issued in 1936, and it remained in effect through several amendments until 1971, when a new labor law, Law No. 1475, was enacted. This second labor code was the labor code of the import substitution period and contained several articles regarding the Turkish labor market, above and beyond the limited domain of state-subsidized sectors; it never really offered job security, investment in human capital, wage growth over the life cycle, firm-related benefits, protection for older workers, or other such perks and protections that could be seen in European labor markets after World War II. In this sense, the neoliberal transformations experienced after the 1980s had more to do with attempts at the complete erasure of collective bargaining, an increasing emphasis on flexible rather than fixed money wages, and, whenever possible, the removal of institutionalized benefits structures. The standard parlance for these changes is the “correction of labor market rigidities.”<sup>42</sup> Here, it is of the utmost importance to emphasize the fact that, in addition to the successive conservative governments, there have been strong actors, both internal and external, who have been keen that job security, relatively high wages, a generous definition of employment and unemployment, and endorsement of an active interventionist role by the state in labor processes do not become priorities.<sup>43</sup> This is despite the fact that there were welfare state implementations and a broadening of the economic and social rights of Turkish workers embedded in the labor law. Indeed, from the late 1980s onwards, as Turkey became more integrated into global capital markets, the rights guaranteed by labor law increasingly came to be seen as cost burdens. Items such as severance pay, insurance premiums, business benefits, paid leave, and the minimum wage were increasingly identified as the relics of a protectionist state that prevented the Turkish labor market from adapting to changing conditions in the world. Accordingly, what was desperately needed was flexible forms of employment, fluid working hours, and incremental and, where applicable, benefits-free payments. The most recent labor code (Law No. 4857), accepted in May 2003 and put in force in June of the same year, aimed to make these changes possible. The bill involved many sections concerning flexible work adjustments. In particular, it introduced the terminology of the “sub-employer,” thereby

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42 World Bank, *Turkey Labor Market Study*, Report No. 33254-TR (World Bank: Poverty Reduction and Economic Management Unit, Europe and Central Asia Region, April 14, 2006).

43 Aziz Çelik, “Yeni İş Yasasının Anlamı,” *Türkiye Barolar Birliği Dergisi* 48 (September/October 2003), accessed January 30, 2016. [http://www.kristalis.org.tr/aa\\_dokuman/yeni\\_is\\_yasasinin\\_anlami.pdf](http://www.kristalis.org.tr/aa_dokuman/yeni_is_yasasinin_anlami.pdf).

allowing for subcontracting and reducing liability for worker protections, as well as temporary employment relationships undertaken via private agencies hiring and leasing workers to companies. Similarly, fixed-term employment contracts provide employers the opportunity to employ unlimited workers for an undefined period of time based on “essential reason,” thus leading to a refusal of responsibility for job security provisions. Work on call, overtime work regulations, flexible work hours, and compensatory work regulations are further embellishments of employers’ rights to keep the labor force as flexible as possible.

The assumed stakeholders of the new labor law are employers (via employer organizations), the Turkish government, and workers (not through labor unions but as individual citizens). What is not seen in this context, but what does lie rather starkly in the background, is the growing population of temporary workers made up of irregular migrants and asylum seekers. The law enacted in 2003 did not satisfy the new capitalist classes in Turkey, and as such it has been widely modified through the series of amendments mentioned above. In parallel to this, insurance premiums were reduced, private employment agencies were established, and contract-based employment in the public sector became the new norm. Removing severance pay and establishing regional and zoned minimum wages are still on the agenda of the economic restructuring of the labor force in Turkey. What is little noted, though it should be, is the close alignment between the immigration law and labor law regarding the sanctioning of a new class of workers, the precariat, who are for the most part non-citizens.

In Turkey, 2.3 million of 4.8 million workers are employed in workplaces of less than 30 workers. As a result, since the labor law now has a provision such that the law is only valid for workplaces of over 30 workers, 48 percent of workers are directly removed from the scope and protection of law. Similarly, of the 723,000 registered workplaces in Turkey, 698,000 are again beyond the scope of the law. In other words, the law will be valid for only 3.5 percent of the workplaces in Turkey. Those types of employment contracts and working time arrangements that secure a flexible labor market—namely, temporary employment contracts, call-on work contracts, part-time employment contracts, and fixed term/open-ended contracts—make redundant the provisions of the standard labor law concerning “normal” working time, “overtime work,” and “multiple shift bans.”<sup>44</sup> In the meantime, the articles regarding sub-employment (article 1), temporary employment relationships (article 7), fixed

