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At The Intersection of Global & National:  
The Plight of Iranian Asylum Seekers in Turkey

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by

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## **ABSTRACT**

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The evolution of the Global Refugee Regime (GRR) has been marked by a contradictory development that embodies the conflicts engendered by the rising tides of globalization. Economic concerns, geopolitical interests and identity politics have prompted many nation states to implement laws that are antithetical to the spirit of international refugee law. This development has had an adverse impact on the plight of refugees and asylum seekers. The Republic of Turkey is the ideal example of this phenomenon. This paper endeavors to explain what happens to Iranian asylum seekers and refugees at the intersection of GRR and Turkish national asylum policies. The paper employs personal testimonies of Iranian asylum seekers in order to underscore the negative impact of Turkish recalcitrance to embrace the GRR's norms and humanitarian values. The paper concludes with policy prescriptions that call on Turkey to abrogate the geographic limitation of the 1951 Convention relating to refugees and address the problems endemic to Iranians seeking international protection in the country.

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## LIST OF ABBREVIATIONS & DEFINITIONS

1. **UNHCR** – The United Nations High Commissioner for Refugees.
2. **RSD** – Refugee Status Determination is, according to the UNHCR’s definition, the process whereby the authorities of the host country or UNHCR establish that an individual who seeks international protection is actually a refugee – that is, he or she meets the eligibility criteria under international or regional refugee instruments, national legislation or UNHCR’s mandate
3. **Refugee** – according to the 1951 Convention relating to the Status of Refugees, a refugee is someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.
4. **Asylum Seeker** – according to the 1951 Convention relating to the Status of Refugees, an asylum seeker is someone who says he or she is a refugee, but whose claim has not yet been definitively evaluated.
5. **Irregular Migrants** – according to the UNHCR refugees and migrants, even if they often travel in the same way, are fundamentally different, and for that reason are treated very differently under modern international law. Migrants, especially economic migrants, choose to move in order to improve the future prospects of themselves and their families. Refugees have to move if they are to save their lives or preserve their freedom.
6. **The Global North** – refers to the 57 countries with a high human development that have a Human Development Index above .8 as reported in the United Nations Development

Program Report. Most, but not all, of these countries are located in the Northern Hemisphere.

7. **The Global South** – refers to the countries of the rest of the world, most of which are located in the Southern Hemisphere. It includes both countries with medium human development and low human development.
8. **OAU** – Organization of African Unity; established in 1963 with the purpose of promoting unity and cooperation among the nations on the African continent.
9. **GRR** – Global Refugee Regime (see Chapter 4 for definition).

# CHAPTER 1

## INTRODUCTION

This thesis examines the plight of Iranian refugees and asylum seekers in the Republic of Turkey in the context of important incongruence between the existing body of international refugee law and Turkish national laws. I argue that the recalcitrance of the Turkish government to embrace the norms of the Global Refugee Regime (GRR) has led to adverse consequences for Iranian refugees and asylum seekers living in the country. In order to reverse this development, Turkey must prioritize its international humanitarian commitments, eliminate the geographic limitation to the 1951 Convention on refugees, and pursue its national interests in accordance with the country's obligations to the GRR's values and mission.

### Refugees – a Global Problem

“Refugees are among the most vulnerable people in the world”.<sup>1</sup> Gravity of the problems relating to refugees and asylum seekers continue to stir alarm among international humanitarian agencies, including refugees' chief advocate – the UNHCR. Worldwide, refugee counts are at their highest since the Rwandan genocide.<sup>2</sup> Today, the estimated number of refugees stands between staggering 12 or 20 million people.<sup>3</sup> The accurate number is virtually impossible to determine. Statistically, 80 percent of all refugees are children and women.<sup>4</sup>

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<sup>1</sup> Guterres, A., UNHCR report on the 1951 Convention Relating to the Status of Refugees and Its Protocol, 2011. <http://www.unhcr.org/4ec262df9.html>.

<sup>2</sup> Mac McClelland, How to Build a Perfect Refugee Camp. *The New York Times*, Feb. 13, 2014. [http://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html?smid=fb-share&\\_r=0](http://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html?smid=fb-share&_r=0).

<sup>3</sup> International Rescue Committee. Nov. 12, 2013. <http://www.rescue.org/refugees>.

<sup>4</sup> Ibid.

Moreover, “of the 10.5 million refugees of concern to the UNHCR around the world, only about 1 per cent are submitted by the agency for resettlement.”<sup>5</sup> The overwhelming majority of refugees and asylum seekers will never reach their desired destination and will spend years languishing in temporary, substandard housing without access to civil or political rights. Subsequently, many refugees and asylum seekers will abandon legal means of redressing their condition and will seek for illicit alternatives to enter countries where the tantalizing prospect of security and economic opportunity will remain a perpetual beacon of hope to the despondent, abused and forgotten.

The complexity of refugee problems is further exacerbated by its global scope and delicate geopolitical nature. Indeed, the issue of refugees and asylum seekers is, beyond any doubt, a global phenomenon interlaced with moral predicaments and fraught with contradictions. These contradictions generally emerge as a consequence of a collision between the norms of international law and countries’ overriding national interests. Namely, the international community has recognized the moral imperative of humanitarian assistance to refugees and asylum seekers. Nevertheless, economic considerations and politics of national identity discourage countries from fulfilling their commitments. Hence, the rights of refugees for safety and dignity are considered universal, but become criminalized when they appear to violate sovereignty of national borders and impose financial burdens. This dichotomy surrounding the rights of refugees and asylum seekers became particularly evident in the wake of the 2008 Global Financial Crisis that ushered in the policies of economic austerity and aggravated already existing tensions over migration in many countries of the EU. In fact, many

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<sup>5</sup> UNHCR, *The UN Refugee Agency*, March 2, 2014, <http://www.unhcr.org/pages/4a16b1676.html>.



countries of the Global North sought to tighten their refugee and immigration policies in spite of the fact the more than “80% of the world’s refugee population” is being hosted by developing countries.<sup>6</sup> The gap between facts and perceptions continues to inform national migration policies.

Further, the degree of interconnectedness of the modern international system has become a self-evident fact. “In today’s transnational world where borders are losing their definition and populations mobilize on a global scale, the refugee issue is an increasingly pressing one.”<sup>7</sup> In our time, a country cannot remain immune from social or political upheavals of its neighbors. Therefore, a cataclysmic event caused by a military conflict, political uprising, natural disaster and/or humanitarian crisis cannot be contained within the walls of a country’s sovereignty. Such a conflict will inevitably engender forced human movement that necessitates concerted international response and global consolidation of aid and resources. For instance, decades of enduring instability in Afghanistan and unfolding tragedy of the civil war in Syria clearly illustrate this assertion: on April 3, 2014 the UN released a report claiming that it registered one million of Syrian refugees in Lebanon and renewing the organization’s call for more help from international donors.<sup>8</sup>

The global credentials and complicated political landscape are the two features that define the plight of Iranian refugees and asylum seekers. Every year, thousands of Iranian

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<sup>6</sup> UNHCR - Facts and Figures About Refugees, *The UN Refugee Agency*, March 2, 2014, <http://www.unhcr.org/pages/4a16b1676.html>.

<sup>7</sup> Laura Barnett, “Global Governance and the Evolution of the International Refugee Regime,” *UNHCR Working Paper Series on New Issues in Refugee Research*, (2002): 240.

<sup>8</sup> “Million Syrian Refugees registered in Lebanon – UN”, *BBC*, April 3, 2014. <http://www.bbc.com/news/world-middle-east-26864485>.

asylum seekers undertake perilous journeys that intersect continents, challenge national and international laws, and cut across sovereign borders of states. Some Iranians are fleeing repression and threats of reprisals from the country's rigid and restrictive Islamic system of governance and social conventions. Others, however, feel unable to fulfill their aspiration and full potential and decide to look for better economic and social fortunes abroad. Irrespective of the reasons that motivate Iranians to seek protection and a new life abroad, the movement of Iranian asylum seekers has acquired unquestionable global proportions. The study issued by the International Monetary Fund in 1999 determined that astonishing 150,000 Iranians leave their country every year and settle in various parts of the world.<sup>9</sup> Indeed, "Iranians have turned up in countries as far away as Australia, Canada and Sweden".<sup>10</sup> For example, the two passengers who used the stolen Italian and Austrian passports to board the infamous flight MH370 in route from Malaysia to China, which purportedly disappeared in the Indian Ocean, were Iranian nationals: Pouria Mehrdad and Delavar Mohammadreza.<sup>11</sup> The two young men were seeking a better life in Europe and intended to register as asylum seekers upon their arrival in Germany. Tragically, the dreams and hopes of these individuals were shattered in the disaster along with the hearts of their families. While the circumstances of Pouria and Delavar's tragic deaths are unique, their story is fairly common for thousands of Iranian migrants, asylum seekers and refugees who leave their native country. Another Iranian asylum

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<sup>9</sup> Detragiache, E and Carrington, W. "How Extensive Is the Brain Drain?" *The International Monetary Fund*, February 20, 2014, <http://www.imf.org/external/pubs/ft/fandd/1999/06/carringt.htm>.

<sup>10</sup> Stecklow and Fassihi "Thousands Flee Iran as Noose Tightens." *The Wall Street Journal*, December 11, 2009, [http://online.wsj.com/news/articles/SB126049484505086861?mod=rss\\_Today%27s\\_Most\\_Popular&mg=reno64wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB126049484505086861.html%3Fmod%3Drss\\_Today%2527s\\_Most\\_Popular](http://online.wsj.com/news/articles/SB126049484505086861?mod=rss_Today%27s_Most_Popular&mg=reno64wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB126049484505086861.html%3Fmod%3Drss_Today%2527s_Most_Popular).

<sup>11</sup> "Missing Malaysia Plane: The Passengers on board MH370," *BBC*, March 25, 2014. <http://www.bbc.com/news/world-asia-26503469>.

seeker, Reza Barati, had spent months and travelled thousands of miles with the help of risky services of human smugglers in order to reach the shores of Australia where he intended to seek asylum. He was stopped by the Australian coast guard before he could reach his destination and was placed into an indefinite custody of the Australian authorities at a refugee detention center on Manus Island. Tragically, after what was a long, dangerous and exhausting journey, Reza died during a riot at the detention center in February, 2014.<sup>12</sup> The protest, which transformed into a riot, was organized by hundreds of frustrated by the unnerving uncertainty and difficult living conditions asylum seekers who demanded to expedite the review of their cases and appeals for asylum. In some instances, the asylum seekers detained by the Australian Immigration authorities must wait on average of five years for their cases to be evaluated and decided upon. According to the Australian Department of Immigration and Citizenship, 4,382 Iranian citizens attempted to enter Australia illegally and requested asylum upon their detention in 2012-13 years.<sup>13</sup> Unfortunately, there is no data available today that can help estimate the number of Iranian nationals who leave their country on the annual basis. However, according to the statistics provided by the UNHCR, in 2012 alone some 75,889 Iranian asylum seekers have registered with the UNHCR.<sup>14</sup> This number does not include those asylum seekers who choose not to register with the UNHCR and attempted to enter foreign countries illegally.

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<sup>12</sup> "Asylum Seekers claim Reza Barati was thrown off a balcony at the Manus Island," *The Sydney Morning Herald*, March 21, 2014, <http://www.smh.com.au/federal-politics/political-news/asylum-seekers-claim-reza-barati-was-thrown-off-a-balcony-at-the-manus-island-detention-centre-20140321-358a6.html>.

<sup>13</sup> Asylum statistics. Quarterly tables – June Quarter 2013. *Australian Government - Department of Immigration & Border Protection*, March 20, 2014, [http://www.immi.gov.au/media/publications/statistics/asylum/\\_files/asylum-statistics-aus-jun-qtr-2013.pdf](http://www.immi.gov.au/media/publications/statistics/asylum/_files/asylum-statistics-aus-jun-qtr-2013.pdf).

<sup>14</sup> UNHCR Population Statistics – Refugees Originating from the Islamic Republic of Iran. *The UNHCR Publications*, 2012, [http://popstats.unhcr.org/PSQ\\_TMS.aspx?SYR=2000&EYR=2012&OGN=IRN&POPT=RF&DOGN=N&DPOPT=N](http://popstats.unhcr.org/PSQ_TMS.aspx?SYR=2000&EYR=2012&OGN=IRN&POPT=RF&DOGN=N&DPOPT=N).

Therefore, it is safe to assume that the actual number of people leaving Iran and traveling throughout the world is much higher. In short, these numbers signify the global scale of the flow of Iranian refugees and asylum seekers. However, the purpose of this paper is to investigate the plight of Iranian refugees and asylum seekers who enter into the Republic of Turkey in search of protection and safety.



Figure 1. Iranian Refugees in the Global North. (Source: The UNHCR)

## **Iranian Refugees and Asylum Seekers in Turkey**

But why study the plight of Iranian asylum seekers and refugees who live and await review of their claims for asylum in Turkey? What makes Turkey different from any other country in the world? Why this topic is important for the advocates of human rights and global civil society in general? These are valid questions that shall underpin the theoretical framework of this paper. Historically, Turkey has been regarded as the gateway to Europe. The country's geographic location and its proximity to the borders of the European Union made Turkey into one of the biggest transit hubs for global human migration. According to the data provided by the UN Committee against Torture, a staggering "762,149 illegal [or often referred to as

irregular migrants], had been detained in Turkey between 1995 and 2008”. The more recent data has not been made available yet. However, giving the intensity of political upheavals in the region and recent global economic downturn, we can confidently assume that the number of irregular migrants traveling to Turkey in hopes of reaching Europe has increased. Moreover, Turkey’s unique legal profile in the domain of international refugee and asylum laws makes the country a compelling study case that demands academic attention and in-depth analysis.

Indeed, Turkey is a fascinating case study where the coalescence of international refugee laws and Turkey’s own national policies and objectives created an idiosyncratic system of organizing and processing asylum seekers’ claims for the status of a refugee and asylum. This, in many regards, unique encounter between the norms of the Global Refugee Regime and Turkey’s national refugee laws shaped a peculiar and complicated legal terrain in which Iranian asylum seekers must interact with and fulfill the stringent demands of the Turkish government and, at the same time, rely on a vast network of non-governmental organizations, particularly the UNHCR, to obtain the status of a refugee and consideration for eventual resettlement into another country.<sup>15</sup> Turkey’s controversial decision to retain the principle of geographic limitation to the 1951 Convention Relating to the Status of Refugees constitutes the “most prominent characteristic of the country’s migration and asylum profile”.<sup>16</sup> The implications of this decision are tremendous. “Turkey is one of the world's only countries that bans refugees from taking up permanent residence within its own borders” making resettlement into another country, via assistance and referral of the UNHCR, the only available option for Iranian asylum

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<sup>15</sup> Cavidan Soykan, The Migration-Asylum Nexus in Turkey. *Enquire*, Issue 5, (2010): 1-23.

<sup>16</sup> Ibid.

seekers.<sup>17</sup> Further, the limitation permits the Turkish government to not grant the status of a refugee to asylum seekers of non-European origin. In fact, according to a report published by the Amnesty International in 2009, “no single person has been known to have been giving the status of a refugee by the Turkish national authorities since 1994”!<sup>18</sup> Obviously, this policy imperils already vulnerable to abuse and deportation Iranian asylum seekers many of whom find themselves in a difficult financial situation and overwhelmed by uncertainty of their presence in Turkey.

In addition, the burgeoning trade and growing economic integration of Turkish and Iranian economies prompted the two states to encourage movement of not only goods and services, but also people across the countries’ respective border. The existing travel agreement between Iran and Turkey allow the countries’ citizens to cross the border without having a visa in their passports. Since “Turkey is one of the few countries that doesn't require Iranians to obtain a visa in advance,” the country became one of the most popular destinations for Iranian asylum seekers escaping from Iran.<sup>19</sup> In short, Turkey is a country where forces of global humanitarian norms clash with the country’s national laws, strategic interests and economic ambitions that envision eventual integration into the European Union (EU). This clash engendered an ambiguous legal terrain in the realm of refugee assistance in which the symbiotic relationship between international law and non-governmental sector plays a crucial role. Indeed, Turkish’s peculiar status in the web of the Global Refugee Regime leaves

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<sup>17</sup> Stecklow and Fassihi, “Thousands Flee Iran as Noose Tightens.” *The Wall Street Journal*, December 11, 2009.

<sup>18</sup> “Stranded Refugees in Turkey Denied Protection” *Amnesty International Publications*, 2009, <http://www.amnesty.org/en/library/asset/EUR44/001/2009/en/0f217291-cae8-4093-bda9-485588e245d8/eur440012009en.pdf>

<sup>19</sup> Stecklow and Fassihi “Thousands Flee Iran as Noose Tightens.” *The Wall Street Journal*, December 11, 2009

thousands of refugees and asylum seekers in a difficult and vulnerable quandary. This is particularly true for Iranian asylum seekers who enter Turkey in hopes of finding protection.

An investigation of Iranian asylum seekers' plight in Turkey is especially important in the context of Iran's political system premised on the revolutionary principles of Shia Islam and the country's theocratic political institutions. Religion permeates all spheres of life in Iran. Shia Islam dictates conformity to the standards of Iran's social conventions and public conduct. Some people in the country, especially the younger generation of Iranians, question the ubiquitous presence of the religion in their society and find it hard or nearly impossible to deviate from the traditional norms of individual identity without facing censure and other forms of punishment and discipline. However, repression engenders resistance. Iran's rigid political system and supremacy of the religious dogma inspired formation of many civil groups and organizations that consistently challenge the authorities and demanded the government's respect for fundamental human rights.<sup>20</sup> Nevertheless, in spite of the frequent flares of social protest, the country's conservative establishment continues to dominate the discourse in the national politics and holds sway over Iran's judicial, legislative and executive branches of government. Unable to find legal recourse and faced with serious threats of imprisonment Iranian social activists, lawyers, journalists, religious converts, members of the LGBTQ community, artists and other dissidents choose to leave Iran and seek protection abroad. For many Iranian asylum seekers, Turkey becomes the starting point of their cumbersome journey. The statistics clearly confirms this trend. According to Turkish migration officials, "most of the

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<sup>20</sup> Negin Nabavi, *Iran: From Theocracy to the Green Movement*, (New York: Palgrave Macmillan, 2012).

asylum seekers who apply for refugee status determination procedure [in Turkey] come from Iraq, Iran and Afghanistan”.<sup>21</sup>

Syria is, of course, another important source of Turkey’s growing population of refugees. However, officially, Syrians are not considered to be refugees by the Turkish government, instead they are given a vague status of the country’s “guests”.<sup>22</sup> In other words, Iranian asylum seekers constitute an important and sizeable demographic category among Turkey’s 14,758 registered asylum seekers.<sup>23</sup>

Lastly, it is hoped that this study of Iranian asylum seekers in Turkey will shed more light on the complexities and dynamics of Iran’s political institutions, social norms and vibrant civil society that strive to shape the country’s national identity. Further, this paper will illustrate that refugee problems, above all else, are global, historical and political problems. Therefore, the exodus of Iranians from their native country is primarily motivated by political grievances that find their reflection in the lack of economic opportunities and absence of social mobility, lack of toleration for untraditional forms of individual expression and, among others, uncompromising and superseding role of the religion in the society. The role that leaves little to no room for disagreement and/or questioning of the country’s concocted norms and values.

According to the United Nations High Commissioner for Refugees (UNHCR), currently Iranians account for four percent of all asylum seekers in the world.<sup>24</sup> The number of

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<sup>21</sup> Soykan, Cavidan. The Migration-Asylum Nexus in Turkey. *Enquire*, Issue 5, June 2010.

<sup>22</sup> Mac McClelland, “How to Build a Perfect Refugee Camp.” *The New York Times*, February 13, 2014. [http://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html?\\_r=0](http://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html?_r=0).

<sup>23</sup> UNCHR – Country Overview, *The UN Refugee Agency in Turkey*, March 2014, <http://www.unhcr.org/pages/49e48e0fa7f.html>

<sup>24</sup> The UNHCR Asylum Trends: Levels and Trends in Industrialized Countries, *The UN Publications 2013*, March 14 2014, p. 17. <http://www.unhcr.org/5329b15a9.html>



Iranians fleeing from their country into Turkey has increased significantly in the wake of the popular political movement in Iran that came to be known as the Green Revolution. Albeit unsuccessful, the revolution marked an important moment in the Iran's tumultuous and ongoing political transition. However, failure of the Green Revolution to challenge the political status quo in the country prompted the Iranian authorities to unleash a relentless campaign of political reprisals, intimidation, censorship, and incarceration of people who participated or supported the anti-government protests. Consequently, a large number of Iranian political dissidents escaped from the prospect of an imminent arrest by absconding into Turkey which shares a long border with Iran. Although in an ostensible safety of a foreign state, many Iranian asylum seekers were confronted with confounding complexities of the Turkish refugee laws.

Indeed, Turkish national policies relating to refugees and asylum seekers are one of the most idiosyncratic in the world. The country maintains a complicated parallel system for processing of asylum seekers' claims in which the UNHCR plays a dominant role. Being a refugee is already an emotionally hard and traumatic experience. However, being a refugee in Turkey without any external support is even more difficult. The nebulous web the country's policies and rules impose additional set of hardships and financial burdens on people who already suffer from separation from their families and countless other deprivations. Thus, haunted by the specter of possible reprisals from their home country and unable to protect their rights, some Iranian refugees and asylum seekers spend years living in isolation and temporary housing while their claims for asylum are being reviewed by the Turkish government and the UNHCR. Less fortunate asylum seekers face the distressing prospect of deportation back to Iran where the government retribution is virtually inevitable. Although, the flames of the

political protests in Iran have receded since 2009, the echo of the Green Revolution continues to push Iranians from their native country and into the uncertainty of a refugee life.

In the chapters ahead, I will endeavor to answer the following question that underlines the chief premise of my thesis: why so many people escaping from Iran into Turkey endure many adversities when claiming the status of a refugee in the country? First, I will briefly describe the gravity and global magnitude of refugee problems. Then, I will outline the global scope of the flow of refugees and asylum seekers from Iran and, subsequently, I will shift the focus of my academic inquiry into the laws and policies that govern the lives of Iranian refugees and asylum seekers in Turkey.

