

the
dark side of
irregular
migration

HUMAN RIGHTS VIOLATIONS
MONITORING REPORT
REGARDING IRREGULAR
MIGRATION JOURNEY



INTEGRATION OF VULNERABLE GROUPS ASSOCIATION
HASSAS GRUPLARIN ENTEGRASYONU DERNEđI

Human Rights Violations Monitoring Report Regarding Irregular Migration Journey

Author:

Zeynep Hazal TUZLUCA

IVA-HAGED Social Research and Outreach Manager

zhtuzluca@haged.org

Consultant:

Bülent Atasever

IVA-HAGED Field Consultant and External Relations Manager

batasever@haged.org

IVA-HAGED

Website: www.haged.org

e-mail: merhaba@haged.org

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Executive Summary

The migration of individuals by illegal border crossings in search of a safe shelter as a result of displacement due to wars, famine, drought, and similar reasons is called "Irregular Migration". Irregular migrants may act in violation of the constitutions of the countries they pass through or international agreements on this journey they set out to save their lives. These actions often involve illegally crossing states' borders. However, beyond this, these individuals do not have any intention of harming or committing a crime in their intended departure and border violations. Therefore, irregular migrants are the actual victims of this journey.

Irregular migration has a structure that can lead to many organized crimes. The lack of control at border crossings threatens the national security of the countries, which attempted to migrate. For this reason, while migrants are not considered as criminals; providing illegal border crossing activities, mediating these crossings and migrant trafficking are considered as a crime.

Within the scope of this monitoring study, rights violations regarding journey were examined through in-depth interviews with Afghan and Syrian immigrants. The data analyzed with descriptive analysis and interpretative qualitative approach were examined together, and the contrary to human rights aspects of irregular migration were followed. With the results obtained within the scope of the study, the necessity of finding solutions against the inhumane treatment that irregular migrants are subjected to is aimed to be point out. In way, it is aimed to raise public awareness about this situation.

Due to the fact that the migration journey is not controlled by a national or international legal mechanism, migrants are exposed to various human rights violations. Even though this situation is frequently expressed by human rights defenders and internationally active non-governmental

organizations, even today, it is not possible to prevent individuals from being subjected to verbal and physical violence, being tortured, and even losing their lives due to travel conditions.

Turkey, due to a population that incorporates immigrants, has a variable conjuncture in terms of immigration. For this reason, there are various studies and regulations of both public institutions and private and non-governmental organizations for migrants in order to facilitate migration management. These studies are carried out by people who considered starting the date of entry into Turkey. However, since both psychological and physical sensitivity thresholds of immigrants who have experienced irregular migration journeys are high, it is very important to develop a different intervention plan for these people depending on their sensitivity thresholds. In addition, it is perceived by the public that the migration journey is not mentioned as a process against human rights. To do more studies on this issue is very important to prevent violence and raise awareness on the issue.

The purpose of this study is to raise awareness about the violations of rights regarding irregular migration journey within the scope of this situation.

Irregular Migration and Turkey

Masses of people have migrated due to many reasons such as wars, climatic changes, and economic problems all over the world. The fact that these migrations are compulsory causes people to take their migration journey illegally. In recent years, these journeys, which have taken place by violating the international borders of the countries, have increased in parallel with the increasing number of refugees all over the world (İçduygu & Aksel, 2012). Irregular migration journey, which is a process that operates with inadequate control of states and international security mechanisms, includes many crimes and human rights violations.

According to UNHCR data, the number of people displaced worldwide by the end of 2020 has exceeded 80 million. According to the same report, Turkey takes first place, among all other countries which host displaced persons (Anadolu Agency, 2020). Irregular migration and illegal border crossings have increased in proportion to accepting such a high number of refugees. The number of irregular migrants detected by the Ministry of Internal Affairs in 2019 was 454 thousand 662, and these numbers were expected to increase in 2020. However, the number of irregular migrants in 2020 was announced as 113 thousand 865, considering that it is due to the decrease in all mobility in the world due to COVID-19 (Euronews Turkey, 2020). Stating that these figures are immigrants determined by official authorities, it should not be overlooked that the unofficial figures are much higher than this.