44 Toker Dereli, “Flexicurity and Turkey’s New Labor Act: Problems and Prospects,” *Işık University Faculty of Economics and Administrative Sciences Working Paper Series*, no. 2013-03 (2013), accessed January 30, 2016. <http://ilera2012.wharton.upenn.edu/RefereedPapers/DereliToker ILERA.pdf>.

term employment (article 11), call-on work (article 41), overtime work (article 41), flexible work hours (article 63), and compensatory work (article 64) lay the foundations of flexible working environment within an institutionally endorsed framework.<sup>45</sup> If we add to this picture the fact that, in Turkey, labor standards and practices inspection is applicable only to enterprises of 50 or more employees, the majority of workers are entirely excluded from the labor inspection regime guided by ILO standards.<sup>46</sup> Similarly, child labor is excluded from investigation in agricultural and forestry enterprises employing fewer than 50 employees.

Perhaps the critical question that must be asked in this respect is whether these reforms actually changed the nature of the labor market in Turkey, or whether they simply responded to what had been already happening on the ground. My answer is that, in line with the changes introduced by the new immigration law, a great transformation in the Turkish labor market is planned whereby flexible labor will become the norm and precarious work will be the standard. Should the Turkish working classes have an issue with these new arrangements, there are millions flowing into the country on a regular basis who would neither question nor protest these provisions, merrily getting on with their work on their renewable work permits. Be they Syrians running from war and destruction, Moldavians sending remittances back home, or Africans constituting new trade colonies in the Middle East and beyond, the end result is the same: Turkey is destined to become a regional economy built on the shoulders of irregular migrants, should the backs of the domestic working classes fail.

## Conclusion

In the final analysis, the leitmotif of this paper has been that changes in the labor law have failed to protect workers and have kept them more flexible, docile, and precarious. In this paper, Turkey has been introduced as a crucial case study to demonstrate how precarity and new labor laws complement each other within the context of the labor needs of a global, neoliberal economy as it is embodied in major regional hubs of migration and, in particular, forced migration and displacement. The article has examined recent migration to Turkey in the context of the neoliberalization of the labor market and posited the argument that the recent mass influx of dispossessed Syrians has

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45 A. Can Tuncay, "Brief History and Flexibilisation Efforts of Turkish Labour Law," *Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi* 15 (2013): 341–367.

46 Julio Faundez, "A View on International Labour Standards, Labour Law and MSEs," *Employment Sector Employment Working Paper 18* (2008), accessed January 30, 2016. [http://www.ilo.org/wcmsp5/groups/public/@ed\\_emp/documents/publication/wcms\\_110485.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_emp/documents/publication/wcms_110485.pdf).

constituted a key turning point in the establishment of a model of precarious work for non-citizen workers. At this point, one may suggest that empirical evidence to support this postulate is somewhat weak, and we need raw data regarding where and how Syrians are employed. However, given the official ban on academic and fieldwork on Syrians in Turkey unless endorsed by the relevant state departments, scholarship may yet have to rely on ethnographic and documentary data for ascertaining the day-to-day living conditions and labor regime to which Syrians are subjected.<sup>47</sup> In this regard, although the emergence of the neoliberal model of management for forced migration is well documented through an analysis of immigration law and labor law, there remains a lack of empirical evidence concerning what these changes have meant, and continue to mean, specifically for the recent inflow of Syrians. While the neoliberal employment model of precarity, particularly as it affected vulnerable non-national workers, began to be charted before the effects of the Syrian Civil War were directly felt in Turkey, the dispossessed of Syria constituted the tipping point for the fine-tuning of this particular model, with its vast potential for application.

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47 In May 2015, Turkey's Ministry of the Interior informed academics that they need prior approval before conducting research on Syrian refugees and asylum seekers living in the country. In a directive dated April 10 and classified as "secret," the Higher Education Council (*Yükseköğretim Kurulu*, YÖK) told academic staff across Turkish universities that, per the ministry's decision, they would need permission from "relevant ministries" before conducting any type of survey or fieldwork among Turkey's more than two million Syrian refugees. The official reason given for the decision was to protect the refugees' privacy. For a detailed account, see Barın Kayaoğlu, "Turkey Restricts Academic Research on Syrian Refugees," *Al-Monitor*, May 27, 2015, <http://www.al-monitor.com/pulse/originals/2015/05/turkey-syria-government-restricts-academic-research.html#ixzz3yn3ds0eW>, accessed January 30, 2016.

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