Chapter Two will discuss successes and shortcomings of the methodology used for collecting and analyzing information relevant to the chief arguments of this paper. Chapter Three will introduce a concise review of the currently available academic literature on the topic of the international refugee law and its implementation in Turkey. Further, in Chapter Four of this paper, I will introduce a concise, yet very important history of the rich body of laws, treaties, conventions, as well as regional and global agreements that over time established what many scholars of international law term as the Global Refugee Regime. In Chapter Five, I will explore and analyze the reasons that compel Iranians to abandon their country and seek asylum abroad. This chapter will examine the fateful events of the 2009 Green Revolution in Iran and its consequences for political and social activists who challenged the deeply entrenched political institutions in the country. In addition, the chapter will consider other important categories of Iranian asylum seekers. In Chapter Six, I will describe and explain significance of the predicaments and hardships encountered by Iranian asylum seekers upon their arrival in Turkey. As I stated earlier, the country's parallel system of registration and the status

determination procedure, requires an asylum seeker to submit their case with the Turkish authorities and the UNHCR. As a result, the wait for determination of the refugee status becomes more protracted. In addition, even though refugees have a legal right to work in Turkey, the process of obtaining the required work permit is extremely burdensome.<sup>25</sup> Unable to work, many Iranian asylum seekers struggle to afford the cost of the mandated by the Turkish government residential permit fees, as well as other expenses associated with living in the country. Lastly, the country's proximity to Iran makes Iranian asylum seekers an easy target for continuous harassment and threats from the Iranian security services. Further, this chapter will highlight the administrative and logistical limits of the UNHCR's ability to provide help and assistance to Iranian asylum seekers within an acceptable timeframe.

Finally, in Chapter Seven of the paper, I will summarize the main findings of my investigation and look into the future of Iranian asylum seekers in Turkey. In the recent past, the Turkish government announced its intention to implement a new legislation pertinent to refugees and asylum seekers on its territory. The new law will transfer some of the control over the process of registration and tracking of asylum seekers' cases from the UNHCR to the country's civil authorities.<sup>26</sup> According to the heads of the NGOs whom I interviewed during my field research in Turkey, the legislation is seen as the step in the right direction for Turkey's refugee laws and regulations. However, despite this cautious optimism, some refugees and their advocates pointed out the still limited scope of the law and expressed concern about the coming changes. Particularly, giving the highly charged political atmosphere in the country and

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<sup>25</sup> Suat Kolukirik and Hasan Huseyin Aygul, "Refugees and Asylum Seekers in Turkey: Sociological Aspects of an International Migration Movement," *Journal of Muslim Minority Affairs*, Vol. 29, No. 1, (2009): 69-82.

<sup>26</sup> Jonathan Burch, "Turkey has new law on asylum, but sets limits for non-Europeans," *Reuters News Agency*, April 12, 2013, <http://www.reuters.com/article/2013/04/12/us-turkey-refugees-idUSBRE93B0XO20130412>

the ideological inclinations of the country's ruling party, it is believed that the new law may make the refugee status determination procedure less objective and more political. The chapter is concluded with several policy suggestions for the Turkish government encouraging it to implement far-reaching reforms in its national laws concerning migration and asylum.

## **CHAPTER 2**

### **METHODOLOGY**

In order to obtain, examine, and extrapolate data presented in this paper, I used exploratory, multi-method, qualitative field study mode of research. My research proposal was submitted to the UCSB Office of Research, the Human Subjects Committee for the full board review. The feedback and suggestions provided by the Human Subjects Committee have been incorporated into the final draft of the proposal. Consequently, the research proposal received the approval of the Committee on October 10, 2013. All interviews described in this paper were conducted after the date of approval. All feasible measures have been taken in order to protect privacy and identity of the Iranian refugees and asylum seekers whose experiences of navigating through the legal system of Turkish refugee laws were recorded and included in this paper. These first-hand testimonies, though certainly not representative of the entire population of all Iranian asylum seekers and refugees, are an invaluable source of information that dramatically illuminated similar accounts collected by non-governmental organizations and investigative journalists who also studied the plight of Iranians in Turkey.

I began to conduct this research project under the assumption of the three following hypotheses:

- I.** The overall number of refugees and asylum seekers escaping from Iran into Turkey has increased in the wake of the 2009 Green Revolution in Iran that witnessed a significant social uprising against the country's political elites;
- II.** Given Turkey's proximity to Iran and the country's idiosyncratic system of refugee laws, many of vulnerable Iranian refugees and asylum seekers face uncertain prospects of resettlement in a third country and some even face the possibility of deportation back into Iran.
- III.** Some Iranian asylum seekers have left their native country for non-political reasons such as economic migration, religious intolerance, and gender/identity conflicts.

The outcome of the field study has confirmed the validity of my assumptions and supported the chief argument of this paper. That is, the clear gap between the international refugee laws and Turkish national refugee laws sometimes deny Iranian asylum seekers the status of a refugee and, therefore, endanger their safety. Those who are recognized as refugees must wait years in order to be resettled elsewhere.

The basis of my conclusion rests on the data that I obtained through thorough examination of primary sources – interviews with refugees and non-governmental refugee organizations, and secondary sources – a compilation of reports, articles and statistics that illustrated the hardships of Iranian asylum seekers in Turkey. The majority of the interviews were conducted in Istanbul, Turkey in October and November 2013. I interviewed the total of three refugees in the presence of the staff of an NGO, but the testimonies of only two persons were used in the writing of this thesis due to difficulty of verifying and cross-referencing the information presented in the course of one of the interviews. Concern for privacy and safety of refugees is the paramount goal of a researcher who investigates violations of human rights and other abuses. Thus, in order to protect the identities of the people whose accounts are included into this paper, they henceforth shall be referred to as simply Refugee 1 and Refugee 2. The rather scant number of conducted interviews should not cast doubt on the main conclusions of this thesis for the following reasons. First, the refugees’ testimonies are well supplemented by the statements made by the staff of the non-governmental organizations that work directly with refugees and are, therefore, able to speak with authority and credibility on the matters pertinent to refugees and asylum seekers living in Turkey. Second, in order to support the chief argument of this paper, I used several comprehensive reports prepared by the leading voices of human rights advocacy, including the Human Rights Watch – “Why They Left” and the

Amnesty International – “Stranded Refugees in Turkey Denied Protection”. These reports provide a comprehensive, credible, and well-documented overview of the challenges faced specifically by Iranian refugees and asylum seekers in Turkey and therefore congenially supplement the data derived from the interviews. Of course, it must be noted that advocacy and actions of organizations such as the Human Rights Watch and Amnesty International are informed by the Western interpretation of the ideas concerning a person’s agency, rights and freedoms. Thus, some of the criticism issued by these organizations may clash with local customs and practices in the regions where different cultural and historic legacies have shaped people’s understanding of justice and communal obligations.

Third, a substantial volume of secondary sources extracted from news reports and expert editorials further enriched and complemented the results of my investigation. In short, the findings presented in this thesis are based on a broad, diverse and reliable body of knowledge obtained from combination of primary and secondary sources. Although, the number of conducted interviews with refugees was small, it does not invalidate the conclusions of this thesis because I substantiated my research with the work and published reports of other scholars and journalists who also investigated the plight of Iranian asylum seekers in Turkey.

I had a great fortune to meet, interview and study the following organizations located in Ankara and Istanbul, Turkey and Berkeley, California. The information that I gathered from these organizations forms the underlying argumentative substance for the claims that I shall articulate in the chapters ahead. The listed non-governmental organizations specialize on working with refugees and asylum seekers who need professional legal representation, financial help, and other forms of assistance that improves their quality of life and expedites the process of resettlement into third countries:

- 1) *Hatef Relief Organization*
- 2) *The International Catholic Migration Commission (ICMC)*
- 3) *Association for Solidarity with Asylum-Seekers and Migrants (ASAM)*
- 4) *International Organization for Migration (IOM)*
- 5) *Helsinki Citizens' Assembly (Refugee Support and Advocacy Program)*
- 6) *OMID – Advocated for Human Rights*

Particularly helpful were my interviews and interactions with the ICMC, ASAM and the Helsinki Citizens' Assembly. The information that I obtained from these three organizations, including pamphlets, statistics and other material, greatly enriched my knowledge of Turkish refugee policies and undoubtedly strengthened the core arguments of this paper.

It must be noted, however, that the original design of my research was unsuccessful. Prior to my arrival and work in the Republic of Turkey, I intended to select a random and representative sample of Iranian refugees and asylum seekers living in Turkey with assistance of the non-governmental refugee organizations for the purposes of interview and collection of testimonies that would either support or refute the initial hypotheses of my research. However, almost immediately after my arrival into Turkey that followed by the first series of meetings with the heads of the aforementioned organizations, I realized that my original plan was not feasible due to the following reasons. First, the non-governmental organizations and humanitarian agencies are very reluctant to share any kind of information about pending cases for asylum of refugees and asylum seekers under their protection. Indeed, there is a well-founded concern that divulging this information may undermine an asylum seeker's case resulting in significant delays for review and processing of the case. Second, the two month time-frame, that I have allotted for myself to collect data and conduct interviews in Turkey, was not nearly sufficient to undertake this endeavor, coordinate the logistics of the study and



develop the necessary trust and rapport with the population of refugees and asylum seekers living in Istanbul. Nevertheless, in spite of the initial setbacks, I swiftly reevaluated my plans and proceeded with my research based on the new reality of the situation and seeking for permission to conduct interviews with refugees whenever possible, collecting relevant data from all available and credible sources of information at the same time.

Overall, the research methods employed in this study and described in this section allowed me to conduct a thorough investigation into the plight of Iranian asylum seekers and refugees in Turkey. Although, I could not implement the original research design due to lack of time and the magnitude of the task, I was able to collect a plethora of pertinent information that unequivocally validated my hypotheses and substantiated the conclusions of my thesis.

## CHAPTER 3

### LITERATURE REVIEW

The ongoing tensions between global humanitarianism and national sovereignty continue to influence the outcomes of various conflicts and humanitarian crises. The situation concerning Iranian refugees and asylum seekers in Turkey is an ideal case study of this phenomenon. For decades Turkey has refused to implement the principles of the Global Refugee Regime, thus jeopardizing the welfare and life-chances of the Iranians seeking protection in the country. As a result, Turkey's rejection of the authority of the international regime actually serves to facilitate illegal migration because Iranians searching a refuge become quickly disillusioned and frustrated with national Turkish laws concerning movement, housing, employment, education, healthcare and legal status of the asylum seekers in the country. Many books, peer-reviewed articles and other academic works have addressed the clashes engendered by the high tides of globalization. This academic discourse is particularly well represented in the context of the state-centric model of international relations. Books written by Jean Cohen *Globalization and Sovereignty: Rethinking Legality, Legitimacy, and Constitutionalism* and Saskia Sassen *Losing Control? Sovereignty in an Age of Globalization* are a great illustration of this intellectual development. However, virtually none of these academic works specifically examine the plight of Iranian asylum seekers and refugees in the pitfalls of international refugee law in the background of states' resistance to the norms of the GRR. It is hoped, therefore, that scarcity of academic literature on this topic will make this thesis an important contribution for already academically rich discussion relating to global and local refugee problems.

The chief theoretical foundation for this paper is derived from the work and ideas of Dr. Richard Falk and his book *(Re)Imagining Humane Global Governance* and Dr. Peter Nyers's book *Rethinking Refugees: Beyond States of Emergency*. First, Dr. Falk examines a broad spectrum of global issues that present credible and sometimes imminent threat to the welfare of the entire humanity in the context of the post-Westphalian world – the world in which primacy of action of nation states is slowly being eroded due to the growing global interconnectedness of markets, institutions, ideas and people. In essence, Dr. Falk suggests that in order to avert a significant crisis of global proportions, global civil society must unite its efforts in forging democratic, egalitarian and benevolent institutions of global governance.<sup>27</sup> This requires nation states to accept the authority of international community and be willing to forgo shortsighted national interests and partially surrender their sovereignty. However, rather than abandoning the state-centered paradigm of international affairs, Dr. Falk suggests a more plausible alternative that envisions cooptation of state-centered model within the framework of institutional globalization and diffusion of power among countries. At the heart of this transition must be the humanity's clear and transparent desire to permanently address the looming disasters which the author describes in his book. Accordingly, the states will be more likely to embrace international humanitarian norms if their sovereignty and autonomy to act on the international stage are not completely eliminated. This line of reasoning is ideally aligned with my insistence on universal compliance with the norms and rules of the Global Refugee Regime, particularly concerning Iranian refugees in the Republic of Turkey, the country where the global commitments to refugees and asylum seekers must be constantly negotiated with

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<sup>27</sup> Richard Falk, *(Re)imagining humane global governance* (New York : Routledge/Taylor Francis Group, 2014), 15.

latent yet enduring notion of sovereignty and national interest. Turkish government has the potential to dramatically improve the quality of life for the refugees and asylum seekers who seek safety on its territory if and when it decides to wholeheartedly implement the GRR's policy prescriptions.

Second, Dr. Peter Nyers compels his readers to reevaluate their perception and attitude on refugees. At the heart of Nyers's book is a sophisticated analysis of refugees' agency and critique of the widespread notion of their inherent powerlessness. According to the author, such portrayal serves to disempower refugees and show them in a skewed and homogenous light, denying endemic problems, regional distinctions, national identities and other important currents of political, social and cultural volatility that create refugee crises in the first place: "when refugees take flight from violence and persecution, their human life is stripped bare, with all political qualifiers (presence, voice, agency) erased from their identity."<sup>28</sup> An article written by Erika Feller *International Cooperation and the Global Refugee Regime: The Role of Interconnections* reinforces this view and explains the negative consequences of the one-dimensional perception of refugees and asylum seekers. Feller states: "today the term 'refugee' has a certain stigma attached which has seriously complicated UNHCR's responsibility to ensure that international protection is available to them, as a surrogate for the protection of their national authorities, which they have lost."<sup>29</sup> This is precisely the problem that I outline in my writing. Failure to recognize the unique circumstances of a national group of refugees could lead to inadequate support and weak institutional response of the agencies charged with

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<sup>28</sup> Peter Nyers, *Rethinking Refugees: Beyond States of Emergency*, (New York and London: Routledge, Taylor and Francis Group, 2006), 124.

<sup>29</sup> Erika Feller, "International Cooperation and the Global Refugee Regime: The Role of Interconnections," *Journal of Law and Policy*, Vol.5:129 (2001): 129-130.

such a responsibility. This problem is evident in Turkey where the government has been unwilling to align its national laws with the norms of international refugee law in order to assure the requisite humanitarian support and institutional assistance to Iranians whose cases meet the requirements of the UNHCR's definition of a refugee. Of course, this reluctance stems from a much bigger issue of state-driven resistance aimed at discouraging the influx of refugees and asylum seekers into the countries of the global north.

This troubling trend is also described and analyzed by Gil Loescher and James Milner in their book *The United Nations High Commissioner for Refugees (UNHCR): The politics and practice of refugee protection into the twenty-first century*. The authors observed that in the recent past EU countries, the United States, Canada and Australia have introduced a series of laws and regulations that further impede asylum seekers from attaining the status of a refugee and settling in their country. The authors conclude that the aforementioned initiatives did very little to simplify or, for that matter, help applicants for asylum to find permanent residence in their countries:

The asylum and migration structures and procedures of European Union (EU) countries are failing to cope with the demands made upon them. With migration pressures mounting and opportunities for legal immigration to many EU states restricted, larger number of potential migrants are turning to alternative means of entry and access, namely irregular migration and asylum channel. States' responses to these challenges have been to adopt more restrictive policies and practices that have considerably changed the balance between immigration control and refugee protection. In order to deter or prevent the arrival of people who intend to request refugee status, governments have introduced a series of measures, including stricter visa requirements, sanctions on carriers, pre-boarding documentation checks at airports and readmission agreements with transit countries, as well as interdiction and mandatory detention of asylum seekers.<sup>30</sup>

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<sup>30</sup> Gil Loescher, Alexander Betts, and James Milner. *The United Nations High Commissioner for Refugees (UNHCR): The politics and practice of refugee protection into the twenty-first century*. (New York: Routledge, 2008), 56.

Following a similar pattern of thought and academic inquiry, a book titled *The UNHCR and World Politics*, written by Gil Loescher, evaluates the efficacy and relevance of the UNHCR in the cotemporary international politics. The UNHCR is the chief international organization working to implement durable solutions for refugees and displaced communities on the global scale. The agency features an important part in the arguments presented in this paper. After reciting a thorough account of the agency's history, the author attempts to outline the chief obstacles that hinder the mission of the refugee agency and subvert its overall progress. Loescher conclusions are as telling as they are thought-provoking. He argues that the common thread that underlines the actions of nation-states concerning refugee and human migration is the increasing struggle against the principles of the GRR. This trend originates from the concern for uncertain economic impact of legal and illegal migration and is built on the agenda of erecting high entry barriers for asylum seekers and migrants and discouraging their arrival from countries that serve as migration hubs:

In the face of growing numbers of illegal migrants and abuse of asylum procedures, Western governments became increasingly reluctant to grant asylum. They enacted severe controls on immigration which reduced the scope of appeals from decisions on refugee eligibility and erected barriers to those seeking refuge from war and persecution as well as those looking for jobs and new homes... Thus, at the end of the twentieth century, refugees became a symbol of system overload, instead of a symbol of what was always best in the Western liberal tradition.<sup>31</sup>

Growing restrictions on access to asylum procedures in the West means that Turkey has become a major destination and transit point for migrants and asylum seekers from all corners of the world. This undoubtedly put additional strain on the country's already limited humanitarian resources and negatively impacted the quality of life of refugees already living in

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<sup>31</sup> Gil Loescher, *The UNHCR and World Politics* (Oxford: University Press, 2001), 16.

the country. The rather depressing statistic already tells us that “currently, the number of years a refugee lives in a refugee camp is, on average, 12.”<sup>32</sup>

An important dimension of academic discourse concerning refugees is acknowledgement that a significant number of asylum seekers who enter Turkey, including some Iranians, are economic migrants who, in hopes of escaping debilitating poverty in their home countries, seek access to international asylum procedures. Economic migrants are not eligible to receive status of refugees and their presence in the international refugee system sometimes discredits the asylum procedures. However, the scale of this phenomenon is vastly exaggerated and must not encourage countries to create additional and unrealistic restrictions on access to their territory for potential asylum seekers. As Erika Feller states: “the fact, however, is that refugees have always entered countries illegally – often without proper documentations and with the help of traffickers. None of this detracts from their refugee status. Economic migration is not new, and the attempts by would-be migrants to use asylum channels for entry in the absence of migration programs does not invalidate the asylum process.”<sup>33</sup>

These perennial refugee problems, which frequently emerge at the intersection of global humanitarian commitments and national sovereign interests, are well-examined in a book *Problems of Protection: The UNHCR, Refugees, and Human Rights*, edited by Niklaus Steiner, Mark Gibney, and Gil Loescher. In this seminal book, the authors explore a variety of issues concerning the challenges and opportunities of refugee protection in the present and the future. The authors’ main conclusions reinforce the line of argumentation presented in the

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<sup>32</sup> Mac McClelland, Hot to Build a Perfect Refugee Camp. *The New York Times*, Feb. 13, 2014. [http://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html?smid=fb-share&\\_r=0](http://www.nytimes.com/2014/02/16/magazine/how-to-build-a-perfect-refugee-camp.html?smid=fb-share&_r=0)

<sup>33</sup> Erika Feller, “International Cooperation and the Global Refugee Regime: The Role of Interconnections,” *Journal of Law and Policy*, Vol.5:129 (2001): 137.

following chapters of this paper. Namely, to fulfill its humanitarian objective and deliver a meaningful impact on the lives of refugees and asylum seekers, the Global Refugee Regime has to receive equal legal recognition and a commitment to follow its principles from all nation states involved in its operation. At the risk of sounding redundant, I feel compelled to reiterate that Turkey's unwillingness to embrace the principles and values of the GRR, as the authors point out in the book, has created a difficult legal terrain for all Iranian refugees and asylum seekers who struggle to submit their pleas for asylum and must languish waiting for years in an assigned by the Turkish authorities city before being resettled elsewhere in the world. A more specific set of challenges experienced by Iranians in Turkey shall be discussed in the following chapters of this paper.

In conclusion, the current academic literature suggests the existence of a big rift between international refugee law and migration policies of individual states that selectively implement the GRR's rules and principles. This phenomenon has been especially well-observed and analyzed by Laura Barnett in her article *Global Governance and the Evolution of the International Refugee Regime* and a number of other peer-reviewed articles. This rift is particularly evident in the Republic of Turkey. Cavidan Soykan provides an excellent overview of the country's national laws concerning migration and asylum in relationship to the similar policies of the EU. Soykan's article *The migration-asylum nexus in Turkey*, offers an in-depth comparative investigation of the truly idiosyncratic web of laws and policies concerning migration that Turkey has implemented in the last several decades. The author does not discuss the impact of these policies on refugees themselves but the critical nature of the article makes it clear that rather than improving the living conditions for refugees and asylum seekers in the country, the Turkish authorities have designed its asylum system with a



goal of safeguarding its national interests and deterring asylum seekers from entering into the country. Ryan Bubb, Michael Kremer, and David Levine explain the roots of this policy in their article *The Economics of International Refugee Law*. The authors suggest that “the 1951 Convention Relating to the Status of Refugees can be understood as an agreement among states to supply the global public good of refugee protection but that the increase in economic migration has led states to shade on their obligations under the convention.”<sup>34</sup> I partially disagree with the article’s main conclusion. It is true that economic migration is a serious concern for many countries, especially at a time of a severe economic downturn. However, my research has indicated that more often than not nation states use the pretext of a perceived threat of economic migration as an excuse to tighten its asylum procedures and discourage potential asylum seekers from entering their territory. In short, the promises of the Global Refugee Regime have diverged from the reality of nations’ actions with regard to asylum and migration policies. National interests continue to drive the migration policy agenda of Turkey and other nation states causing unnecessary suffering and hardships for refugees and asylum seekers from Iran and other countries. Until international community is able to bridge the gap between global humanitarian commitments concerning the plight of refugees and national interests of individual states, global refugee crisis will remain a salient humanitarian issue for the decades to come.

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<sup>34</sup> Ryan Bubb, Michael Kremer, and David I. Levine, The Economic of International Refugee Law, *The Journal of Legal Studies*, Vol. 40, No. 2 (2011), pp. 367-404.

## **CHAPTER 4**

### **GLOBAL REFUGEE REGIME – A CONCISE HISTORY**

To understand the idiosyncratic nature of the Turkish refugee laws and their impact on Iranian asylum seekers, one must become familiar with the notion of the Global Refugee Regime (GRR). A short account of the GRR's history and its significance in the context of international law is, therefore, a prerequisite intellectual foundation for the arguments lodged in the proceeding chapters of this paper, for the GRR's defining features and principles will undoubtedly illuminate the obscurity and contradictions of Turkey's national refugee laws. The emergence of the GRR as a meaningful global institution is a fairly recent phenomenon rooted in conflicts of the twentieth century. Gradually created in the late 1960's, the GRR's legal system was shaped by the humanitarian spirit and objectives of the UNHCR's statute, international implementation of the 1951 Convention Relating to the Status of Refugees, and adoption of the 1967 Protocol to the Convention.

Of course, "refugees have existed as long as history, but an awareness of the responsibility of international community to provide protection and find solutions for refugees dates only from the time of the League of Nations and election of Dr. Fridtjof Nansen as the first High Commissioner for Russian refugees in 1921."<sup>35</sup> The chief impetus behind the resolve of international community to expand the breadth of assistance to refugees and create a comprehensive legal infrastructure of the GRR originates in the aftermath of the shocking desolation wrought by the battles of the World War Two. The total devastation and massive displacement of people in the wake of the war necessitated concerted international efforts to

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<sup>35</sup> Erika Feller, "International Cooperation and the Global Refugee Regime: The Role of Interconnections," *Journal of Law and Policy*, Vol.5:129 (2001): 130.

create an efficient system and comprehensive legal framework aimed at alleviating the hardships of the displaced and assisting in their prompt return home. Unfortunately, as it often happens in history, a great tragedy impelled the sense of universal human solidarity and inspired the will to reform the system of international governance. The incomprehensible atrocities and wanton violence that were unleashed in the course of the Second World War, served as the main catalyst for creation of binding and humanitarian in nature international laws and institutions.<sup>36</sup> The spirit of international cooperation and the desire to never repeat the tragedy of the war inspired a vision for a better and more compassionate world. This laborious task culminated with creation of the United Nations in 1945 and adoption of the Universal Declaration of Human Rights in 1948. This landmark declaration heralded the triumph and promise of fundamental human rights on the global scale. Particularly important, for then still fledgling GRR, was introduction of Article 14 in the language of the Declaration that promised everyone “the right to seek and to enjoy in other countries asylum from persecution.”<sup>37</sup> Since then, the international humanitarian law has spawned into an impressive constellation of agreements and protocols that effectively set the limits on countries’ sovereignty with respect to treatment of their citizens irrespective of age, gender, creed or religion. Of course, since their inception, these laws have been enforced with various degree of success and were often subverted by shortsighted geopolitical objectives and economic interests of certain countries. This is especially true in our time. Nevertheless, the nearly universal acceptance of human rights as the guiding principle in relationship between a state and its population is an extremely

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<sup>36</sup> “History of UNHCR. A Global Humanitarian Organization of Humble Origins” *The UNHCR Publications*, March 2, 2014, <http://www.unhcr.org/pages/49c3646cbc.html>

<sup>37</sup> “The Universal Declaration of Human Rights,” *The United Nations*, March 5, 2014, <http://www.un.org/en/documents/udhr/index.shtml#a14>.

significant feat. These principles also found their reflection in the international laws that regulate movement of displaced and vulnerable people on the global scale.

Formation of globally mandated organizations and international legislative initiatives that sought to address the plight of refugees worldwide is an ideal manifestation of the humanitarian spirit championed by the founding principles of the UN. The chief international organization charged with the responsibility to educate states about the norms of international refugee laws, supervise implementation of such laws, and execute delivery of exigent support to refugees and asylum seekers is the UNHCR. The organization has commenced its important work on “January 1, 1951... with a staff of thirty-three and a budget of \$30,000.”<sup>38</sup> Since its creation, “...the [organization] has been at the heart of many of the gravest breakdowns of social and political order and tragic human loss in recent history”.<sup>39</sup> Further, the UNHCR has been created to execute two primary tasks:<sup>40</sup>

- 1) To ensure the international protection of refugees;
- 2) To find a solution to [refugees’] plight;

Indeed, since its establishment the UNHCR has been fulfilling a vital mission of extending both material support and legal assistance to millions of displaced populations. Acting as an impartial interlocutor between international community, sovereign nations, and refugees themselves, the UNHCR provided tangible help and durable solutions to the tenacious and politically sensitive problems of forced human migration. In short, it is hard to

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<sup>38</sup> Erika Feller, “International Cooperation and the Global Refugee Regime: The Role of Interconnections,” *Journal of Law and Policy*, Vol.5:129 (2001): 131.

<sup>39</sup> Gil Loescher, *The UNHCR and World Politics* (Oxford: University Press, 2001), ii.

<sup>40</sup> Gil Loescher, Alexander Betts, and James Milner, *The United Nations High Commissioner for Refugees (UNHCR): The politics and practice of refugee protection into the twenty-first century* (New York: Routledge, 2008), 98.

overestimate the organization's critical role, moral authority, and global directives in the conflicts of the past and the present. Finally, "the augmentation in the statistics [of the organization's impact and reach] is impressive: whether in the numbers of persons of concern – some twenty two million; the annual budget – just under \$1 billion; the number of staff – 5,000 persons, or the level of its global representation – present in 120 countries. The statistics are a telling illustration of the quite marked, even dramatic, expansion in the UNHCR's work" since its inception in 1951.

Nevertheless, the UNHCR is not an omnipotent organization; its actions and goals are constrained by "a number of internal and external inhibitions"<sup>41</sup>. These inhibitions are integrally embedded into the design of the UN and inextricably tied to geopolitical climate in the world at any given moment in time. The limits and occasional failures of the UNHCR often draw international criticism and questions about the organization's efficacy and relevance in the twenty first century. Cynicism and aspersion are the organization's constant companions.

The global mandate and international duties of the Office of the UNHCR were outlined in the 1951 Convention Relating to the Status of Refugees. In addition to drafting of the UNHCR's legal statute, importantly, the Convention defined who could qualify to receive the status of a refugee based on the following criteria:

A refugee is someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.<sup>42</sup>

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<sup>41</sup> Gil Loescher, *The UNHCR and World Politics* (Oxford: University Press, 2001), 2.

<sup>42</sup> "Convention and Protocol Relating to the Status of Refugees", *The UNHCR Publications*, March 2, 2014, <http://www.unhcr.org/3b66c2aa10.html>

This definition has thus far survived the trying test of time and continues to be used as the common legal denominator for assessment of asylum seekers' appeals. Further, the Convention articulated a very important concept that became the paramount feature of international refugee law – the principle of *non-refoulement*. The principle is “perhaps the most significant right granted to refugees by the 1951 Convention.”<sup>43</sup> In essence, it prohibits countries from returning asylum seekers and refugees to their country of origin – “even if they are being [illegally] smuggled or trafficked”, where they are likely to face continued persecution, harassment, and/or ostracism.<sup>44</sup> The principle of non-refoulement received broad international support and consequently entered into the discourse and conventions of international customary law. The principle continues to inform legislative initiatives pertinent to issues faced by asylum seekers on regional and national levels. Finally, for the purposes of this paper, the concept of non-refoulement is frequently evoked in the accounts of the plight of Iranian refugees and asylum seekers in Turkey where alleged illegal deportations jeopardized their safety and undermined the integrity of the aforementioned principle.<sup>45</sup>

However, before the Convention became the cornerstone of the international refugee laws and the principle of non-refoulement became the bulwark against arbitrary deportation, the Convention's authority was narrow and its intended purpose benefited only the refugees from Europe. Indeed, it is important to note that initially the language and far-reaching promises of the Convention applied strictly to the “events occurring in Europe *before* January

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<sup>43</sup> Gil Loescher, Alexander Betts, and James Milner, *The United Nations High Commissioner for Refugees (UNHCR): The politics and practice of refugee protection into the twenty-first century* (New York: Routledge, 2008), 15.

<sup>44</sup> “Convention and Protocol Relating to the Status of Refugees”, *The UNHCR*. (emphasis added is mine).

<sup>45</sup> “Stranded Refugees in Turkey Denied Protection”, *the Amnesty International Report*, April, 2009.

1, 1951.”<sup>46</sup> In other words, the UNHCR and the 1951 Convention were designed to alleviate the hardships of only the Europeans who suffered from displacement and persecution that occurred in the wake of the World War Two. The strict Eurocentric mission and the clear limited scope of the Convention underscored the flagrant unfairness of the legislation and preferential treatment of European refugees. Meanwhile, the conflicts that took place beyond the borders of the European continent, and caused large-scale forced migration of people, did not receive the same level of international attention and resources that were accorded by the Convention to the European refugees. The situation became untenable by the end of the 1960’s. Emergence of the new refugee groups in the Global South necessitated urgent and coordinated actions of the international community:

However, it became increasingly apparent that existing international legal norms were not suitable for dealing with refugee issues in the developing world. Refugees in Africa and Asia had not fled as a result of conditions in Europe in 1951 nor could many of them meet the individual persecution criteria outlined in the international legal instruments... the [existing then] measures were only recommendations and did not impose any legal obligations on states.<sup>47</sup>

Thus, in the background of the unfolding refugee crises and inadequate responses of individual states to the humanitarian emergencies, the calls for expanding of the UNHCR’s mandate and making its authority global became especially strong. Consequently, the obvious flaw of the international law was finally rectified in 1967 when the Protocol to the Convention was

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<sup>46</sup> “Convention and Protocol Relating to the Status of Refugees”, *The UNHCR*. (emphasis added is mine).

<sup>47</sup> Gil Loescher, Alexander Betts, and James Milner, *The United Nations High Commissioner for Refugees (UNHCR): The politics and practice of refugee protection into the twenty-first century* (New York: Routledge, 2008), 28.

successfully adopted in the UN. Particularly, the 1967 Protocol to the Convention improved the document in *two* important ways:<sup>48</sup>

- 1) It abrogated the *geographic limitation* of the 1951 Convention. Therefore, the Convention's mandate and authority were no longer confined exclusively to the European continent and became applicable to all corners of the world.
- 2) It eliminated the *temporal limitation* of the Convention. That is, a person's eligibility to be recognized as a refugee and qualification to receive help and support from the UNHCR was no longer attached to any timeframe of occurrence of a humanitarian crisis.

In short, the 1967 Protocol endowed the UNHCR's legal statue and the 1951 Convention Relating to the Status of Refugees with a true global mandate and universal applicability. It was a moment of triumph for global civil society and advocates of human rights and the rights of refugees everywhere. This significant stage of the metamorphosis of international refugee law finalized and solidified the formation of the Global Refugee Regime. However, what exactly is the GRR? Charles Keely, a professor of international migration at the Georgetown University, provided the following definition of the GRR:

The international refugee regime is the collection of conventions, treaties, intergovernmental and non-governmental agencies, precedent, and funding which governments have adopted and support to protect and assist those displaced from their country by persecution, or displaced by war in some regions of the world where agreements or practice have extended protection to persons displaced by the general devastation of war, even if they are not specifically targeted for persecution. The regime centers around the United Nations High Commissioner for Refugees as the primary agency and around the Convention (1951) and Protocol (1967) on the Status of Refugees in international law.<sup>49</sup>

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<sup>48</sup> Protecting Refugees: A Field Guide for NGOs. *The United Nations Publications*, 1999, 8.

<sup>49</sup> Charles B. Keely, "The International Refugee Regime(s): The End of the Cold War Matters." *International Migration Review*, Vol. 35, No.1, Special Issue: UNHCR at 50: Past, Present and Future of Refugee Assistance (2001): 303-314, accessed March 5, 2013, <http://www.jstor.org/stable/2676063>.



In addition, a number of regional conventions and agreements concerning refugees have bolstered the potency and global credentials of the GRR. These often “overlapping institutions... have tended to be complimentary, reinforcing the protection standards of the regime.”<sup>50</sup> For example, the 1969 Organization of African Unity’s (OAU) Convention governing the specific aspects of refugee problems in Africa and the Cartagena Declaration on Refugees of 1984 enhanced the protection mechanisms of the regime by taking into account the regional causes of forced human migration and broadening the definition of the status of a refugee.<sup>51</sup> Ultimately, “these regional legal norms were in fact much more inclusive and in keeping with the actual causes of flight in Africa, Central America, and other parts of the world than were the 1951 Convention and the 1967 Protocol.”<sup>52</sup>

Thus, the GRR is an eclectic, comprehensive legal structure that epitomized convergence of international law and recognized the condition of being a refugee as a global phenomenon that requires a joint global response and regional focus. The regime accorded refugees with unalienable rights and delineated the legal responsibilities of nation states. Furthermore, the overarching framework of the GRR has acquired a near universal legitimacy and engendered a wide range of principles and moral imperatives that elevated the status of human dignity in discourse and international law concerning human rights.

However, the GRR is replete with paradoxes and self-evident contradictions. Despite the successes and victories associated with the expansion of the Global Refugee Regime,

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<sup>50</sup> Alexander Betts, “Institutional Proliferation and the Global Refugee Regime,” *Symposium International Regime Complexity*, Vol.7, No.1 (2009): 53.

<sup>51</sup> “OAU Convention Governing the Specific Aspects of Refugee Problems in Africa” *UNHCR- the UN Refugee Agency*, April 2, 2014, <http://www.unhcr.org/45dc1a682.html>.

<sup>52</sup> Gil Loescher, Alexander Betts, and James Milner, *The United Nations High Commissioner for Refugees (UNHCR): The politics and practice of refugee protection into the twenty-first century* (New York: Routledge, 2008), 28.

many endemic to the character of globalization in the twenty first century factors hinder the ability of international community to fulfill the regime's intended purpose. The international system of refugee protection is fraught with many contradictions and shortcomings that are deeply embedded in the design of the international governance. These contradictions emerge as a result of the constant friction between forces of globalization, which postulate homogenization and subordination of national laws of states to international standards and norm of international law, and the efforts of nation states to restrict the authority of international law on the sovereign matters concerning human movement, including resettlement of refugees. Thus, the global commitments of states to the normative framework of international refugee law must be constantly negotiated with the enduring notion of sovereignty and national interests. This latent encounter between *global* and *national* highlights the problems that exacerbate vulnerability and hardships of Iranian refugees and asylum seekers in Turkey – a country whose nominal adherence to the norms and obligations of the Global Refugee Regime is compromised by its own national interests.

## CHAPTER 5

### WHY DID THEY LAEVE?

#### **Prelude to the Exodus**

The causes that compel Iranians to leave their country and seek protection of international community are diverse and many. It appears, however, that the main trigger behind the flight of many Iranian asylum seekers is closely related to institutionalized and well-documented violations of human rights that stem from the rigid nature of Iran's political institutions which are percolated with the revolutionary interpretation of Shia Islam by the country's clerical regime. The man who was responsible for the architecture of the modern political institutions in Iran is Ayatolla Ruhollah Khomeini, who is regarded as the father of the Islamic Republic of Iran.<sup>53</sup> Iran holds the title of the only functioning theocracy in the world with features of a parliamentary democracy. The country developed this unique form of governance in the wake of the dramatic events of the 1979 Islamic Revolution that overthrew the authoritarian rule of the Pahlavi dynasty and completely dismantled Iran's old tradition of monarchical rule. The Shia Islam became the cornerstone of the country's politics. The religious dogma informed the new social conventions of Iranian society and percolated all spheres of life in the country. It is important to remember, of course, that the religion has always enjoyed a very important status in the hearts and minds of Iranian people. Even relentless campaign of secularization, orchestrated by Iran's last monarch Mohammed Reza Shah Pahlavi, failed to relegate Islam to the margins of social life.<sup>54</sup> In fact, the Shah's hostile and insensitive approach to religious influences in Iran's society, that was coupled with widespread abuses of

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<sup>53</sup> Arshin Adib-Moghaddam, *A Critical Introduction to Khomeini*, (New York: Cambridge University Press, 2014), 5.

<sup>54</sup> Stephen Kinzer, *All the Shah's Men*, (New Jersey: John Wiley & Sons, Inc., 2003), 28.

his authority, generated resentment and backlash from the religious establishment and devout Muslims who regarded the Shah's policies of secularization as decadent, dangerous and alien to the country's authentic national identity. The growing social indignation eventually translated into a popular movement that ousted the Shah and inaugurated the Islamic Republic. Therefore, the Islamic Republic is a young, revolutionary, and, in many regards, reactionary state that continues to evolve and guard its Islamic character with vigilance.

The Islamic Revolution in Iran ushered in significant changes into the structure of the country's governance and everyday life of ordinary Iranians. Sadly, the Revolution's early victories were not welcomed by everyone in the country. The political upheavals uprooted thousands of Iranian families who refused to live under the restrictions and repression of the Islamic Republic. These families chose to leave their country and settle abroad.<sup>55</sup> The first Supreme Leader of Iran, Ayatollah Khomeini, envisioned an elaborate system of political bureaucracy that solidified the Islamic principles at the core of the country's constitution and institutions. This new and controversial system was the child of the Islamic Revolution and came to be known as *Velayat-e faqih* (guardianship of the Jurist). These revolutionary reforms turned Iran into a theocracy with elements of a parliamentary democracy. However, the design of the political system made it nearly impossible for the true political opposition to enter into the institutions of power and introduce any significant changes into the blueprint of Iran's political organization. The sweeping changes in the country's supreme law accorded the leader of the revolution with unchecked authority unrestricted by temporal terms. According to Iran's constitution *Chapter VIII, Article 110*, the Supreme Leader of Iran is responsible for

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<sup>55</sup> Tara Bahrampour, *To See and See Again: a life in Iran and America*, (New York: Farrar, Straus and Giroux, 1999).

“delineation of and supervision of the general policies of the Islamic Republic of Iran, which means that he sets the tone and direction of Iran’s domestic and foreign policies.”<sup>56&57</sup> The Supreme Leader of the country is appointed for life by the Assembly of Experts – popularly elected officials who, in order to become eligible to participate in an election, must pass through rigorous screening procedures administered by the Guardian Council – a non-elected body of Islamic clerics and jurists appointed by the Supreme Leader and the Iran’s Parliament. The Parliament – *Majles*, is the main and popularly elected legislative body that debates and enacts the country’s laws. However, all potential candidates hoping to compete for a seat in the parliament must go through screening and approval of the Guarding Council in order to become eligible to participate in a parliamentary election. In addition, to enter into the full force, all laws passed in *Majles* must receive approval of the Guardian Council and, in some instances, the approval of the Supreme Leader himself. Lastly, the Supreme Leader is accorded with the right to veto and change any legislation concerning domestic or foreign issues before it officially enters into force. Evidently, *Velayat-e faqih*, as a system of political governance, was created in order to undergird and protect the Islamic preeminence of the country’s institutions and to prevent the currents of political volatility from changing the foundation of Iran’s political regime. Hence, only political contenders with strong Islamic credentials and immaculate loyalty to the values of the Islamic Republic stand a chance of receiving the official permission to participate in an election. Needless to say, given the multiple levels of checks and rigorous scrutiny embedded in Iran’s political system, it is extremely difficult to

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<sup>56</sup> “The Structure of Power in Iran,” *Iran Chamber Society*, April 1, 2014, [http://www.iranchamber.com/government/articles/structure\\_of\\_power.php](http://www.iranchamber.com/government/articles/structure_of_power.php)

<sup>57</sup> “Iranian Laws & Government: The Constitution of Islamic Republic of Iran.” *Iran Chamber Society*, April 1, 2014, <http://www.iranchamber.com/government/constitutions/constitution.php>

create and nurture a viable political opposition capable of promoting significant reforms in the country's political establishment. In essence, Iran's political system has been deliberately design to display its legitimacy rooted in the sacred and dear to Iranians scriptures of Shia Islam and purge and demonize any voices of political dissent that do not conform to the central principles of the Islamic Republic. With no prospect of obtaining access to the leverages of authority, those who wish to deliver meaningful change in the society must resort to secretive grassroots initiatives and underground political activism.

Furthermore, Iran's judicial and punitory systems are encouraged to regard any sign of unsanctioned political dissent, which questions the country's constitution and legitimacy of its political and spiritual leaders, as an attack against Iran's moral and spiritual edifice embodied in its political institutions. Such crimes are often classified as *moharebeh* (enmity against God) and/or *mofsed-e-fel-arz* (sowing corruption on Earth) and by definition require either a lengthy incarceration or death penalty.<sup>58</sup> Although, the criteria that warrant such punishments are usually strict, the granted to the judges judicial autonomy rooted in interpretation of Islamic religious law –*shari'a*, sometimes greatly expands the scope of these crimes to also include 'subversive' political activity. Moreover, "there is an inherit tension in Iranian law between the concept of codified law and a judge's ability to rely on religious sources, (*shari'a*) and/or reliable *fatwa* or religious decrees issued by high-ranking Shia clerics."<sup>59</sup> Execution of Arab – Iranian poet and "human rights activist" Hashem Shaabani in an Iran's prison in January, 2014 epitomized the danger of equating political dissent with an attack against God in Iran's judicial

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<sup>58</sup> "Codifying Repression: An Assessment of Iran's New Penal Code," *Human Rights Watch Report*, August, 2012.

<sup>59</sup> "Codifying Repression: An Assessment of Iran's New Penal Code," *Human Rights Watch Report*, August, 2012, 31.

system.<sup>60</sup> As a human rights activist, Hashem used his poetic talent to expose and lampoon the injustices of Iran's laws. His growing popularity and influence among peers earned him a reputation of a rebel and drew the ire of the country's authorities. Tragically, he was arrested, accused of enmity against God and sentenced to death. The execution of Hashem Shaabeni was not the first time when Iran's authorities manipulated the language of the Islamic Penal Code in order to silence and intimidate political opponents of the ruling regime. Indeed, "at least 80 people have been executed in Iran so far this year, marking a rise in its use of capital punishment, the UN's human rights office has said... at least 500 people are known to have been executed [in Iran] in 2013, including 57 in public."<sup>61</sup> Although, a significant number of the executions were related to the country's tough policies on procurement of illicit drugs, a still unknown number of political prisoners who were accused of crimes against God continue to languish in Iran's prisons while enduring torture and abuse.<sup>62</sup>

In addition, other provisions in the Iran's Islamic Penal Code also criminalize political dissent and are frequently interpreted to justify infringement on the fundamental human rights. For instance, *Article 514* of Iran's Islamic Penal Code "criminalizes any insults directed at the first Leader of the Islamic Republic of Iran...or the current leader, and authorizes punishment ranging from six months to two years in prison."<sup>63</sup> Further, *Article 500* of the Penal Code "sets the sentence of three months to one year of imprisonment for anyone who engages in any type

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<sup>60</sup> "Iranian Poet Executed for 'Waging War on God,'" *Al Jazeera*, February 2014, <http://www.aljazeera.com/news/middleeast/2014/02/iranian-poet-executed-waging-war-god-201421043119959262.html>

<sup>61</sup> "UN Concerned at rise of executions in Iran", *Al Jazeera*, March, 2014, <http://www.aljazeera.com/news/middleeast/2014/02/un-concern-at-rise-executions-iran-201422225754758311.html>.

<sup>62</sup> "Iranian prisoners' families protest against 'beatings,'" *BBC*, April 22, 2014, <http://www.bbc.com/news/world-middle-east-27113008>

<sup>63</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012, 32.

of propaganda against the Islamic Republic of Iran or in support of opposition groups and associations.”<sup>64</sup> Last, but not least, recently revised *Article 287* of the Penal Code authorizes death penalty to people accused of crimes known as *mofsed-e-fel-arz* (sowing corruption on earth) described as offences that “seriously disturb the public order and security of the nation.”<sup>65</sup> Particularly troubling is the law’s very vague definition of what crime exactly constitutes ‘sowing of corruption’. Shadi Sadr, “an Iranian lawyer and rights defender who left Iran after the disputed 2009 presidential election because authorities increasingly harassed her and her family”, expressed her alarm with regard to the revised provision of the Penal Code:

...Before [enmity of God] and [sowing of corruption] applied to individuals who used arms or were members of armed groups. But according to the new law [sowing corruption]... has a very expansive and vague definition that could even include acts like sending emails opposing the state. And the punishment is death. It is no longer necessary to link political activists to... armed groups in order to convict them.<sup>66</sup>

Sadly, since the Islamic Revolution, the Iran’s political regime has developed a tenacious complex of latent paranoia that compels the authorities to view any and virtually all, however moderate, attempts to challenge the political status quo in the country, as existential threats to Iran’s Islamic identity and the legitimacy of the country’s rulers. Therefore, Iran’s judicial system rarely exercises clemency in the cases involving unauthorized political organizing and activism. In the absence of meaningful outlets for expression of political

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<sup>64</sup> “Islamic Penal Code of the Islamic Republic of Iran – Book V,” *Iran Human Rights Documentation Center*, March 2, 2014, <http://www.iranhrdc.org/english/english/human-rights-documents/iranian-codes/index.1.html>

<sup>65</sup> “Codifying Repression: An Assessment of Iran’s New Penal Code,” *Human Rights Watch Report*, August, 2012.

<sup>66</sup> *Ibid.*



opposition, the country's political activists must remain in the obscurity of political underground in order to avoid state sponsored reprisals and prosecution. However, many political and social activists saw an opportunity for national political mobilization that was triggered by the disputed outcome of the 2009 presidential elections. A significant segment of Iran's civil society refused to recognize the results that proclaimed victory of then incumbent President Mahmood Ahmadinejad. The years of suppressed political indignation, rage and resistance erupted on the streets of Tehran in a spectacular display of civil disobedience that provoked a very violent response from the Iran's authorities and led to mass arrests of the protestors. Many refused to be imprisoned and decided to leave their native country and seek protection of international community. It is important to remember, however, that political dissidents are not the only category of people that escapes from Iran in hopes of finding asylum abroad. Iranians unconcerned with the country's political dynamics frequently become targets of the state's strict social conventions that undergird the society's perceived norms of individual morality and national religious integrity.

### **Who are the Iranian Asylum Seekers?**

The still ongoing "refugee exodus of businesspeople, dissidents, college students, journalists, athletes and other Iranians is transforming the global face of Iran's resistance movement" and reflects the complexities of Iran's vibrant social and political landscape.<sup>67</sup> As I already stated at the beginning of this chapter, there are many reasons that motivate Iranians to escape from their native country and seek protection abroad. These reasons could be

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<sup>67</sup> Stecklow and Fassihi, "Thousands Flee Iran as Noose Tightens." *The Wall Street Journal* December 11, 2009.

categorized into four main groups that encapsulate and conceptualize the leading causes of this flight. These categories are:

- 1) *Political Dissidents*
- 2) *Identity & Gender*
- 3) *Crimes of “Moral Propriety”*
- 4) *Religious Deviations*

Although, certainly not exhaustive, these four categories exemplify the most common claims submitted by Iranian refugees and asylum seekers to the UNHCR that I have encountered in the course of my research. These categories will serve as a very useful guide for further dissection and understanding of the problems faced by Iranian asylum seekers in Turkey. In the following sections of this chapter, I will attempt to examine each of the categories and attach to them credible and documented experiences of Iranian asylum seekers whose plight personifies the struggles of many other Iranians in Turkey as well as refugees everywhere. Ultimately, I will demonstrate that the refugees’ narratives described in this paper embody the major discrepancies that emerge as a result of the encounter between the promises of the global refugee regime and the reality of national refugee laws, specifically in Turkey.

## **I. The 2009 Green Revolution and Iran’s Political Dissidents**

The Green Movement was widely believed to be a spontaneous reaction to what was regarded by many in Iran as rigged results of the 2009 presidential elections. Of course, the disputed election alone cannot account for the high tides of political protests that inundated the streets of Iran’s capitol. Rather, the alleged fraud in the election sparked a long smoldering flame of resistance that, after years of suppression, engulfed the civil society and signaled the arrival of an audacious political movement that demanded far-reaching reforms. The

movement, dubbed the Green Revolution, gave courage to thousands of ordinary people to fill the country's public spaces and voice their bold demands. The clear anti-government sentiment that was present on Tehran's squares and streets had long been exacerbated by the general exasperation with the leadership of the socially conservative and populist President Mahmoud Ahmadinejad whose policies had benefited the poor but frustrated Iran's yearning for change middle class and youth. Indeed, "under Ahmadinejad's first term as president, the attitude if the government shifted from tolerance and cautious encouragement of NGOs and grassroots movements to suspicion and hostility."<sup>68</sup> Therefore, when Mahmoud Ahmadinejad was declared winner in the elections by the country's Supreme Leader Ali Khamenei, the supporters of Ahmadinejad's chief opponent in the election, Mir-Hossein Mousavi, demanded immediate and transparent recount of the votes. The government rejected this and other demands and the protests ensued thereafter. Hundreds of thousands of Iranian people filled Tehran's squares and streets in a display of unity and determination to demand justice and fair elections. Those who marched in the streets chanting anti-government slogans genuinely wanted to reassert the people's sovereignty over the country and improve its image in the eyes of international community. Consequently, the protests quickly transformed into a multidimensional and diverse current of change that sought to reform the country's institutions and make Iran's government more accountable to its people.

The 2009 Green Revolution was a watershed moment for Iran's civil society and political activism on the national scale. The Revolution has catapulted a fledgling and popular movement to the epicenter of the country's politics that gripped the attention of the entire nation and the world. It was a young and optimistic movement that firmly believed the

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<sup>68</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012.

legitimate rights of the people to demand accountability and transparency from their government.<sup>69</sup> Undoubtedly, it shook the very foundation of the Islamic Republic and terrified its leadership. However, despite an unprecedented civil and political mobilization, the movement was not strong enough to face an avalanche of repression and violence unleashed by the regime against the unarmed protestors. The aftermath of the foiled revolution had witnessed systematic and widespread arrests of civil rights activists, lawyers, students and journalists. The purpose of these purges was to debilitate and dismantle the groups and organizations that in some way abetted the acts of civil disobedience and threatened the authority of Iran's leaders. Fearing imminent arrest, many Iranians made a difficult decision to abscond from the country into Turkey and request protection of international community from the vengeance of the Iran's government. According to the UNHCR, "the number of new Iranian asylum seeker in Turkey... has steadily increased since the government's ferocious response to the post-election protest led to a new wave of emigration."<sup>70</sup> Turkey became a natural choice for many of the asylum seekers because of the border agreements between the two countries that allow both Iranian and Turkish nationals to enter the respective countries without acquiring a visa or entry permit. Some, however, were not able to escape the looming persecution and were detained by the Iran's authorities. Arrested and thrown into Iran's notorious for their brutality jails, these men and women experienced torture and abuse that revealed the regime's deep-seated intolerance of political dissent and fear that it may become powerful enough to cripple the regime's authority. These are the testimonies of political prisoners who sought protection of international community upon their arrival in Turkey:

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<sup>69</sup> Negin Nabavi, *Iran: From Theocracy to the Green Movement*, (New York: Palgrave Macmillan, 2012).

<sup>70</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012, 29.

According to the Human Rights Watch Report, that investigated the consequences of the Iran's regime crackdown against the leaders of Iran's political opposition and individuals deemed as complicit in the protests of the Green Movement, "since 2009 authorities [in Iran] have imprisoned, prosecuted, or harassed dozens of defense lawyers. In August 2011, the Nobel Peace Laureate Shirin Ebadi said at least 42 lawyers had faced government persecution."<sup>71</sup> The state authorities deliberately targeted lawyers because their keen knowledge of the law helped a significant number of political prisoners to escape harsh punishments for participation in the protests. One of the most prominent victims of this repression was Nasrin Sotoudeh. Despite the clear danger of her work, Nasrin represented a number of political prisoners in Iranian courts. As a reprisal for her dedication to justice and principled stance against the state's abuses of power, she was arrested and "sentenced to 11 years in jail for charges that included acting against the national security and propaganda against the state."<sup>72</sup> In addition, Nasrin was prohibited from working as a lawyer for 20 years and was banned from leaving the country. In September 2013, however, without any official explanation from the officials, Mrs. Sotoudeh was released from jail after spending six years of her life confined in her cell.<sup>73</sup> Many of the observers attribute the lawyer's early release to recent election of the current Iranian President Hassan Rouhani who is seen as a moderate and inclined to mend the legacy of the state's harsh response to the Green Movement's protests.

Mohammad-Reza Bigdelifard, who as of 2013 has been a refugee in Turkey, was another victim of the regime's vicious campaign of widespread arrests and the prisoners'

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<sup>71</sup> Ibid.

<sup>72</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012, 30.

<sup>73</sup> "Nasrin Sotoudeh, an hour after release: 'They told me, you are free,'" *International Campaign for Human Rights in Iran*, March 7, 2014, <http://www.iranhumanrights.org/2013/09/nasrin-sotoudeh-3/>.

torture.<sup>74</sup> He along with his wife and brother-in-law were involved in political activism on the eve of the fateful 2009 presidential elections in Iran. During one of the rallies staged in support of Mir Hossein Mousassi, Ahmadinejad's chief political opponent at the time, Mr. Bigdelifard and his wife were photographed standing next to a big banner that read: "Dust and Trash". The photo became viral and quickly spread through international media channels. Approximately one month after the photo was taken, Mohammad was arrested and detained in a state-run secret facility where he was reportedly handcuffed and blindfolded for approximately 34 days.<sup>75</sup> In the course of his detention, he was subjected to various forms of physical and sexual abuse. Mohammad's captors, assumed to be either prison officials or police officers, implicated him in maintaining links with armed groups for the purposes of insurrection against the state.

Here is how Mohammad recalled his horrific experiences:

One time my interrogator asked me to write down whatever he wanted me to. "If you don't do what I say I'll pull down your pants and fuck you," he said. I refused. So he pushed me on a desk and pulled down my pants. I began to cry. He called someone else over. I could feel the warmth of someone's penis against my back. I told him I'd write whatever he wanted. But he said it was too late.<sup>76</sup>

Consequently, one of Mohammad's relatives gave a big bribe to a senior prison official in order to secure his release. As soon as Mohammad was freed, he immediately left the country and travelled into Turkey. There, he was reunited with his wife and brother-in-law, who escaped into Turkey soon after Mohammad's arrest, and together they applied for the status of refugee with the UNHCR office in Ankara. With Mohammad's permission, his case was well-documented and reported by the Human Rights Watch. It serves to illustrate the degree of

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<sup>74</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012, 33.

<sup>75</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012, 33.

<sup>76</sup> "Why They Left?" *Human Rights Watch Report*, December, 2012, 34.

physical torment and psychological trauma endured by many political prisoners in Iran's jails. Indefinite detention, violent coercion into false confession, and physical torture forced many Iranian political dissidents to flee Iran and search for international protection with the UNHCR in Turkey.

Another testimony of the former political prisoner Shahram Bolouri, who consequently escaped from Iran and was given the status of a refugee, highlights the tragic trend of state-sponsored persecution and abuse that accompany civil engagement of many Iranian political activists. Shahram was also arrested in the aftermath of the disputed presidential election in 2009. He participated in several protests in the country's capitol where he used his camera to document the police violence against the peaceful protestors whose presence on the streets of Tehran blatantly challenged the authority of the Iran's regime. The country's security officials understood the danger of unchecked displays of protest and other forms of legitimate civil disobedience. In order to squash the still nascent political movement before it became too powerful to contain, Tehran's police frequently used disproportionate force as a means to discourage and intimidate still disorganized but sympathetic to the cause of the protests people from participating in the rallies.

The photos that Shahram managed to capture in the chaos of the clashes between the police and the protestors helped to expose the brutal tactics of Iran's riot-police. The abhorrent and violent methods of crowd control caused countless injuries and a number of deaths among the protestors. The photos caused outrage and immediate condemnation from the international community that bemoaned widespread and often indiscriminate use of violence that was unleashed against the protestors with the blessing and full knowledge of the Iran's leaders. The salience of Shahram's work also attracted attention of Iran's Ministry of Intelligence. As a

result, Mr. Bolouri was arrested on June, 2009. The Intelligence Ministry “held [Shahram] in Tehran’s [notorious for prisoners’ abuse] Evin prison for almost 8 months, 45 days of which was in solitary confinement. Bolouri stated that interrogators and prison guards subjected him to severe psychological as well as physical ill-treatment and torture.”<sup>77</sup> Here is how Shahram described his ordeal in his own words:

My solitary cell [in Ward 240] measured 2.5 meters by 1 meter. It had a toilet and no windows. Prison guards would often come in and order me to stand, sit, and perform odd tasks just because they could. One of them once said to me, “You look like an athlete. Select your sport. Stand up and sit down for me. One hundred times, and make sure you count!” He made me do this several times even though I had a busted leg. I was sweating profusely but they didn’t let me shower. After two weeks the same guy opened the door to my cell and said, “Why does it smell like shit in here?” He ordered me to go to take a shower and wash my clothes.”<sup>78</sup>

The testimonies of Mohammad-Reza Bigdelifard and Shahram Bolouri vividly illustrate the gravity of the human rights abuses in Iran, impunity of Iran’s officials, and systematic persecution against the country’s political activists that engulfed the country in the wake of the Green Revolution. The danger of a lengthy imprisonment and even death for political activists in Iran is not a humanitarian hyperbole aimed at attracting empathy of otherwise unconcerned world. The people who are actively engaged in Iran’s political processes and refuse to submit to the unaccountable authority of the political elites endanger their personal safety and wellbeing of their families. Therefore, unable to secure justice and exercise their fundamental civil rights, many of Iran’s political dissidents make a very difficult decision to leave their country, enter Turkey, and ask international community to grant them with protection from inevitable retribution of Iran’s regime. The spirit and ultimate tragic demise of the Green

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<sup>77</sup> “Why They Left?” *Human Rights Watch Report*, December, 2012, 35.

<sup>78</sup> “Why They Left?” *Human Rights Watch Report*, December, 2012, 35.



Revolution demonstrated the resentment of Iran's civil society toward its leaders and willingness of Iran's regime to use all means necessary to stifle change and genuine political reform in the country. Nevertheless, the legacy of the Movement undoubtedly left an indelible memory in the hearts and minds of all Iranians and will remain an enduring point of reference for the future generations of Iran's political activists.

## II. Identity & Gender

*In Iran we don't have homosexuals like you do in your country.  
This does not exist in our country.*

*Former President of Iran Mahmoud Ahmadinejad,  
Columbia University, New York,  
September 24, 2007.*

The questions concerning identity, gender and human sexuality is a very sensitive topic in modern Iran.<sup>79</sup> According to Professor of Religious Studies at the University of California, Santa Barbara Janet Afary, in Iran "heterosexuality became the norm, but a gay lifestyle has yet to be recognized... From time to time the Islamist state hanged gay men, charging them with rape and pedophilia, thereby ensuring a lack of public sympathy for them."<sup>80</sup> Further, the religion has undoubtedly shaped the public attitudes about sexuality and body politics in the country. Shia Islam underpins the country's popular perception of masculinity and femininity, and clearly delineates the gender roles in the society. For the most devout followers of Islam, the topic of gay and lesbian relationships is a strict taboo that signifies a grave divergence and severe moral transgression. Indeed, Iran's laws clearly reflect the state's concern for preservation of religiously sanctioned or 'traditional' marriages between men and women of

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<sup>79</sup> Janet Afary, *Sexual Politics in Modern Iran*, (New York: Cambridge University Press, 2009).

<sup>80</sup> Ibid, 369.

the same religion and opposite gender. On the other hand, gay and lesbian relationships are criminalized under Iran's Islamic Penal Code and carry strict punishments for people engaged in such a liaison. For example, according to *Articles 232 and 233* of the Penal Code, the "death penalty is required for an individual engaged in *livat* (sodomy), defined as consensual or forced penetrative sex between two men."<sup>81&82</sup> In addition, the Penal Code defines *musaheqeh* (lesbianism) as a crime; *Article 239* assigns 100 lashes to women found guilty of same-sex sexual intercourse.<sup>83</sup> Obviously, the social stigma, legal penalties, and the government's denial of existence of gays and lesbians in the country, makes Iran a very inhospitable and in many ways dangerous place to live and thrive for the members of Iran's LGBT community. Sexual deviancy, ascribed to homosexuality, and the pressure to conform to the social conventions of the society in which heterosexual marriages are seen as the only permissible outlet of human sexuality, force Iran's gays and lesbians to constantly negotiate their true sexual identity with their Muslim upbringing instilled in them since birth. The inner tensions that ensue from the clash between one's sexual self-awareness with the hegemony of religious dogma, reinforced by the dominance of heteronormativity, is the constant source of conflict and psychological distress that defines the experiences of so many Iranian gays and lesbians in the communities where homosexuality is regarded as a moral crime and sexual aberration.<sup>84</sup> Absence of tolerance and institutionalized persecution against gays and lesbians in Iran fosters a social

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<sup>81</sup> "Codifying Repression: An Assessment of Iran's New Penal Code," *Human Rights Watch Report*, August, 2012.

<sup>82</sup> "Islamic Penal Code of the Islamic Republic of Iran – Book II," *Iran Human Rights Documentation Center*, March 2, 2014, <http://www.iranhrc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#45>

<sup>83</sup> "Codifying Repression: An Assessment of Iran's New Penal Code," *Human Rights Watch Report*, August, 2012.

<sup>84</sup> Willem Floor, *A Social History of Sexual Relations in Iran* (Mage Publisher, 2008).

culture that denies rights and permits exclusion of the LGBT community in the public sphere of the society. As a result, fear of social ostracism and the prospect of familial disavowal forces Iran's sexual minorities to conceal their true sexual identity and search for partnership with fellow members of the LGBT community in a surreptitious manner. However, even in hiding they frequently face harassment and surveillance of Iran's moral police. The Human Rights Watch report states that "the environment in Iran today is such that sexual minorities, who are often the victims of abuse and violence, are instead treated as culprits; the state appears to officially sanction harassment and abuse of LGBT persons by private actors and even police; and LGBT persons are often seen as diseased, criminals, or corrupt agents of Western culture."<sup>85</sup> In short, the appalling conditions and ubiquitous discrimination against sexual minorities in the country force members of the LGBT community to abandon hopes of social acceptance. Overwhelmed by the social rejection and fear of persecution, many gay and lesbian Iranians leave their country in hopes of preserving their human dignity and finding acceptance by seeking protection of international community via the UNHCR; a significant number of Iran's LGBTs make their way into Turkey where international non-profit organizations, such as the Iranian Railroad for Queer Refugees (IRQR) and the Iranian Queer Organization provide support and assistance to Iranian gay and lesbian asylum seekers.

It may come as a huge surprise, however, that Iran's government and its religious authorities recognize transsexuality as a legitimate condition that necessitates assistance and, if required, medical attention. This is a very progressive and paradoxical policy for a socially conservative country such as Iran. The recognition of transsexuality and its decriminalization

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<sup>85</sup> "We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran," *Human Rights Watch Report*, December 2010.

undoubtedly delivered a measure of respite to Iran's transsexuals and gave them hope for eventual integration into the society. The policy was enacted in 1987 when Ayatollah Khomeini, the spiritual father of the Islamic Republic, issued a *fatwa* (a religious edict or religious legal opinion) that recognized transsexual identity and authorized gender-change operations to be available for Iran's citizens.<sup>86</sup> As a result, today "Iran carries out more sex change operations than any other nation in the world except for Thailand."<sup>87</sup> Moreover, due to the recent changes in Iran's laws, which were adopted in 2013, the country's medical insurance providers are now required to cover nearly the full cost of these operations.<sup>88</sup> In essence, because *Article 29* of Iran's constitution guarantees the citizens access to free health care, the government fully subsidizes the sex change operations for Iran's transsexuals, making it an affordable and accessible option for those wishing to undergo the procedure.<sup>89</sup> In short, recognition of transsexuality is one of many paradoxes that define the complicated landscape of Iran's sexual politics. However, in spite of the progressive spirit of the policy, the use of the medical procedure remains controversial. Many of Iran's gays and lesbians report feeling the government's pressure to change their gender in order to avoid state harassment and persecution. For example, an Iranian transsexual Negar stated that the decision to undergo the sex-change operation came at a very heavy cost and that she would have never consented to the procedure if she were not living in Iran: "If I didn't have to operate, I wouldn't do it. I wouldn't

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<sup>86</sup> Elizabeth M. Bucar and Aaron Stalnaker, *Religious Ethics in a Time of Globalism: Shaping a Third Wave of Comparative Analysis* (Palgrave Macmillan 2012), 52.

<sup>87</sup> "Iran's Diagnosed Transsexuals", *BBC*, March 7, 2014, [http://news.bbc.co.uk/2/hi/middle\\_east/7259057.stm](http://news.bbc.co.uk/2/hi/middle_east/7259057.stm)

<sup>88</sup> Sasha von Oldershausen, "Iran's Sex-Change Operations Provided Nearly Free-Of-Cost", *The Huffington Post*, March 7, 2014, [http://www.huffingtonpost.com/2012/06/04/iran-sex-change-operation\\_n\\_1568604.html](http://www.huffingtonpost.com/2012/06/04/iran-sex-change-operation_n_1568604.html)

<sup>89</sup> "The Constitution of Islamic Republic of Iran", *Iran Chamber Society*, March 7, 2014, <http://www.iranchamber.com/government/laws/constitution.php>

touch God's work.”<sup>90</sup> In other words, the progressive attitude of Iran’s civil and religious authorities concerning transsexuality does not alleviate the systematic and structural discrimination against gays and lesbians in the country. Iran’s LGBT community continues to exist under a shroud of fear and self-denial. However, many of Iran’s LGBT community members refuse to regard their sexuality as a social and/or religious aberration; they refuse to accept the fate of permanent self-abnegation and choose to escape from the country and seek asylum abroad.

A significant number of Iranian LGBTs arrive into Turkey in search of international protection. However, living and seeking temporary asylum in Turkey poses another set of challenges that reflect vulnerability of Iranian gays and lesbians. For example, the Human Rights Watch reports:

During its three visits to Turkey in 2007, 2008 and 2010, Human Rights Watch interviewed dozens of Iranian LGBT refugees and asylum seekers who describe their main problems in Turkey as discrimination and abuse suffered at the hands of local townspeople in Turkey, difficulties with the Turkish government, including the Turkish police, and problems with the UNHCR itself.<sup>91</sup>

Further, Arsham Parsi, the founder and Executive Director of the Iranian Railroad for Queer Refugees, an international non-profit organization headquartered in Canada, argues that “Turkey is a most hazardous respite for Iranian gays at best.”<sup>92</sup> Nevertheless, in spite of the reported perennial problems that accompany the lives of Iran’s gays and lesbians in Turkey, the country remains the chief destination for Iran’s LGBT community. In the proceeding paragraphs, I will impart several testimonies of Iran’s gays and lesbians that poignantly convey

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<sup>90</sup> “Iran’s Diagnosed Transsexuals”, *BBC*, March 7, 2014, [http://news.bbc.co.uk/2/hi/middle\\_east/7259057.stm](http://news.bbc.co.uk/2/hi/middle_east/7259057.stm)

<sup>91</sup> “We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran,” *Human Rights Watch Report*, December 2010, p. 93.

<sup>92</sup> Arsham Parsi, *Iranian Queer Activist – Biography*, accessed on March 7, 2014, <http://www.arshamparsi.net/index2.html>

the hardships experienced by them in Iran and Turkey, as well as explain the reasons that compel them to leave their native country: first is the story of Narsin Sabokpa.

Narsin is a twenty six year-old lesbian who came to Turkey with her mother in 2013. Upon their arrival into Turkey, they were told to settle in Kayseri, a provincial city located in the center of the country. There, Narsin has been impatiently waiting review of her pending case for asylum. Fortunately, since arriving in Turkey, Sabokpa has received support from two organizations that identify and assist Iranian LGBT refugees - Iranian Railroad for Queer Refugees (IRQR) and the Iranian Queer Organization (IQO). Sabokpa and her mother “are several of the hundreds of LGBT refugees that have left Iran with help from an “underground railroad” spanning from Iran to Turkey and then across the globe, from Canada and the United States to Europe and Australia.”<sup>93</sup> In her conversations with the staff of the IRQR, Sabokpa described her experience of living in Iran and the reasons that compelled her to abandon her country:

The last four years in Iran were so hard. I always had to hide myself — from family, from friends, everywhere I went. I don’t want to hide my sexuality from others. I want everyone to know that I am gay, that I am normal, like others... I had family problems growing up. People always asked why I had short hair and dressed like a boy. I realized I was a lesbian when I was 7 and had special feelings for classmate, but I was a child and didn’t know anything about it until I was 16 or 17. I read something about LGBTs on the internet and found out I was normal.<sup>94</sup>

Sabokpa’s story is a familiar one. Evidently, the acute fear of social rejection and continual need to conceal her desired sexual preference has exhausted Sabokpa’s physical and mental strength. The distressing prospect of having to hide her sexuality and feelings toward women

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<sup>93</sup> Marie Doezema, “Iranian LGBTs flee persecution via ‘underground railroad,’” *The Iranian Railroad for Queer Refugees*, March 1, 2014, <http://english.irqr.net/2013/05/17/iranian-lgbts-flee-persecution-via-underground-railroad/>

<sup>94</sup> Ibid.

for the rest of her life was the ultimate trigger that convinced her to sever her links to Iran and start a new and open life elsewhere in the world. Being true to herself was far more important than dubious loyalty to the social conventions of Iran's society. Although happy to have fled from Iran, Sabokpa still feels anxious about living in Turkey. Uncertainty and angst define the emotional state of Iranian LGBT asylum seekers. Indeed, "the Iranian gay refugees in Kayseri live in a strange limbo during their time in Turkey. They don't know how long it will be until they're assigned a new country by the UNHCR, and they don't know where they'll go next."<sup>95</sup> Albeit unavoidable, waiting for resettlement in a third country is a tantalizing and frustrating experience for many of Iran's refugees and asylum seekers.

Another reveling account of life in Iran for LGBTs has been described by Roodabeh, a self-identified lesbian who was thirty years-old at the time of the interview with the Human Rights Watch. In her testimony Roodabeh portrayed the rejection that she has experienced after her mother and the rest of the family began suspecting her of being attracted to other women. Her mother regarded Roodabeh's untraditional sexual orientation as a social disgrace and the highest form of humiliation that casts a shadow of shame over the entire family:

My mother would always say that I am "sick." She would ask, "It is possible for a woman to like another woman in such a way?" And she was always surprised by my friendship with some of my female friends. She would always fight with me about this. I remember the first girl I fell in love with. Her name was Fatemeh... My mother found out. When Fatemeh called she would not give me phone. And when I used to pick up the phone she would come on the line crying and saying, "You are a hamjensbaz! [a derogatory and offensive term used to describe homosexuals in Iran], You are ruined! Now what should I do with you?"<sup>96</sup>

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<sup>95</sup> Ibid.

<sup>96</sup> "We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran," *Human Rights Watch Report*, December 2010, 35.

Unfortunately, the pattern of familial rejection is a common occurrence for Iranian gays and lesbians. The culture of exclusion and animosity towards members of Iranian LGBT community is deeply embedded in the country's criminal laws, which penalize any sexual relations outside of traditional bounds of marriage, and strong influence of the religious dogma that is often used to demonize gays and lesbians and considers homosexuality as an abominable and irredeemable sin. These values, as deplorable and repugnant as they may be, normalize, rationalize and inform public hostility and opinions concerning non-traditional sexual identities. Therefore, families created in such an environment that have gay and/or lesbian children are more likely to ostracize and reject them in the name of social decency and religious rules than to accept them and embrace their differences in sexual identity. The same phenomenon frequently occurs in the countries that are considered socially liberal according to the modern standards. A similar story is described in the Human Rights Watch report by a gay refugee Saeed H. whose father not only kicked him out the house but also beat him severely.

Here is how Saeed H. described his ordeal:

In ninth grade [where students are typically 15-16-years-old], when I first had a PC and access to internet, I would go into straight chatrooms and chat with boys. Eventually I found gay chatrooms. I met a boy in one of these chatrooms and he became my boyfriend. We started off by talking on the phone and after a while began seeing one another. Around this time my father found some gay pictures on my computer. He confronted me and severely beat me. I went home one day and he just started beating me. I managed to get out of the house and went to a friend's house.... I left home and went to live with my boyfriend in a small town near Mashhad called Shahr-e Golabad, where my boyfriend went to university. I lived with him for eight to nine months. During this time I tried going back home but my father would not allow me inside the house.<sup>97</sup>

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<sup>97</sup>“We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran,” *Human Rights Watch Report*, December 2010, 36.



Sadly, the threat of physical violence is a perpetual concern experienced by Iranian LGBTs. Violence committed against gays and lesbians in Iran is not accorded with the same magnitude of gravity and punishment as violence that was inflicted on a heterosexual person. In fact, violence against gays and lesbians in Iran is implicitly ascribed with legitimacy and righteousness and therefore is not regarded as socially unacceptable. As a result, the members of Iran's LGBT community became frequent targets of unprovoked outbursts of brutality and physical assault that are generally treated with impunity. Credible threats of violence and lack of protection mechanisms in Iran's legal system for gays and lesbians forces many of them to flee from the country and seek safety abroad. Moreover, Iran's police and state officials are often incriminated in abetting and even instigating harassment and attacks against the country's LGBTs.

A testimony made by Hossein M., a gay male from Tehran, was documented and reported by the Human Rights Watch. Hossein's statement clearly illustrates the deliberate attempts of the state officials to target and punish Iran's gays and lesbians. Iran's police and *basij* [a paramilitary force that closely cooperates with the Iran's regime], frequently overstep the boundaries of their jurisdiction and abuse their power in order to arrest individuals suspected of having non-traditional sexual orientation. These arrests are often accompanied by unabashed violation of the constitutional rights of Iranian citizens and signify the state-led policy of hostility and intimidation against gays in the country. Hossein M. shared his personal encounter with the Iran's police at a party held in a private residence in Tehran:

My last arrest was the reason I left Iran. In the winter of 2007 my partner and I went to a gay party in Tehran that was raided by the *basij*. We were caught having sex at the party and were taken to a *basij* base located in the basement of a building. We were about 15 people. They put us all in one room. We were held there for four nights and then tried at the Emam Khomeini courthouse for

the crimes of homosexuality and participation in a corrupt gathering. We were all sentenced to 80 lashes [for the corrupt gathering charge] and were told to return to court in a month for our sentences to be carried out... later on they tried to make us confess to the crime of lavat and said that our final punishment would be execution, and that they would use the pictures as evidence against us. After five days in custody I was released on bail. My family put up my grandmother's apartment as security. After we were released my partner's uncle also told us that the basij had shown him the pictures. The official summons came on the May 15 and required that we present ourselves to the court on the 30th. My partner and I escaped Iran before our court date.<sup>98</sup>

Testimonies and other reports compiled by the Human Rights Watch, IRQR and IQO provide unequivocal and overwhelming evidence of systematic and structural discrimination against members of Iran's LGBT community. Exclusion, violence, and state-led harassment force hundreds of Iranian gays and lesbians to abscond from Iran, enter into Turkey and seek protection of international community from abuses and injustice that sadly came to define their lives in Iran.

### **III. Crimes of "Moral Propriety"**

The 1979 Islamic Revolution resuscitated and reinstituted long-antiquated sexual politics that further advanced the clerical regime's social agenda. These old-new sexual politics have a clear gender dimension that puts the onus of preserving the society's moral purity and sexual chastity on women. Janet Afary observed that "the Islamist government [in Iran] instituted a dramatic reversal in human rights, especially regarding women's rights. The state revived premodern social conventions (repudiation, veiling, flogging) but enforced them through modern means and institutions, which meant a wider application; defunct and

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<sup>98</sup> We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran," *Human Rights Watch Report*, December 2010., 53.

suppressive Shi'a rituals of purity and penance were brought back.”<sup>99</sup> Hence, combating what I describe as crimes of moral propriety became central to Iran's clerical regime mission to enforce Islamic norms in the society's sexual comportment. I define the crimes of moral propriety as personal transgressions that, foremost, relate to marital infidelity and extramarital affairs in the context of Iran's legal system. According to Iran's Islamic Penal Code, marital infidelity is a severe criminal offence. The Penal Code contains an entire chapter of offences that Islamic Legal doctrine defines as *zina* laws (adultery laws). These laws have been a source of much controversy and justified international criticism. Namely, the so-called *zina* “violates international law by criminalizing consensual sexual relations between adults.”<sup>100</sup> Article 221 of the Penal Code defines *zina* as “sexual intercourse of a man or a woman who are not married to each other.”<sup>101</sup> Criminalization of untraditional sexuality in general and adultery in particular in Iran's legal system, reflects two parallel and mutually inclusive phenomena that informed the judicial institutions and practices in the country: 1) conflation of the Shi'a Islamic legal doctrine with the penal code, and 2) the government's self-anointed responsibility to uphold public decency and punish behavior that undermines established norms concerning marriage and human sexuality. Iran's government views itself as a religiously sanctioned entity bestowed with a sacred obligation to guard moral and sexual subordination of its population as a means of preserving the true and inviolable Islamic character of the state. Therefore, from the

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<sup>99</sup> Janet Afary, *Sexual Politics in Modern Iran*, (New York: Cambridge University Press, 2009), 323.

<sup>100</sup> “Codifying Repression: An Assessment of Iran's New Penal Code,” Human Rights Watch Report, August, 2012, 25.

<sup>100</sup> “Codifying Repression: An Assessment of Iran's New Penal Code,” *Human Rights Watch Report*, August, 2012, 2.

<sup>101</sup> “Islamic Penal Code of the Islamic Republic of Iran – Book II,” *Iran Human Rights Documentation Center*, accessed on March 2, 2014, <http://www.iranhrc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#44>

state's perspective, a person who has engaged in an extramarital affair and committed adultery did not only commit a personal moral transgression that undermined his/her marriage, but also challenged the pillars of the Islamic Republic that are premised on a strict observance of the Islamic *zina* laws. This explains troubling, to the outside observers, preoccupation of Iran's authorities with surveillance and disciplining the behavior that in many liberal democracies is generally ascribed to the private domain of a person's agency. The practice of policing individual sexual agency and ensuring strict adherence to the norms of Islamic morality has characterized Iran's law enforcement institutions, especially *Basiji* (morality police). Unsurprisingly, however, the nominal devotion of Iran's regime to the principles of Islamic law does not engender ubiquitous social subordination and sexual conformity. On the contrary, the state's patriarchal and religiously driven invasion into the private lives of its citizens cultivates a fertile soil for the seeds of social protest and resistance. For some, however, attempts at challenging and disregarding the sexual norms invite the potential for fatal consequences.

Adultery is a very serious crime according to Iran's Islamic Penal Code. *Article 225* of the Code mandates the capital punishment for a man or a woman found guilty of committing *zina* crime.<sup>102</sup> In the past, literal interpretation of *shari'a* by Shi'a Islamic clerics, particularly in the rural parts of the country, led to sanctioning of stoning as punishment required for people accused of committing the 'crime'. The most famous case of this extremely brutal method of execution in Iran was stoning of Sorayam M., whose heart-wrenching story was immortalized in a book written by Freidoune Sahebjem in 1994.<sup>103</sup> The reports of alleged stoning continue to

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<sup>102</sup> Ibid.

<sup>103</sup> Freidoune Sahebjem, *Stoning of Sorayam M.* (New York: Arcade Publishing, 1994).

resurface sporadically in Iran. However, the generally clandestine nature of this crime, reluctance of the authorities to admit existence of this heinous practice and conduct thorough investigation make it nearly impossible to verify such reports. Officially, stoning has been “removed from the revised in 2012 Islamic Penal Code”,<sup>104</sup> prompting a significant number of human rights organizations to welcome these revisions. Nevertheless, the same NGOs criticized the Iranian authorities for stopping short of banning the practice of stoning altogether as incompatible with Iran’s criminal law and illegal under its penal code.<sup>105</sup> Lack of explicit prohibition of stoning, according to Human Rights Watch and other human rights organizations, has created a dangerous loophole that could be exploited by conservative clerics who, in the absence of competent judicial authority, may settle the disputes concerning adultery by authorizing stoning as punishment. In other words, stoning, justified under literal interpretation of the religious doctrine and not explicitly prohibited by the state, continues to survive as, albeit rare, but tenacious form of punishment for marital infidelity.

Women are particularly vulnerable targets for the crimes of moral propriety. Female chastity and fidelity are especially guarded qualities in patriarchal societies such as Iran. Accordingly, women are frequently seen as vessels of familial honor and men are assumed to fulfill the role of a protector who supervises and, if necessary, punishes transgressions that undermine integrity of female chastity and, by extension, family honor. Of course, this is a very unequal and one-sided construction of gender roles in the society. Male lack of moral decorum and marital infidelity are frequently excused in patriarchal societies, or worse, male crimes of

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<sup>104</sup> “Codifying Repression: An Assessment of Iran’s New Penal Code,” *Human Rights Watch Report*, August, 2012, 3.

<sup>105</sup> “Codifying Repression: An Assessment of Iran’s New Penal Code,” *Human Rights Watch Report*, August, 2012, 24.

moral propriety are deflected against women who are portrayed as sources of deliberate seduction and malignant temptation of otherwise pious and faithful men. In both cases, paradoxically, women are held responsible for both preserving their sexual purity and concealing their sexuality from men who make unwanted sexual advances. As a result, when sexually violated, a woman sometimes must prove that she was not complicit in the act. Moreover, a husband is legally justified to kill his wife if he finds her in the act of committing adultery. *Article 630* of Iran's Islamic Penal Code states that "when a man sees her wife committing *zina* with another man, provided that he is certain that his wife is willing [to have sex], he can kill both of them in the same position; however if he knows that his wife acts under coercion, he may only kill the man [i.e. her rapist]." <sup>106</sup> In essence, the Penal Code condones murder of a woman suspected of committing adultery by her husband without a trial. Finally, a testimony of a woman in Iran's courts is not given the same value and credibility as men's. This brazen inequality concerning gender trustworthiness is justified by *shari'a's* prescription that stipulates that "the testimony of a man must be given twice the weight of that of a woman." <sup>107</sup> Given the close degree of alignment between *shari'a* and Iran's judicial system, a woman defending her honor and reputation in the court of law must be able to find an additional female witness willing to testify on the woman's behalf in order for her testimony to become admissible in a criminal case. Evidently, the gender bias undergirding Iran's judicial system severely disadvantages women, presumes universal female duplicity and ultimately

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<sup>106</sup> "Islamic Penal Code of the Islamic Republic of Iran – Book V," *Iran Human Rights Documentation Center*, March 2, 2014, <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#15>

<sup>107</sup> "Gender Inequality and Discrimination: The Case of Iranian Women", *Iran Human Rights Documentation Center*, March 2, 2014, <http://iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html#5>

endangers women's welfare. In short, the blatant gender disparities in the Iran's legal system deny women justice and call into question the judicial practices of the Islamic Republic. The institutional discrimination against women in the country leaves them with very few options when confronted with allegations of marital infidelity and/or other crimes of moral propriety. Some of these women forsake legal means of defense in courts and choose to leave the country in order to seek protection of international community. My interview with Refugee 1, which took place in Turkey in October 2013, ideally illustrates this sad trend.

The following paragraphs describe a testimony of a female Iranian refugee whose narrated account was obtained with kind assistance of Susanne Eikenberg, coordinator of the Refugee Advocacy & Support Program at the Helsinki Citizens' Assembly (HCA) in Istanbul, Turkey. The in-person interview with Susanne Eikenberg took place in the HCA's main office in Istanbul in October, 2013. The mentioned refugee shall be henceforth referred to as Refugee 1 in order to protect the person's privacy and identity.

Refugee 1 arrived into Turkey from Iran in early spring of 2013 and immediately claimed the status of a refugee due to alleged threats to Refugees 1's life stemming from allegation of committing adultery pressed against her by Refugee 1's family. Soon after the arrival, the refugee took the required steps to register with the UNHCR in Ankara – Turkey's capitol, as well as registering with the local Turkish authorities as required by the Turkish law.<sup>108</sup> At a preliminary interview with the UNHCR staff and a translator unaffiliated with the refugee agency, Refugee 1 explained the reasons that forced her to urgently depart from Iran and search protection of international community. According to Refugee 1's testimony, she

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<sup>108</sup> Rachel Levitan, Esra Kaytaz, and Oktay Durukan, "Unwelcome Guests: The Detention of Refugees in Turkey's 'Foreigners' Guesthouses,'" *Refuge* Vol. 26, Issue 1, (2009): 77-90.

wanted to find asylum in another country because her husband and the husband's family have threatened to kill her because she had a consensual sexual encounter with another man. To clarify, Refugee 1 was separated, but not officially divorced, from her husband for over a year at the time of the incident. Prior to starting the new sexual relationship with another man, Refugee 1 wished to divorce her husband but could not do so because of her spouse's refusal to sign and ratify the required divorce documents. In spite of the spouse's denial of divorce, Refugee 1 engaged in consensual sexual relations with another man. One such 'liaison' between Refugee 1 and Refugee 1's partner was filmed, saved, and subsequently uploaded onto Refugee 1's personal computer. After several months, Refugee 1's personal computer was accessed by her legally adult nephew who accidentally discovered the video of the sexual act. Shortly following the discovery, the nephew alerted Refugee 1's husband about the existence of the video. The allegations of adultery and associated with the allegations threats of physical violence ensued soon after the discovery of the video. Refugee 1 was distressed and intimidated after her consensual sexual relations with another man and private life became exposed to the members of her family. Citing the undisputable prejudice against women in Iran's judicial system, Refugee 1 did not seek protection of the authorities in Iran and instead chose to escape from the country in order to avoid what seemed like imminent danger to her life and safety.

The case of Refugee 1 clearly illustrates how structural gender inequality in Iran's laws and judicial system, coupled with widespread patriarchal attitudes, imperil the lives of women who are perceived to have violated the country's formal and informal laws of moral propriety. This is especially true for cases of alleged adultery. Women accused of engaging in an extramarital affair confront a disturbing prospect of familial and/or state-sanctioned violence



that can have fatal consequences. The prospect of a violent death for a woman in such circumstances is real and such instances have been well documented in the not so distant past. In order to avoid virtually inevitable punishment and endless social stigma, some women decide to leave Iran and find a new life in a country that does not criminalize one's sexual agency and consensual sexual relations outside of marriage. Susanne Eikenberg confirmed that the case of Refugee 1 is not unique. Many Iranian women are unable to find the legal recourse or, for that matter, sympathy within their country, and therefore become helpless and unable to protect their rights and safety. Escaping from Iran, then, becomes the only feasible option for finding peace and regaining human dignity. Ms. Eikenberg was unable to provide precise statistical data on the number of Iranian women seeking asylum because of credible threats to their lives that originate from crimes of moral propriety. Such data is generally kept in secrecy by the UNCHR. However, she stated that in her experience of working with Iranian refugees, the tales of women who escape from Iran to hide from abusive husbands, familial ostracism and other forms of emotional and physical violence are, unfortunately, not uncommon.<sup>109</sup>

Crimes of moral propriety, especial in relation to women, constitute an important and underreported category of the causes that every year forces thousands of Iranian women to seek asylum abroad. It is also important to examine this category within the larger context of Iran's gender politics. Iranian women often endure the residual effects of a long patriarchal tradition in the country that over time became fused with the authority of Shi'a Islamic doctrine. As Professor of Religious Studies at the University of California Santa Barbara Janet Afary reports, women in Iran are confronted with ubiquitous gender based discrimination that has

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<sup>109</sup> Interview with Susanne Eikenberg, Helsinki Citizens' Assembly – Refugee Advocacy and Support Program, October 23, 2013 Istanbul, Turkey.

been institutionalized and explicitly codified in Iran's family law, inheritance law, penal code and other legal documents and statutes:

In the early twenty-first century women in Iran "continued to have fewer personal legal rights than men, and their position in matrimony remained highly precarious. Fathers could still arrange marriages for their daughters before age thirteenth, with court permission... Husbands still had veto power over their wives' occupations, could prevent them from visiting friends or traveling abroad, and could decide unilaterally on the couple's place of domicile. A woman still faced the possibility of sharing her husband with a second wife. Women experienced denial of child custody and destitution if divorced... Still unequal inheritance laws, lack of community property in marriage, and horrific state punishments for female adulterers gave men significant advantages."<sup>110</sup>

This systematic discrimination and less than enviable legal status of women in Iranian society illustrates the patriarchal character of the state and the government's complicity in preserving and glorifying these gender disparities branding them as morally imperative for a pious Islamic society. Given the socially entrenched and legally codified practices of gender discrimination in Iranian society, it is easy to understand why some Iranian women who became victims of abuse and violence choose to leave the familiar settings of their native country and search for a new life elsewhere in the world. Since there are no signs on the Iran's political horizon that the extremely slanted trajectory of gender politics in the country will reach a point of gender equity, it is very likely that in the near future a significant number of Iranian women will continue to attempt to escape from Iran and seek for asylum abroad. Understanding and keen awareness of this phenomenon is the key to providing the required help and assistance to these women. In the interim, crimes of moral propriety, as they pertain to Iranian women, will remain an important category of Iranian refugees who seek safety and protection of international community.

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<sup>110</sup> Janet Afary, *Sexual Politics in Modern Iran*, (New York: Cambridge University Press, 2009), 368.

#### IV. Religious Deviations

Religious deviations, and more specifically *ertedad* (apostasy), constitute an important category among Iran's asylum seekers. People who fall into this often overlooked category have challenged the hegemony of Shi'a Islam in Iran, defied entrenched social conventions and invited the ire of the country's authorities. Although, the revised in 2012 Iran's Islamic Penal Code does not mandate any specific punishment for religious conversion, the *Article 220* of the Penal Code condones the practice of using non-codified religious law by judges in cases where no applicable law exists.<sup>111</sup> That means that a strict interpretation of *shari'a*, which mandates the capital punishment for cases of apostasy, could feasibly be used by a judge to condemn a person to death for embracing the tenets of a different religion. In fact, the practice of applying literal interpretation of *shari'a* in Iran has been on the rise in the recent past. Professor of Legal Studies at the University of Pennsylvania Ann Elizabeth Mayer, in her seminal book "Islam and Human Rights", examines revival of a movement for a strict interpretation of the religious law within Islamic legal thought in the countries where Islam undergirds all spheres of a society's life, such as Iran:

"The transformation of Islam into state ideology has led governments to equate the abandonment of Islam – or more accurately, the rejection of the official ideology – with treason. The traditional notion that apostates are to be executed has taken on new life after decades in which there was an inclination to let the premodern Islamic jurisprudence on this topic to languish... As the official orthodoxy becomes identified with the regime's own ideology and legitimacy, [a phenomenon that is ideally represented in Iran's political system], modern governments have been inclined to label Muslims who do not accept the official version of Islam as heretics and apostates... [In short], what until

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<sup>111</sup> "Islamic Penal Code of the Islamic Republic of Iran – Book II," *Iran Human Rights Documentation Center*, accessed on March 2, 2014, <http://www.iranhrc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#.U4vWMSjiXo>

recently seemed to be an anachronism has been revived in ways that have led to serious breaches of international human rights in the name of applying *shari'a* law.”<sup>112</sup>

Indeed, some conservative Islamic clerics support the death penalty for apostasy by citing the words of the Prophet Muhammad in the Hadith stating: "It is not permissible to spill the blood of a Muslim except in three [instances]: A life for a life; a married person who commits adultery; and one who forsakes his religion and separates from the community."<sup>113</sup> Clearly, when interpreted literally, the Hadith offers moral license and justification to inflict death against people who renounced their faith in Islam. Further, *Article 167* of the Iran's Constitution stipulates that a "judge is bound to endeavor to judge each case on the basis of the codified law. In case of the absence of any such law, he has to deliver his judgment on the basis of authoritative Islamic sources and authentic fatwa."<sup>114</sup> Hence, "even when no rule mandating execution of apostates from Islam has been incorporated in the criminal code, governments that have undertaken Islamization programs may nonetheless execute people for apostasy from Islam – as if the *shari'a* rules were binding even in the absence of corresponding provisions in the criminal code."<sup>115</sup> As I already discussed in the preceding sections of this chapter, Iran's criminal law and *shari'a* - religious law, are tightly intertwined and mutually inclusive, thus allowing for the capital punishment to become a plausible option in cases of religious conversions.

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<sup>112</sup> Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (Westview Press, 2007), 167-173.

<sup>113</sup> "Sudan death penalty reignited Islam apostasy debate," *BBC*, accessed on May 15, 2014, <http://www.bbc.com/news/world-africa-27433241>

<sup>114</sup> "The Constitution of Islamic Republic of Iran", *Iran Chamber Society*, March 7, 2014, [http://www.iranchamber.com/government/laws/constitution\\_ch11.php](http://www.iranchamber.com/government/laws/constitution_ch11.php)

<sup>115</sup> Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (Westview Press, 2007), 173.

Since Iran's criminal law lacks explicit guidance concerning religious conversions, the judges feel inclined to resort to *shari'a* when delivering a verdict in such cases. The case of Yousef Nadarkhani, an evangelical pastor at a Protestant Christian church in Iran, clearly demonstrates how a convolution of religion with legal norms could have devastating consequences for people whose deep spiritual beliefs diverge from the dominant religious authority of a country.

The recent case of Yousef Nadarkhani illustrates the issues surrounding enforcement of the crime of apostasy in Iran. In September 2010 a lower court convicted Nadarkhani, a 33-year-old pastor of an evangelical church in Iran, of apostasy and sentenced him to death. The judge in the case ruled that Nadarkhani was an apostate because he was born to a Muslim family and adopted Christianity at age 19. In 2011, however, Iran's Supreme Court overturned the earlier death sentence and remanded the case to the lower court. It instructed the lower court to conduct additional investigations to determine if Nadarkhani was a Muslim after the "age of maturity"—15 years for boys according to Iranian law—and if he repented.<sup>116</sup>

Yousef Nadarkhani's attorney reported that Iranian authorities had applied heavy pressure against his client in an attempt to force him to recant his faith in Christianity in return for acquittal of the apostasy charges. Mr. Nadarkhani rejected the offer to recant his faith in Christianity and continued to endure intimidation and threats of the prosecution and the judges who curated the case. When it became clear that the pastor will not yield to the pressure and repent, in a bizarre turn of events, the prosecution charged Mr. Nadarkhani with "banditry and extortion".<sup>117</sup> After months of trial and investigation, the prosecution failed to provide credible evidence to support its accusations. In the end, after spending nearly three

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<sup>116</sup> "Codifying Repression: An Assessment of Iran's New Penal Code," *Human Rights Watch Report*, August, 2012, 34.

<sup>117</sup> "Banditry and Extortion Replace Apostasy Charges for Christian Pastor!" *International Campaign for Human Rights in Iran*, accessed on May 1, 2014. <http://www.iranhumanrights.org/2012/08/nadarkhani/>

years in detention, Mr. Nadarkhani was found guilty of supposedly evangelizing Muslims but was released from prison soon after. The pastor's release did not signify the triumph of justice, however. On the contrary, many observers have linked Mr. Nadarkhani's release from prison to the relentless international campaign of human rights organizations and global civil society which helped to attract international attention to this appalling case and exposed the paradoxes of Iran's legal system. Although Iran's Constitution recognizes the legitimacy of Christianity as a religion, Mr. Nadarkhani's plight clearly illustrates the nominal nature of the government's commitment to religious freedoms in Iran and demonstrates the dangers of practicing Christianity in a state dominated and controlled by Islamic clergy.

My interview with Susanne Eikenberg – the coordinator of the Refugee Advocacy & Support Program at the HCA in Istanbul, Turkey, confirmed that every year more Iranian converts, and other religious “renegades”, are leaving their country in search of asylum and claiming to have suffered religiously motivated persecution.<sup>118</sup> For example, Baha'is – a historically oppressed religious community of Iran, constitute a significant number of these asylum seekers. Iranian Christian converts, however, prominently became a new and increasingly common group among Iran's asylum seekers whose presence in Turkey, according to my interviews with Mrs. Eikenberg, has increased dramatically in the recent past. It is hard to determine precisely what caused the spike in the numbers of Iranian Christian converts. In my conversation with Susanne Eikenberg, she expressed a well-founded, in her opinion, belief that the influx of the religious converts from Iran could be explained by a widely circulating rumor in Iran itself that conversion into Christian faith is the nearly certain

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<sup>118</sup> Interview with Susanne Eikenberg, Helsinki Citizens' Assembly – Refugee Advocacy and Support Program, October 23, 2013 Istanbul, Turkey.

way to receive asylum in the countries of the Western Europe or the North America.<sup>119</sup> Indeed, it is very important to recognize that notable rise in Christian converts in Iran is directly correlated to the country's outward migration pattern. The growing trend of religious conversions of Iranian Shi'as into Christianity was described as a migration scheme as early as 2006 by Professor Sebnem Akcapar at Institute for the Study of International Migration, Georgetown University. Dr. Akcapar's critical article "*Conversion as a Migration Strategy in a Transit Country: Iranian Shiites Becoming Christians in Turkey*" explains how religion, or more precisely Christianity in Iran, "has been overlooked by scholars studying migration in the country."<sup>120</sup> The author argues that "for some Iranian asylum seekers in Turkey, religion and especially religious conversion is used as a tool for migration."<sup>121</sup> The claims for refuge of these small but significant enough groups of asylum seekers are clearly bogus. However, these asylum seekers employ this spurious migration strategy for a good reason that stems from documented cases of various degree of persecution of some Christians in Iran.

The claims of discrimination and persecution of Christians in Iran are, indeed, well-documented by variegated international human rights organizations and the United Nations itself. In fact, on March 13, 2014 Dr. Ahmed Shaheed – the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, released a long-awaited report in which he described a number of instances of state sanctioned harassment, intimidation and even imprisonment of Christians in the Islamic Republic:

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<sup>119</sup> Ibid.

<sup>120</sup> Sebnem Koser Akcapar, "Conversion as a Migration Strategy in a Transit Country: Iranian Shiites Becoming Christians in Turkey," *International Migration Review* Vol. 40, No. 4 (2006) , pp. 817-853.

<sup>121</sup> Ibid.

In recent years, Christians, many of whom are converts from Muslim backgrounds, have faced a similar pattern of persecution. At least 49 Christians were reportedly being detained in the Islamic Republic of Iran as at January 2014. In 2013 alone, the authorities reportedly arrested at least 42 Christians, of whom 35 were convicted for participation in informal “house churches”, association with churches outside the Islamic Republic of Iran, perceived or real evangelical activity, and other standard Christian activities. Sentences range from one to 10 years of imprisonment.<sup>122</sup>

Christianity enjoys deep historic and spiritual roots in Iran. Historically, Iran has been home for a statistically small but, nonetheless, significant number of Christians of either Armenian or Assyrian descent. These ancient Christian communities had lived in the country for centuries and became an integral part of Iran’s diverse tapestry of religious and ethnic identities. However, Protestant Christianity is a religious novice in Iran. Its presence and reported proliferation in the country has antagonized Iran’s conservative political establishment that sees the Protestant strand of Christianity and its steadfast mission of spreading the Gospel as a threat to Shi’a Islam’s religious hegemony in the Iranian society. According to The World Christian Database, there were 66,000 Protestants in Iran in 2010.<sup>123</sup> In addition, “Open Doors, a nondenominational organization tracking Christian persecution, estimates that Iran has 370,000 new Christians from a Muslim background” – a significant increase for a country where religious singularity has been the paradigm of political authority since the 1979 Islamic Revolution.<sup>124</sup> The deep-seated suspicion and hostility of the Iranian authorities toward what appears to be a growing number of the religious conversions in the country, fuels the state’s disdain toward Iranians who chose to abandon Islam and serves to

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<sup>122</sup> UN Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, *March 2014 Report to the 25<sup>th</sup> Session of the Human Rights Council*, March 13, 2014, 10. <http://shaheedoniran.org/wp-content/uploads/2014/03/A-HRC-25-61-updated.pdf>

<sup>123</sup> Liana Aghajanian, “Iran’s Oppressed Christians,” *The New York Times*, March 14, 2014, <http://www.nytimes.com/2014/03/15/opinion/irans-oppressed-christians.html>

<sup>124</sup> Ibid.



justify the converts' imprisonment and harassment. In turn, religious converts in Iran, albeit very small in their numbers, are virtually defenseless against state-sponsored abuses and popular social attitudes that severely reprove apostasy. The Islamic Revolution and the country's recent political upheaval, most notably the 2009 Green Revolution, inadvertently paved the way for institutionalization of permanent religious insecurity in Iran. Thus, to challenge the religious and spiritual authority and postulated legitimacy of Shi'a Islam in Iran is equivalent to attempts at undermining the Islamic Republic's very existence. Therefore, Iran's authorities display no qualms and spare no administrative efforts to contain and discourage alternative religious beliefs from thriving in the state. Of course, those Iranians who experience genuine spiritual epiphany and compelled to follow the revelations of another religion must practice their newfound beliefs with great caution and secrecy. Iran's vigilant system of religious surveillance and control is never too far from the private spiritual beliefs and practices of its citizens; without a doubt the regime is keen to punish any conspicuous sign of religious deviation.

Overall, the situation concerning religious converts from Iran who arrive into Turkey in search of asylum and international protection is complicated and delicate. Various international refugee agencies, particularly the UNHCR, are confronted with a daunting task of screening and evaluating pleas for protection and asylum of Iranians who claim to have changed their religion. Many of these asylum seekers are the true believers who, following a deep spiritual calling, decided to accept the teachings of a different religion and reevaluated their relationship with Islam. Others, however, consciously exploit Iran's religious monopoly of Shi'a Islam and assert change in their religious identity in hopes of evoking sympathy and urgency of actions among the humanitarian agencies in Turkey that help Iranian asylum seekers to find permanent

refuge elsewhere in the world. The UNHCR and other international migration organizations, whose representatives I had fortune of interviewing, are certainly aware of this dishonest practice. But awareness alone is not sufficient enough barrier to identify and reject spurious application for asylum. For instance, according to my interview with Gizem Demircial Kadah, the Program Manager of the Association for Solidarity with Asylum Seekers and Migrants (ASAM) who is well-familiar with this problem, there are no doubts about the reality of hardships and mistreatment of Iranians accused of apostasy in their home country, but sometimes “it is nearly impossible to determine authenticity of an asylum seeker’s testimony of purported religious conversion.”<sup>125</sup> There is no handbook or guide that can aid the staff of these NGOs to precisely rule on such complex matters, nor is it feasible or practical to compose one. Needless to say, the UNHCR, ASAM, HCA, and other related organizations treat such cases with a healthy dose of justified skepticism. The resulting uncertainty surrounding the cases of religious conversions serve to prolong refugee status determination process for Iranians who fall into this category and casts a shadow of a doubt on all cases involving religiously motivated persecution.<sup>126</sup> In other words, the problem of religion, conversion and migration has no easy solution.

## **V. Concluding Note**

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<sup>125</sup> Interview with Gizem Demircial Kadah, Association for Solidarity with Asylum Seekers and Migrants, October 25, 2013 Istanbul, Turkey.

<sup>126</sup> Refugee Status Determination Process or RSD, is a well-codified and rigorous process that includes, among other things, a thorough examination and interrogation of a person’s claims for asylum. For more information regarding the breadth and variegated stages of the RSD process please refer to the official UNHCR issued Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status - <http://www.refworld.org/docid/4f33c8d92.html>

The chief purpose of this chapter is to illuminate and bring to a reader's attention the reasons that every year compel thousands of Iranians to flee their country of origin into Turkey and seek assistance of international refugee organizations. My interviews with various NGOs and refugees themselves permitted me to identify the total of four most common, albeit not exhaustive, categories of Iranian asylum seekers. These categories are: 1) *Political Dissidents*; 2) *Identity & Gender*; 3) *Crimes of "Moral Propriety"* and, 4) *Religious Deviations*. What is the benefit of knowing the causes of refugee exodus from Iran? How does it elucidate the main research question of this paper? First, understanding the central causes of the asylum seekers' flight from Iran allows us to comprehend the social and political dynamics that shape the norms and social conventions of everyday life for the majority of Iranian citizens.

Accordingly, some Iranians find it virtually impossible to reconcile their personal values and aspirations with Iran's rigid and uncompromising institutional architecture which is thoroughly integrated with the principles of Shi'a Islam. This deliberate fusion of religious tenets and civil laws is clearly represented in Iran's Constitution and its Islamic Penal Code. Further, lack or complete absence of spaces for protest and criminalization of unsanctioned dissent, forces these people to lead the life of submission and suppression. Some, however, reject such a fate and choose to rebel and exercise their agency – as manifested by the spontaneous public gatherings of the 2009 Green Revolution. Some Iranians dare to challenge the ruling regime in spite of the prospect of harsh penalties for displays of public insubordination. Others, as evident in the preceding sections of this chapter, choose to leave their homes due to a well-substantiated fear of the government's retaliation and/or harassment. Second, examination of the origins of Iranians' escape into Turkey also helps us to grasp how asylum seekers' individual narratives and circumstances exacerbate their already difficult living conditions and uncertain legal status

once they cross the Turkish border and begin an onerous process of seeking assistance of the UNHCR; anxiously hoping for a tantalizing opportunity of eventual resettlement in a safe third country. Due to Iran's regime geographical and perceived psychological proximity to Iranian asylum seekers in Turkey, many asylum seekers continue to feel vulnerable and unsafe. This literal and imagined proximity aggravates Iranian asylum seekers' sense of insecurity and intensifies apprehension when an asylum seeker's bid for resettlement is either delayed or outright dismissed. Rejection, in this case, almost certainly implies deportation back into Iran. Third, we will never be able to fully comprehend the failures and shortcomings of international refugee laws, concerning Iranian refugees and asylum seekers in the context of Turkish national refugee laws, unless we have a thorough understanding of the problems that provoked the influx of Iranian asylum seekers into Turkey in the recent years. Indeed, the inability of international refugee law to fulfill its mandate in Turkey is sometimes explained by the nature of Iranian refugees' claims for protection. This, coupled with Turkey's idiosyncratic profile as a transit country of global human migration and the country's peculiar treatment of non-European asylum seekers, vastly complicates the mission of the UNHCR and sometimes undermines the universal principles of the Global Refugee Regime all together. Therefore, having dissected the chief reasons that trigger the movement of Iranian asylum seekers into Turkey, we can now examine the institutional efficacy of the UNHCR in Turkey, delve into the reality of Turkish national refugee policies and, finally, evaluate the plight of Iranian asylum seekers in the country.

## **CHAPTER 6**

### **THE REALITIES OF LIFE FOR IRANIAN REFUGEES AND ASYLUM SEEKERS IN TURKEY**

#### **The UNHCR in Turkey & Dichotomy between Global and National**

The UNHCR is the biggest refugee agency authorized to work on Turkish soil. In fact, its “branch office in Turkey is the organization’s second largest operation in the world.”<sup>127</sup> In the recent years, the agency has been struggling to cope with the growing number of asylum seekers who request the organization’s assistance. In the aftermath of the raging civil war in neighboring Syria, the UNHCR in Turkey has been inundated with new refugee cases. The mounting number of applications for asylum continues to strain the UNHCR’s resources and undermines its ability to process asylum seekers’ appeals in a timely manner. The overwhelming burden of tackling Turkey’s growing population of migrants and asylum seekers negatively impacts the UNHCR’s efficiency and capacity to deliver the requisite help. Unfortunately, given the reality of Turkish national laws and the increasing influx of refugees, the agency has been unable to enforce the central principles of the Global Refugee Regime. The failure of enforcement had a direct impact on the plight of Iranian refugees and asylum seekers living in the country.

The deplorable plight of Iranian and other non-European refugees and asylum seekers in Turkey symbolizes the epitome of the rift between two competing systems of governance – global vs. national. This is a familiar struggle that underlines the phenomenon of globalization

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<sup>127</sup> “Report on the Situation of Iranian Refugees in Turkey: Post June 12th, 2009: One Year Later,” *OMID Advocates for Human Rights*, June 2010, 9.

itself. Global principles of international refugee law pledge universal commitment to uphold and protect the rights of people claiming status of a refugee, irrespective of a person's religious, racial, ethnic or national background. Global refugee regime is an all-embracing and, at its heart, egalitarian network of laws and humanitarian organizations dedicated to the welfare of displaced and persecuted individuals. On the other hand, national policies of states concerning human migration and asylum are much more selective and discriminatory. National migration policies prioritize and shield states' interests and, at the same time, seek to minimize countries' obligations to the authority of international institutions and asylum seekers themselves. The resulting dissonance of goals of the two systems create a complicated legal landscape that inevitably harms already vulnerable to social and economic tribulations population of asylum seekers. This is especially true for Iranians who seek protection of international community in Turkey.

The UNHCR in Turkey anticipates to receive “14,170 new applications” from Iranian nationals in the year 2015 alone.<sup>128</sup> The UNHCR generally employs three durable solutions which are designed to permanently resolve refugees' uncertain and inadequate living conditions as well as instill a sense of stability in their lives. These solutions are:

- *Voluntarily Repatriation*
- *Local Integration*
- *Resettlement to a Safe Third Country*

As a rule, Iranian asylum seekers cannot be voluntarily repatriated back to Iran because of the high likelihood of state sponsored persecution and harassment against them. Further, because Iranians are regarded as not Europeans according to the Turkish laws, they can only

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<sup>128</sup> Planning figures for 2014 UNHCR Country operations profile – Turkey, *The UN Refugee Agency*, June 20, 2014. <http://www.unhcr.org/pages/49e48e0fa7f.html#TURAN>

hope to receive a temporary permission to remain in the country while their case is being examined by a relevant refugee agency. Due to this legal exclusion, Iranian asylum seekers are legally prevented from integrating into Turkish society even if they want to stay in the country on a permanent basis. This is because Turkish government, in line with its traditional nationalistic policies, decided to retain Article 1B of the 1951 Convention Relating to the Status of Refugees which “restricts [the Convention’s] scope to those events occurring in Europe before 1<sup>st</sup> of January 1951”.<sup>129</sup> Therefore, Iranian asylum seekers are legally not eligible to receive official refugee status under the Turkish law due to the non-European origin of their arrival into Turkey. Albeit a signatory to the 1951 Convention, Turkey does not have formal international obligations to Iranian asylum seekers and refugees. Since Turkey does not recognize Iranian asylum seekers as refugees, irrespective of the nature of their bid for asylum, it becomes the UNHCR’s responsibility to assess the credibility of the asylum seekers’ appeals, determine whether an appeal merits status of a refugee and, finally, search for a safe third country willing to accept and eventually naturalize an Iranian asylum seeker on its territory. Therefore, resettlement of Iranian refugees in a safe third country becomes the only durable solution available to them in Turkey.

The Turkish government does participate in this process to a certain extent. Namely, it requires asylum seekers to register with the Ministry of Interior Foreigner’s Office of the Security Directorate within 5 days of a person’s arrival into the country. Failure to submit registration request in the given timeframe automatically makes asylum seekers subject for arrest and/or deportation. Also, Turkey’s Ministry of Interior assigns each asylum seeker

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<sup>129</sup>“Standards of Protection: 1951 Convention Relating to the Status of Refugees and the 1967 Protocol,” *Forced Migration Online*, June 26, 2014. <http://www.forcedmigration.org/research-resources/expert-guides/international-law-and-legal-instruments/standards-of-protection>.

with a place of temporary residence in the country's many satellite cities. It is important to note that "refugees and asylum seekers themselves cannot choose in which city they will live."<sup>130</sup> Travel outside of the assigned satellite city must be coordinated with the local Ministry of Interior. Failure to secure permission to travel authorizes Turkish authorities to arrest and deport an asylum seeker who was caught living in a different region of the country. In short, Turkish refusal to abrogate the controversial geographic limitation of the 1951 Convention on refugees and the country's strict national migration laws continue to enervate the Global Refugee Regime, weaken the ability of the UNHCR to perform its work in the country, and ultimately imperil the welfare and safety of Iranian asylum seekers.

### **The Law on Foreigners and International Protection: Hopes & Doubts.**

That the UNHCR is imposed with a daunting and overwhelming responsibility to enforce the rules and values of international refugee law with ostensible involvement of the Turkish authorities is both palpable and troubling. This disproportionate distribution of the burden, however, is expected to change dramatically after the new law on Foreigners and International Protection comes into force in April 2014.<sup>131</sup> The new legislation has created a new agency – the Directorate General for Migration Management, which will assume the primary duty to process and evaluate claims and appeals of refugees and asylum seekers in the state. The enactment of the law has been hailed by relevant migration bodies of the European

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<sup>130</sup> Gizem Demirci, *I Know my Rights, I Want You to Know Them Too – Handbook for Refugees and Asylum Seekers in Turkey*, (Istanbul: Yagmur Kopyalama Merkezi, 2012), 15.

<sup>131</sup> The law on Foreigners and International Protection has a potential to become a groundbreaking legislation for Turkish national policy on refugees and asylum seekers. The law's full text was published in the official state newspaper *Resmî Gazete* on July 11, 2013. Its full version could be accessed by following this link - <http://www.resmigazete.gov.tr/eskiler/2013/04/20130411-2.htm>.



Union and major refugee agencies operating in Turkey, including organizations whose representatives I interviewed in the course of my field research in Istanbul: the International Catholic Migration Commission (ICMC), Association for Solidarity with Asylum Seekers and Migrants (ASAM), Helsinki Citizens Assembly, International Organization for Migration (IOM), and Hatef Relief Organization. Nevertheless, the new law, critics argue, does not go far enough and its full implementation remains in doubt. In spite of the far-reaching reforms envisioned by the law, including assuming the lion's share of the work currently performed by the staff of the UNHCR, this legislation does not eliminate the culprit of the refugee crisis in the country – the geographic limitation of the 1951 Convention. Hence, while the Turkish authorities appear to be eager to harmonize the country's policies with the practices of the European Union in terms of treatment, availability of resources and processing of asylum seekers, the legal status of refugees and asylum seekers will unfortunately continue to be shrouded in ambiguity and uncertainty.

The representatives of the mentioned above organizations shared the same sentiment when I asked their opinion on the new legislation. Gizem Demircial, Program Manager at the ASAM, stated that “the law [on Foreigners and International Protection] and its presumed objectives were long overdue. However, it is too early to tell whether this law will be fully enforced or if it will have any positive impact on refugees living in the country. My research indicated that currently Turkey lacks administrative infrastructure, lawyers well-versed in international refugee law and experience necessary to tackle the country's growing problems of international human migration.”<sup>132</sup> Peter Vogelaar, the Head of the Affiliated Services at the

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<sup>132</sup> Interview with Gizem Demircial Kadah, Association for Solidarity with Asylum Seekers and Migrants. October 25, 2013 Istanbul, Turkey.

ICMC expressed very similar opinion: “we are very excited about this law. I think Turkey really needs it. Of course, it will not solve all the migration related problems because they are tied with big politics and Turkey’s aspirations to join EU. We have to wait and see what impact, if any, this law will have on everyday life of refugees here.”<sup>133</sup> In addition, Susanne Eikenberg expressed “cautious optimism” about the legislation and criticized the government’s “refusal to repeal the geographic limitation to the Convention, which would be the most sensible and effective act that would demonstrate Turkey’s sincere commitment to the principles of international refugee law.”<sup>134</sup> Finally, the Amnesty International’s review of the law was published in its latest report on Turkey which was released on July 2014. The report concluded the following:

“It is too early to say whether Turkey’s Law on Foreigners and International Protection, which came into force in April 2014, will lead to real improvements in the treatment of migrants and refugees. Indeed, local NGOs who spoke with Amnesty International in June 2014 believe that it may take several years for the newly formed General Directorate of Migration Management to be fully operational.”<sup>135</sup>

Without a doubt, the law on Foreigners and International Protection is, in many regards, a breakthrough for Turkey’s idiosyncratic and controversial policies on international migration and refugees. However, the law fails to address Turkey’s biggest obstacle to full implementation of the Global Refugee Regime’s norms and obligations – the country’s geographic limitation to the 1951 Convention and 1967 Protocol on refugees. Therefore, any

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<sup>133</sup> Interview with Peter Vogelaar, International Catholic Migration Commission. October 29, 2013. Istanbul, Turkey.

<sup>134</sup> Interview with Susanne Eikenberg, Helsinki Citizens Assembly – Refugee Advocacy & Support Program. October 23, 2013 Istanbul, Turkey.

<sup>135</sup> “The Human Cost of Fortress Europe: Human Rights Violations Against Migrants and Refugees at Europe’s Borders.” *Amnesty International*. July, 2014, 25.

celebrations associated with the enactment of the law are premature and the plight of Iranian asylum seekers and refugees in the country will remain uncertain and difficult.

### **They Don't Care About Us**

'They Don't Care About Us' is the name of a Facebook group that attracted nearly three thousand supporters in a few short years of the group's existence. The chief purpose of this group is to use social media in order to seek help of online community of activists and raise level of awareness about neglect, injustice and suffering of Iranian asylum seekers whose appeals for protection were denied by the UNHCR or other refugee agencies in Turkey and other countries. The reports and implorations to sign an online petition on behalf of an Iranian refugee facing arrest or deportation in Turkey are a frequent sight on the webpage.<sup>136</sup>

Proliferation of similar groups online and active global campaigning of refugee advocacy groups for the rights of abused and/or denied Iranian asylum seekers is one of many signs that the Global Refugee Regime has not yet reached its full potential and did not fulfill its promise of universal protection.

When entering into Turkey, whether legally or illegally, Iranian refugees and asylum seekers find themselves at the epicenter of the intersection of the Global Refugee Regime and the Turkish national laws concerning migration and human movement. This intersection is a very difficult and confusing place to be. Global Refugee Regime promises safety and a fair consideration for each of asylum seeker's appeal for urgent resettlement elsewhere in the world. Rooted in the Article 14 of the Universal Declaration of Human Rights that gives

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<sup>136</sup> "They Don't Care About Us," Facebook group, Accessed on June 18, 2013, <https://www.facebook.com/TDCAU.TDCAU/timeline>

“everyone... the right to seek and to enjoy in other countries asylum from persecution”<sup>137</sup> the regime strives to transcend the notion of national borders and extend help to all eligible persons irrespective of their citizenship. Turkey’s discriminatory migration policies, however, emphasize national background of asylum seekers and use it as a qualification tool when determining a person’s legal status in the country. Therefore, Iranians entering Turkey must quickly become accustomed to the perplexing reality of the dual and sometimes overlapping structure of the refugee status determination procedure and associated with the process laws and regulations endemic to Turkey.

However, even before Iranian asylum seekers could approach the staff of the UNHCR in Turkey, they must overcome a frightening possibility of deportation back into Iran as they cross the Turkish-Iranian border. Crossing the border is a very challenging task and “hostility, abuse and exploitation are the [asylum seekers’] frequent companions on this dangerous journey.”<sup>138</sup> Turkey has a well-verified record of refoulement practice.<sup>139</sup> The principle of *non-refoulement* is the cornerstone of international refugee law and an integral part of the Global Refugee Regime. The principle assures that persons seeking asylum and protection from persecution will never be returned back to the country where their life and well-being may be in danger until a due and transparent process is carried out. However, “according to the UNHCR office in Ankara, beginning in January 2012 the UNHCR officers began noticing cases where Turkish authorities had rejected Iranians and other asylum seekers before UNHCR

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<sup>137</sup> For the full text of the Universal Declaration of Human Rights, please follow the following link <http://www.un.org/en/documents/udhr/>

<sup>138</sup> Eurasia Review. Turkey & Iran’s Growing Alliance. [http://www.huffingtonpost.com/daniel-wagner/turkey-and-irans-growing-\\_1\\_b\\_4832176.html](http://www.huffingtonpost.com/daniel-wagner/turkey-and-irans-growing-_1_b_4832176.html).

<sup>139</sup> “Stranded: Refugees in Turkey Denied Protection,” *Amnesty International*, 2009.

had the opportunity to make an assessment of their claims.”<sup>140</sup> My own investigation has revealed that deportation of Iranian nationals who are attempting to enter Turkey both legally and illegally is not uncommon. Susanne Eikenberg of the Helsinki Citizens’ Assembly confirmed my findings and acknowledged that the problem does exist. Although this dangerous and illegal trend has witnessed a decline in the recent years, largely due to the pressure from various NGOs, the new cases of illegal deportation and extrajudicial incarceration are still being reported. The Amnesty International’s investigation revealed a plethora of such cases. In August 2007, the human rights organization reported that “a group of Iranians were deported [back into Iran] after three weeks of detention in Muş despite their repeated requests to apply for asylum and the intervention of NGOs and UNHCR.”<sup>141</sup> Also, in 2008 yet another group of Iranians belonging to the People’s Mojahedin Organization of Iran were ill-treated and then irregularly returned to Iran by the Turkish authorities.<sup>142</sup> The same report exposed the systematic nature of this unlawful and extremely troubling practice:

While Turkish law sets out a legal procedure to be followed before any foreign national can be deported, Amnesty International was told by persons who had been forcibly returned that in the case of persons caught close to the Iranian border, persons who may be in need of international protection were deported without any legal procedure or opportunity to apply for asylum and that they were subjected to beatings both after being apprehended by the gendarmerie in Turkey and after being forced to cross back over the border into Iran. According to the testimonies of persons taken by Amnesty International some persons were detained and deported to Iran three times before being able to re-enter Turkey and cross the border area. An official within the Foreigners Department of the Van Directorate of Security told Amnesty International that an informal agreement exists with the Iranian authorities to return any person thought to

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<sup>140</sup> “Why They Left?” *Human Rights Watch Report*, December 2012, 52.

<sup>141</sup> “Stranded: Refugees in Turkey Denied Protection,” *Amnesty International*, 2009, 15.

<sup>142</sup> “Stranded: Refugees in Turkey Denied Protection,” *Amnesty International*, 2009, 30.

have entered Turkey irregularly from Iran and caught within 50km of the border.<sup>143</sup>

The complicity and cooperation of Turkey's border guards and other officials with the Iranian regime is outrageous and untenable. This brazen collusion also signifies the institutional nature of Iranian refugees' human rights violations. Unlawful collaboration of Turkish security services with Iranian government and expulsion of Iranian asylum seekers underscores their particularly difficult plight and demonstrates the necessity to expose the injustices perpetrated against them. Indeed, the report compiled by Berkeley, CA based organization, OMID Advocates for Human Rights, concludes that "unlike refugees from both Iraq and Afghanistan which also share a border with Turkey, Iranian refugees are particularly vulnerable because reliable evidence exists that Iranian security forces have entered Turkey to pursue and terrorize asylum-seekers."<sup>144</sup> For example, the case of Maryam Sabri, an Iranian refugee who fled from her country into Turkey when the Iranian authorities sought her arrest because of her participation in the Green Movement, made international headlines.<sup>145</sup> Ms. Sabri's testimonies went viral after she shared them on the public domain. Ms. Sabri reported that she was deliberately attacked by Iranian agents working in Turkish city of Kayseri. She was beaten by two men and pushed to the ground. After the fall, the men warned her that unless she stops seeking asylum abroad and stops speaking publicly about her ordeal of being raped in an Iranian jail, she will pay with her life for her campaign for Iranian human rights on Turkish territory. The case received a lot of media attention in Turkey and it serves to highlight that Iranian asylum

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<sup>143</sup> "Stranded: Refugees in Turkey Denied Protection," *Amnesty International*, 2009, 16.

<sup>144</sup> "Report on the Situation of Iranian Refugees in Turkey: Post June 12th, 2009: One Year Later," *OMID Advocates for Human Rights*, June 2010, 12.

<sup>145</sup> Robert Tait, "Woman who fled Iran's summer unrest tells of 'revenge' attack in Turkey," *The Guardian*, March 12, 2014, <http://www.theguardian.com/world/2009/dec/17/iran-refugee-sabri-turkey>

seekers cannot feel completely safe from the vengeance of the Iranian regime even within the sovereign limits of a neighboring state. However, despite these outrageous instances of illegal deportation, unwarranted expulsions and even attacks of Iranian agents, thousands of Iranian asylum seekers defy these callous odds and continue to enter into Turkey in their thousands every year.

“According to statistics compiled by the UNHCR from 44 industrialized countries that conduct individual asylum procedures, there were 11, 537 new asylum applications from Iranians to these countries in 2009; 15,185 in 2010; 18,128 in 2011; 19,930 in 2012”<sup>146</sup> and, finally, according to the 2013 UNHCR Asylum Trends report, 23, 879 Iranian asylum seekers applied for refugee status in that year. The largest number of new asylum applications was submitted in Turkey.<sup>147</sup> Of course, notwithstanding the precarious journey that asylum seekers must take in order to reach the safety of another country, the process of application for asylum and waiting for the required review of the petition is fraught with bureaucratic hurdles and political considerations which significantly prolong the entire process. The distressing plight and significant hardships experienced by some Iranian asylum seekers who arrive in Turkey is poignantly described in the recently published article “*As Refugees Flood Turkey, Asylum System Nears Breakdown*”. The author of the article, Susanne Gusten, conducted a number of interviews with asylum seekers and representatives of various NGOs that provide assistance to people who claim status of a refugee. Ultimately, the author arrived at a troubling conclusion that illustrates the growing level of dysfunctionality of international refugee law in Turkey:

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<sup>146</sup> “Statistical Data on Iranian Refugees and Asylum Seekers,” Iranian Refugees Alliance, Inc., March 7, 2014, <http://www.irainc.org/iranref/statistics.php>

<sup>147</sup> The UNHCR Asylum Trends 2013 – Levels and Trends in Industrialized Countries, *The UN Refugee Agency*, March 2014, <http://www.unhcr.org/5329b15a9.html>

A refugee entering Turkey today will wait for a year and a half just to register with the U.N.H.C.R. and another year for his first interview with them. That's a two-and-a-half-year wait, just for your first chance to plead your case. With follow-up interviews and appeals, the average wait for a decision is four to five years, with some refugees waiting seven to eight years before they even become eligible for resettlement. Third countries then choose among the eligible refugees according to criteria like education, language skills and nation of origin. Afghans, for example, currently have virtually zero chance of being resettled.<sup>148</sup>

Evidently, numerous issues and obstacles await Iranian asylum seekers as soon as they arrive into the country. For instance, “under Turkish regulations regarding refugees, those wishing to seek asylum are required to approach the authorities within five days of arriving in the country. Those who enter the country illegally and who, for whatever reason, fail to comply with this requirement are liable to immediate deportation without any consideration of their asylum claims.”<sup>149</sup> In addition to possibility of deportation and a long waiting period associated with the refugee status determination procedure, Iranian asylum seekers encounter difficulties with access to healthcare services, educational facilities, employment and maintaining residency in the country.

According to Turkey's Social Insurance and General Health Insurance Law #5510, the only people considered eligible to receive general health insurance in the country are asylum seekers (Sığınmacı).<sup>150</sup> However, the Turkish law defines an asylum seeker as a person who has been given refugee status by the UNHCR, and only once the procedure for resettlement into a third country has been initiated. Those asylum seekers who are still waiting to be

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<sup>148</sup> “As Refugees Flood Turkey, Asylum System Nears Breakdown”, *The New York Times*, September 26, 2012, [http://www.nytimes.com/2012/09/27/world/middleeast/as-refugees-flood-turkey-asylum-system-nears-breakdown.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/09/27/world/middleeast/as-refugees-flood-turkey-asylum-system-nears-breakdown.html?pagewanted=all&_r=0)

<sup>149</sup> “Turkey: Refoulement of non-European refugees – a protection crisis,” *Amnesty International*, July, 1997, 1.

<sup>150</sup> Gizem Demirci, *I Know my Rights, I Want You to Know Them Too – Handbook for Refugees and Asylum Seekers in Turkey*, (Istanbul: Yagmur Kopyalama Merkezi, 2012), 30.



interviewed by the appropriate authorities and those whose status has yet to be determined by the UNHCR are therefore not eligible to receive health insurance and must cover their medical expenses with their own money. Obviously, medical bills could present a big financial burden for an asylum seeker in a foreign country and ultimately may lead to adverse health consequences for people suffering from chronic illnesses.

Education for Iranian asylum seekers presents yet another challenge. Turkey's Educational Implementation Directive #57 and the Teaching and Education Law #222 require all children aged 6-13 to attend school irrespective of one's legal status in the country.<sup>151</sup> Financial and legal assistance may also be available for adults who wish to continue their education in Turkey's institutions of higher education. But the sanguine prospect of educational assistance is frustrated by the language barrier. Many Iranians seeking temporary refuge in Turkey do not speak the Turkish language and, as a result, cannot readily take advantage of the educational opportunities available to them. Some NGOs have recognized the problem and began offering free language classes that teach Iranians Turkish language in their native Farsi.<sup>152</sup> But despite these noble efforts the asylum seekers often forego these educational opportunities in order to find work to pay for their sometimes indefinite stay in the country.

Employment for foreign nationals in Turkey presents yet another often insurmountable set of challenges. Gizem Demircial, head of the ASAM in Istanbul, described the situation with employment for asylum seekers in the country as "very problematic".<sup>153</sup> In order to work

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<sup>151</sup> Gizem Demirci, *I Know my Rights, I Want You to Know Them Too – Handbook for Refugees and Asylum Seekers in Turkey*, (Istanbul: Yagmur Kopyalama Merkezi, 2012), 32.

<sup>152</sup> "Iranian refugees 'trapped' in Turkey awaiting asylum process," *BBC*, January 12, 2014, <http://www.bbc.com/news/world-asia-20854009>.

<sup>153</sup> Interview with Gizem Demircial Kadah, Association for Solidarity with Asylum Seekers and Migrants. October 25, 2013 Istanbul, Turkey.

legally in Turkey, Iranian asylum seekers must obtain a work permit, but “despite the fact that there is no major obstacle to foreigners receiving permission to work in Turkey, it is a long and difficult process to get a work permit.”<sup>154</sup> Namely, an asylum seeker must follow several steps to secure the permit. First, an asylum seeker must obtain a residence permit at a cost of about “\$200 per adult and \$100 per child, every six months.”<sup>155</sup> Second, the person must find a Turkish employer who would be willing to hire the asylum seeker. Then, the Turkish employer must send an application for the work permit to the Ministry of Labor and Social Security. However, the application for work permit may and often is rejected for the following reasons: 1) job market volatility and unfavorable economic climate; 2) “for the job in question, a person is found in the country within four weeks who has the same qualifications and is willing to do the job”; 3) an asylum seeker does not yet have a valid residency permit; 4) if an asylum seeker “has already applied to a certain workplace and been rejected and then applies for work again to the same place before one year has passed.”; and finally, application for the work permit will be rejected when “allowing an asylum seeker to work would constitute a threat to national security, public order, general security, public interest, general morality or general health.”<sup>156</sup> Of all the cited in the law reasons the notion of the threat to ‘general morality’ is perhaps the most nebulous and perplexing. In fact, it is easy to imagine how such a vague criterion could be used to deny an employment opportunity to refugees whose political and personal beliefs

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<sup>154</sup> Gizem Demirci, *I Know my Rights, I Want You to Know Them Too – Handbook for Refugees and Asylum Seekers in Turkey*, (Istanbul: Yagmur Kopyalama Merkezi, 2012), 33.

<sup>155</sup> “Thousands Flee Iran as Noose Tightens,” *The Wall Street Journal*, September 13, 2013, [http://online.wsj.com/news/articles/SB126049484505086861?mod=rss\\_Today%27s\\_Most\\_Popular&mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB126049484505086861.html%3Fmod%3Drss\\_Today%2527s\\_Most\\_Popular](http://online.wsj.com/news/articles/SB126049484505086861?mod=rss_Today%27s_Most_Popular&mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB126049484505086861.html%3Fmod%3Drss_Today%2527s_Most_Popular)

<sup>156</sup> Gizem Demirci, *Ibid.*

diverge from Turkey's cultural and political conventions. Lack, and frequently, complete absence of employment opportunities deprive Iranian refugees and asylum seekers from pursuit of their professional and career aspirations. More importantly, unable to work, the asylum seekers cannot achieve financial independence and economic self-sufficiency forcing them to rely on charity and intermittent help from local and international civil society organizations to help meet the daily expenses. Some asylum seekers rely on financial support from relatives and family members in Iran, but this assistance has limits and puts a serious strain on families' resources. Inability to work and earn income has adverse psychological impact on the mental health, self-esteem and sense of purpose of Iranians seeking refuge. In my interviews with the refugees, they reported acute sense of frustration with regard to very scarce financial and humanitarian help that they receive from several NGOs and their families. In short, "without work authorization they become vulnerable to labor exploitation. Health and psychological conditions are exacerbated without sufficient funds with which to purchase medications. These realities push the refugees into deeper despair."<sup>157</sup> The feeling of frustration and tenacious poverty is further exasperated by uncertainty over the refugees' future. Some willingly choose to break Turkish labor laws and work illegally in order to pay for their rent and other expenses. Men seek for low paying jobs in Turkey's booming construction sector, while women search for domestic service jobs. The vast majority of refugees are eager to return to the normal course of life and become productive members of their community, but the Turkish national migration laws are specifically designed to block this natural human aspiration and ultimately to discourage asylum seekers from entering into Turkey.

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<sup>157</sup> "Report on the Situation of Iranian Refugees in Turkey: Post June 12th, 2009: One Year Later," *OMID Advocates for Human Rights*, June 2010, 23.

Last, but not least, Iranian asylum seekers struggle tremendously to follow Turkey's strict residency rules. As I already mentioned in the preceding section of this chapter, asylum seekers and refugees must pay \$200, a sum of money which is approximately equivalent to 430 Turkish Liras given the exchange rate as of August 2014, per an adult person every six months for permission to live in Turkey. It is clearly a significant expense especially given that Turkey's minimum wage is currently stands at 846 Turkish Liras<sup>158</sup> and an average monthly salary in Turkey now stands at 1,671 Turkish Liras according to the latest Global Wage Report issued by the International Labor Organization.<sup>159</sup> Since the overwhelming majority of Iranian asylum seekers cannot work in Turkey, they are forced to ask for financial assistance from humanitarian organizations to cover the cost of the permit. In some cases, however, the cost of the residency permit could be waived if an asylum seeker can prove his or her difficult financial situation. Further, "refugees and asylum seekers cannot live wherever they want in Turkey."<sup>160</sup> The country's Ministry of Interior determines where asylum seekers will live and sends them into one of the 51 satellite cities. The local police department's Foreigner's Office is responsible for enforcing a refugee or an asylum seeker's constant presence in the same city. Any travel outside of the city must be communicated and receive approval of Security Directorate's Foreigner's Office; "if an asylum seeker does not return to his/her province after the allotted time period for travel, when the individual is caught, steps might be undertaken to expel the person from the country." Finally, "for the duration of the time that refugees and

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<sup>158</sup> "Turkey Announces new Minimum Wage," *The World Bulletin*, accessed on August 8, 2014, <http://www.worldbulletin.net/sports/126005/turkey-announces-new-minimum-wage>

<sup>159</sup> "Global Wage Report 2012/13: Wages and Equitable Growth," *The United Nations International Labor Organization*, [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_194843.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_194843.pdf)

<sup>160</sup> Gizem Demirci, *I Know my Rights, I Want You to Know Them Too – Handbook for Refugees and Asylum Seekers in Turkey*, (Istanbul: Yagmur Kopyalama Merkezi, 2012), 37.

asylum seekers are living in the satellite cities determined by the Ministry of the Interior, they are responsible for paying for their own accommodation costs. This can lead to various problems with rent payments.”<sup>161</sup> Fear of being unable to pay monthly rent and facing the possibility of forced eviction was one of the most frequently cited concerns that I recorded in my conversations with Iranian refugees and staff of the various refugee organizations. This is a well-founded concern. The cost of living for an unemployed person in Turkey could be intolerably high. Although, the local produce purchased from farmers could be comparatively affordable, any other of life’s amenities would be simply out of reach for a person without a secure monthly income. Needless to say, the heavy pressure of financial responsibility placed on Iranian asylum seekers and refugees adds considerable amount of stress and hardship on people who already suffered from deprivations, separation and persecution of various sorts.

All of the described above hardships and challenges take a huge and insidious toll on physical health and mental state of Iranian refugees and asylum seekers. The refugees I spoke to all reported being under constant pressure and stress due to the uncertainty and lack of communication from the UNHCR on their pending cases for asylum. OMID Advocates for Human Rights’ fact finding mission on the living conditions of Iranian asylum seekers and refugees in Turkey also noted that “all refugees reported that their medical conditions deteriorated in Turkey because of stress, poor nutrition, and lack of proper medical attention.”<sup>162</sup> Clearly, search for safety and perennial uncertainty over one’s fate is a very taxing experience that deprives Iranian asylum seekers of physical vigor and emotional equanimity. It is easy to see how continual stress perpetuates individual frustration and

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<sup>161</sup> Gizem Demirci, Ibid.

<sup>162</sup> “Report on the Situation of Iranian Refugees in Turkey: Post June 12th, 2009: One Year Later,” *OMID Advocates for Human Rights*, June 2010, 25.

gradually transforms into a tenacious depression that further undermines one's hopes, aspirations and general wellbeing.

### **Concluding Note**

This chapter attempts to outline, analyze and explain a myriad of problems that confront Iranian asylum seekers and refugees in Turkey in the context of Turkish national laws and the principles of the Global Refugee Regime. Of course, first of all, I must acknowledge the limitations of my field work and archival research. Thus, the information presented in this chapter constitutes only a fraction of the mammoth crisis that debilitated the system of international refugee law in the country and betrayed the promises of the Global Refugee Regime. This crisis does not receive sufficient media attention. Lack of media exposure is partly explained by the complexity of the refugee problems endemic to Turkey and global profile of refugee problems in general. Nevertheless, this chapter argues that without thorough understanding of the nature and causes of the hardships experienced by Iranian asylum seekers in Turkey, the international community will not be able to devise a set of effective and, more importantly, feasible solutions capable of providing the necessary respite and long-term impact on their lives. "Iranians currently make up the second largest group of asylum-seekers in Turkey after Iraqis."<sup>163</sup> Their plight is fraught with multitude of hardships that often demand systematic approach and comprehensive solutions. These Iranians are sometimes denied their legitimate rights guaranteed to them by the international refugee laws. They are being turned away at the Iranian-Turkish border, illegally detained and occasionally deported back to Iran

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<sup>163</sup> "Report on the Situation of Iranian Refugees in Turkey: Post June 12th, 2009: One Year Later," *OMID Advocates for Human Rights*, June 2010, 14.

into the hands of the country's theological and deeply authoritarian regime. Those asylum seekers who manage to cross the border and reach a Turkish city must prepare themselves for a highly restrictive life dictated by the Turkish national laws and rules that regulate the daily life of these people. Adequate healthcare, housing, education, residency and especially employment will remain beyond the reach of the Iranians and will force some of them to become completely dependent on remittances of their families and charity of various NGOs. Even more distressing, the reported encounters of the asylum seekers with Iranian government agents leave many unanswered questions with regard to the ability of the Turkish state to guarantee asylum seekers' safety and protect their unalienable human rights. These reported incidents also underscore the added vulnerability of Iranian asylum seekers who continue to live in fear of the government's reprisals, intimidation and harassment. When combined together, the described above grievances and suffering give collective meaning to individual struggle of the asylum seekers and reveal the extent to which clash between the norms of the Global Refugee Regime and Turkey's national policies undermine the possibility for a more just and benevolent world.<sup>164</sup>

The chief consequence of this discord is that Iranian refugees and asylum seekers become increasingly frustrated and emotionally fatigued with the convoluted and overburdened system of refugee assistance in the country. "Refugees know or soon realize that only 20% of all refugees in Turkey are ever resettled in third countries. This daunting figure would discourage anyone from attempting to enter into the resettlement process with all of its

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<sup>164</sup> Richard Falk, *(Re)imagining humane global governance* (New York : Routledge/Taylor Francis Group, 2014), 27.

aggravating complexities and no guarantee of ever being moved to a secure third country.”<sup>165</sup>

These dispiriting and sobering statistics, as well as despair and despondency, influence the decisions of the asylum seekers and send them to look for alternative and typically illegal means of reaching safety and prosperity of European and/or North American countries. The refugees’ steadfast determination to live in accordance with one’s principles and in social harmony with one’s identity leads some of them to dismiss the promises of the UNHCR and resort to the highly dangerous assistance of human smugglers and traffickers. In short, failures of the Global Refugee Regime to fulfill its international commitment in Turkey, fuel illegal immigration, endanger the lives of asylum seekers and create a host of other international economic, social and political problems that necessitate urgent intervention of international community. Trying to stop illegal immigration completely is surely a futile endeavor. What is possible, however, is to concentrate international efforts on realizing the mission and objectives of the Global Refugee Regime on the truly global scale. Implementation of the regime’s norms and principles will undoubtedly discourage illegal migration and deliver justice to Iranian asylum seekers who were denied their due rights and freedoms.



## **CHAPTER 7**

### **CONCLUSION**

This thesis seeks to demonstrate and explain the implications of the ongoing philosophical and institutional friction that emerged at the intersection of the Global Refugee Regime (GRR) and national refugee policies of nation states. The consequences of this encounter are clearly evident in the difficult plight of Iranian refugees and asylum seekers who enter into the Republic of Turkey in search of international protection. The findings of my research revealed that Iranian refugees face a particularly challenging experience in the country because the Turkish national laws concerning human migration and asylum frequently contradict the norms and values of the landmark international covenants such as the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol to the Convention, and number of other important treaties and binding agreements. These crucial contradictions undermine the mission of the GRR, significantly encumber the lives of Iranian asylum seekers in the country, and ultimately encourage illegal migration.

What makes this project more compelling is a purposeful aspiration to investigate the plight of a national group of refugees and asylum seekers in the Republic of Turkey in order to demonstrate a vast gap that exists between the universal principles of international refugee law and national policies of nation states. Iranian refugees and asylum seekers became the focal point of my inquiries. I decided to concentrate specifically on Iranians because their plight in Turkey is shaped by unique spectrum of circumstances which stem from the dramatic events that took place in Iran in 2009, the country's notoriously authoritarian regime and the country's geographic proximity to Turkey. Combined together, these factors engendered an exodus of political dissidents, religious converts, social revolutionaries and otherwise ordinary citizens

whose personal actions and principles exposed the injustices of Iran's theocratic regime and challenged its authority.

Further, I contend that only through understanding of the refugees' experiences and analysis of their testimonies that we can truly comprehend the gravity and significance of the conflicts that emerged as a result of the encounter between global and national. In order to give voice to the refugees, I used a combination of primary and secondary sources that illustrate the challenges of refugee life for Iranians in Turkey, including reports issues by the Human Rights Watch, Amnesty International and firsthand interviews with the refugees. Of course, when examining the reports and critique of the Western human rights organizations, one must be cognizant of the agenda and values espoused by these entities. The work and advocacy of the Human Rights Watch and Amnesty International is undergirded with values and principles which could be incompatible with beliefs and practices of communities where the Western articulations of individual rights may contradict already established social norms.

The antagonisms that ensue from the collision of advancing forces of humanitarian globalism with the corresponding rebuffs of national sovereignty continue to dominate contemporary international affairs. In order to demonstrate the clash, I first provided a thorough yet concise history of the Global Refugee Regime (GRR) in Chapter 4 of this paper. I argued that the GRR established an important legal foundation that continues to inform all national and international laws pertaining to refugees and asylum seekers. Perhaps, most importantly, these laws imbue victims of various forms of persecution with an enduring hope for protection and faith that their suffering will not be ignored by international community. Second, in Chapter 5 I explained why so many Iranians leave their home country and enter into Turkey as a starting point of their long journey to safety. In doing so, I outlined four major

categories of Iranian refugees whose cases frequently appear in front of the UNHCR's staff and other NGOs that work directly with the refugees and asylum seekers in Turkey. This categorization allows for a better understanding of the broad range of social, political and cultural issues that serve as a powerful catalyst for social protest and resistance in Iran which, in turn, generate thousands of refugees every year. The interviews that I conducted with the refugees serve as the greatest testament to the virulent discrimination and fierce persecution of the people who dare to question the legitimacy and values of Iran's ruling elites. Third, Chapter 6 provides a clear illustration of the practical reality of the life for Iranian refugees and asylum seekers in the context of the contradictions between international refugee law and Turkish national policies. The chapter cites evidence of illegal detention and unlawful deportation of Iranians trying to enter into Turkey. Also, I explained that various Turkish laws are designed to prevent the refugees from integrating into the society and create a number of restrictions in movement, housing, healthcare and especially employment. These policies contravene the principles of the GRR and further impose the refugees and asylum seekers with additional financial and emotional burdens. The reported attacks and purported harassment of the refugees by Iran's agents in Turkey, adds more urgency to their specific experiences and explains why Iranian refugees are a particularly vulnerable national group of refugees in the country. Finally, some of the refugees become deeply disappointed and discouraged by the long process of registration with the UNHCR, waiting to be interviewed, and resettled in a safe-third country. Such frustration runs deep among some of the refugees and discriminatory nature of the Turkish laws fuel their discontent. Disillusioned and feeling abandoned, they start to search for illicit ways of migrating elsewhere in the world. Hence, failure of the GRR to fulfill its purpose does not only indicate serious deficiencies of international law and illustrate

weaknesses of authority of global institutions, but also demonstrates how inefficiencies of the law encourage its breaking.

Who is to blame for the inability of international law to fully enforce its mandate? Clearly, poorly implemented international legislation undermines credibility of international institutions and puts in question the commitment of international community to the principles of universal equality and justice. Is the UN responsible for current weakness of the GRR in Turkey? My research revealed that the UN and its chief refugee agency cannot assume the full responsibility for the challenging situation concerning Iranian refugees in Turkey. Of course, the UNCHR's staff could improve the efficacy of its work through additional training and faster processing of the refugees' cases. However, it is important to recognize that the UNHCR in Turkey "is doing the best it can with the resources it has", stated the head of the ICMS's affiliated services Peter Vogelaar.<sup>166</sup> In fact, all of the NGOs whose assistance I sought in Istanbul praised the UNHCR's daunting work in the country and pointed fingers at the Turkish authorities. They said that the Turkish government is the main culprit for the ongoing refugee crisis in the country. Gizem Demircial asserted that given the political reality in Turkey and geopolitical circumstances in the region "it would be irrational to blame the UNHCR for the severity of the problems related to refugees and asylum seekers from Iran."<sup>167</sup> Indeed, the extent to which the UNHCR can accomplish its mission is always circumscribed by legal restrictions and operational constraints established by states where the agency is permitted to carry out its humanitarian work. After all, "what needs to be remembered... is that UNHCR

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<sup>166</sup> Interview with Peter Vogelaar, International Catholic Migration Commission. October 29, 2013. Istanbul, Turkey.

<sup>167</sup> Interview with Gizem Demircial Kadah, Association for Solidarity with Asylum Seekers and Migrants. October 25, 2013 Istanbul, Turkey.

does not implement refugee protection – states do.”<sup>168</sup> Despite unprecedented increase in the number of humanitarian NGOs in the recent time and their growing clout in political decision-making, international organizations are still heavily dependent on the willingness of states to cooperate and accept their policy prescriptions and implement reforms aimed at resolving humanitarian issues on a permanent basis. Such cooperation is becoming increasingly rare. More states, especially in the global north, became increasingly reluctant to open their doors to the growing number of refugees and asylum seekers. Whether based on facts or imagination, concerns over economic impact of irregular migration and politics of national identity inform migration policies of these countries.<sup>169</sup> As a result, even those asylum seekers who possess credible reasons to leave their country of origin, find it very difficult to find a safe country willing to accept them; needless to say:

An era of relative simplicity and generosity in refugee affairs has long ago passed and we are in the midst of a more complex and difficult period. The decline in generosity and openness toward the uprooted and persecuted has occurred because of a radically different international political environment and ‘compassion fatigue’ brought about by overexposure to humanitarian crises.<sup>170</sup>

### **Policy Implications for the Republic of Turkey**

So, what must be done in the foreseeable future to protect vulnerable to abuse and exploitation Iranian refugees in Turkey? First, it is important to recognize that there are no simple solutions in this matter. The number of Iranian asylum seekers coming into Turkey has yet to see a significant decline. Moreover, some of these asylum seekers are economic migrants

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<sup>168</sup> Niklaus Steiner, Mark Gibney and Gil Loescher, *Problems of Protection: The UNHCR, Refugees, and Human Rights* (New York & London: Routledge, 2003), 43.

<sup>169</sup> “The Human Cost of Fortress Europe: Human Rights Violations Against Migrants and Refugees at Europe’s Borders.” *Amnesty International*. July, 2014, 9.

<sup>170</sup> Gil Loescher, *The UNHCR and World Politics* (Oxford: University Press, 2001), 18.

who, nonetheless, seek assistance of the UNHCR and other NGOs in the country. By definition economic migrants are not eligible to receive status of a refugee and therefore they cannot be resettled in a safe third country. But verifying an asylum seeker's claims and determining one's eligibility is a challenging task that requires transparency and diligence. Sometimes, however, insufficient evidence or the UN's trivial mistakes deny protection and services to the Iranians who truly need and deserve them. The case of Refugee 1 is a clear evidence of this problem.

Second, Turkey remains committed to implementation of its national geopolitical agenda that envisions full-fledged membership of the country in the EU. The Turkish government exploits its ambiguous migration profile and its strategic location as the gateway to Europe as a bargaining chip in negotiations with the EU. Hence, Turkey will consider a complete overhaul of its idiosyncratic migration and asylum policies only in return for a solid promise of Turkey's membership in the EU. Last, but not least, Turkey has cultivated strong economic links with its Iranian counterparts. Trade and economic cooperation has benefitted both countries and created new business opportunities.<sup>171</sup> Given the positive dynamic of the relationship between the two countries, Turkey is unlikely to take any practical or symbolic steps, such as advocacy for Iranian political dissidents, which could harm its economic interest in Iran. In other words, thus far Turkey has benefitted from preserving the status quo in its refugee and asylum policies at the expense of Iranian asylum seekers who suffer from numerous shortfalls and restrictions of the refugee system in the country.

Nevertheless, the vision and theoretical framework offered by Dr. Richard Falk has inspired many of the arguments set forth in this paper and offer important answers to these

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<sup>171</sup> Sahin Alpay, "Iran-Turkey relations: Love thy neighbor?," *Al Jazeera*, Feb 12, 2014, <http://www.aljazeera.com/indepth/opinion/2014/02/iran-turkey-relations-love-thy-ne-2014211671992287.html>.

problems.<sup>172</sup> Accordingly, a meaningful change in Turkish migration laws requires political courage and a commitment to a benevolent and democratic world order in which the interests of humanity supersede short-term interests of nation states. Indeed, “the protection of refugees both under international law and domestic policies must be offered in a truly universal and cross-culturally sensitive manner.”<sup>173</sup> When implemented, this simple axiom will improve the quality of life for Iranian and other asylum seekers tremendously. Further, as we look towards horizons of the future, we must understand that “defining the future agenda for protection [of refugees] must be firmly grounded in consensus around the fact that refugee protection is the first and foremost about meeting the needs of vulnerable and threatened individuals, not those of states.”<sup>174</sup> In this spirit, it is incumbent upon the Turkish authorities to implement the following policy prescriptions:

- I. Abrogate the geographic limitation to the 1951 Convention Relating to the Status of Refugees and assume full responsibility for the welfare of Iranian refugees and asylum seekers on its territory.
- II. Recognize the specific challenges and inherent dangers that accompany migration flow from Iran into Turkey.
- III. Permit greater access to short-term, legal employment opportunities for refugees and asylum seekers in the country and expand availability of healthcare services.
- IV. Cease unlawful detention and deportation of Iranian asylum seekers at the Turkish-Iranian border and stop cooperation with Iranian regime concerning persecution and pursuit of the asylum seekers and refugees.

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<sup>172</sup> Richard Falk, *(Re)imagining humane global governance* (New York : Routledge/Taylor Francis Group, 2014).

<sup>173</sup> Niklaus Steiner, Mark Gibney and Gil Loescher, *Problems of Protection: The UNHCR, Refugees, and Human Rights* (New York & London: Routledge, 2003), 70.

<sup>174</sup> Erika Feller, “International Cooperation and the Global Refugee Regime: The Role of Interconnections,” *Journal of Law and Policy*, Vol.5:129 (2001): 139.

These are, of course, far-reaching policy prescriptions that will necessitate a great deal of institutional reform and mobilization, as well as changes in attitudes among Turkish policy makers. But these changes are long overdue and, most importantly, they have the potential to dramatically change the life-chances of Iranian refugees. In short, the onus of responsibility for welfare of Iranian refugees and asylum seekers on Turkish soil is on the Turkish government:

Regardless of whether persons seeking asylum are recognized by host government as ‘refugees’ or are classified as unauthorized ‘aliens’, a state is obligated to provide legal protection and to respect fundamental individual rights. The standard of treatment to which all noncitizens are entitled is the same as that which applies to a state’s treatment of its own nationals, and should not fall below that level... The basic human rights of refugees must be scrupulously respected, including asylum and non-return to places of persecution, freedom from arbitrary detention, and provision of basic civil, social, and economic right.”<sup>175</sup>

In conclusion, the global dimensions of refugee problems could never be fully resolved. My research in Turkey and time spent interviewing heads of various NGOs and Iranian refugees themselves revealed the truly interconnected nature and overwhelming size of this phenomenon. The problem is linked with global volatility of markets, militarized conflicts, institutional violations of human rights and many other factors that create destitution and facilitate systematic persecution of individual persons and/or entire communities. However, the daunting scope of the issue does not excuse inaction or humanitarian apathy. The international community has the capacity, skills and resources necessary to fulfill the promise of the Global Refugee Regime and establish a universal and egalitarian system of assistance for refugees and

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<sup>175</sup>Niklaus Steiner, Mark Gibney and Gil Loescher, *Problems of Protection: The UNHCR, Refugees, and Human Rights* (New York & London: Routledge, 2003), 23.



asylum seekers anywhere in the world. The only thing that is still lacking is a steadfast commitment of individual states to the principles of international refugee law. This commitment will require nation states to relinquish a certain measure of their sovereignty and submit their actions in relationship to refugees and asylum seekers to the impartial scrutiny and authority of international institutions. In the most basic terms, implementation of the vision inaugurated with the inception of the Global Refugee Regime is the right and humane thing to do. It is the right thing to do because it will make our world a safer and just place to live and pursue one's dreams in accordance with his/her beliefs and values which may not always align with the norms and doctrines of any particular society or political regime.

The plight of a refugee is always a tragic one. Majority of refugees and asylum seekers must abandon their homes, personal possessions and part with family members in order to escape horrors of violence, relentless persecution and/or tenacious poverty. The causes that compel people to seek asylum are diverse and many and greatly exceed the scope of this paper, yet what all refugees and asylum seekers share in common is the unwavering hope to find protection and safety wherever their journey may take them. To be a refugee or an asylum seeker is to have extraordinary courage and still unfathomable to me strength.

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