After the Second World War, the United Nations made the definition of immigrant and refugee with the Geneva Convention. Turkey as well as one of the signatories of this agreement agreed to accept the war-torn people to their land and give to them the immigrant/refugee status. However, in 1967, due to the turmoil in Africa, by lifting the geographical restrictions imposed,

the people from all over the world considered refugees who couldn't or don't want to go back to their countries, due to having a fear of persecution because of their race, religion, nationality, affiliation with a certain social group, or political opinions. But Turkey has not ratified these geographical changes carried out in 1967. Therefore, in the territory of Turkey; refugee status is not legally granted to people coming from geographies such as the Middle East, Africa, and Afghanistan where war continues (UNHCR, 2008). These people have been granted as "International Protection Applicants", to have legal status in their time in Turkey, by "Foreigners and International Protection Law" scope (T.C. Interior Ministry Immigration Administration General Directorate). Thus, immigrants who applied for protection, can stay in Turkey safe and away from the event that caused the application, until their application is finalized.

Since 2011, Turkey was considered a transit country for migrants and refugees before the internal turmoil in Syria (Topçuoğlu, 2016). But with the start of the Syrian crisis, millions of people have flocked to Turkey who displaced from their country. Instead of hosting these people in Turkey with the status of "International Protection Application", a "Temporary Protection Regulation" specific to Syrian people has been put into effect in accordance with the "Foreigners and International Protection" legislation (T.C. Interior Ministry Immigration Administration General Directorate). As a result, Syrians are not considered refugees who are waiting for the result of refugee applications; they considered as the refugees who living in Turkey and waiting for the return to their countries until the end of the war.

After the crisis in Syria, Turkey has applied an open-door policy from time to time and immigrants have entered the country at border crossings with mass transitions. During the periods when the border crossings were closed, the entries continued with irregular migrations (Ihlamur-Öner, 2014).

With the start of the civil war in Syria, the increase in the Southeast border crossing does not mean that irregular migration is a new issue in Turkey. Irregular migration is an important issue for many years on the Turkey-Iran border; because for various reasons, especially the effects of the ongoing war in Afghanistan, due to the entrance of immigrants to Turkey's territory. In this regard, the eastern and southeastern borders of Turkey which are the entry point to the country, are faced with the fact that irregular migration (Atasever, 2020).

There are many actors in the phenomenon of irregular migration; immigrants, intermediaries, smugglers, border guards, terrorist organizations, thieves, etc. Many legal and illegal mechanisms are actors that irregular migrants face in the border crossing process. Smugglers, one of these actors, are often the most active actors of irregular migration. At the same time, they have critical importance as a result of they are the most frequent contact persons of immigrants.

Within the framework of the "Protocol Against Migrant Smuggling by Land, Sea and Air", which was brought in addition to the "United Nations Convention Against Transnational Organized Crime" within the framework of Law No. 4803 dated 30.01.2003, migrant smuggling in article 79 of the Turkish Penal Code;

“(1) Illegal ways, directly or indirectly, to obtain financial benefits;

a) Bringing a foreigner into the country or enabling him to stay in the country,

b) Any person who enables a Turkish citizen or foreigner to go abroad is punished with imprisonment of three to eight years and a judicial fine of up to ten thousand days.

(2) If this crime is committed within the framework of the activities of an organization, the penalties to be imposed are increased by half.

(3) If this crime is committed within the framework of the activities of a legal person, security precautions specific to these are imposed on the legal person “ (Official Gazzete, 2004).

Individuals displaced out of legal persecution or fear of persecution, the reasons for escape are not based on any crime they committed, and their migration is not considered a crime. Within the scope of irregular immigration, it is a crime to pass immigrants across the country borders in exchange for money or any goods, as published in the Official Gazette. This state of guilt does not change in international law.

Research Method

The research design consists of people who came to Turkey by experience irregular migration journeys. During the design process, planning that ensures quantitative gender equality has been made by different nationalities. However, since the data collection process of the research coincided with the COVID-19 Pandemic period, it could not be progressed by the design within the scope of force majeure, and people of nationality and gender were interviewed.

Sampling selection in research studies conducted with migrants, especially with refugees, is improved with the snowball sampling model due to the restrictions of access. For this reason, the research design was carried out as a sample within the scope of Ankara province, with individuals who accepted to interview remotely. In-depth interviews were conducted with the participants with semi-structured interview forms and the support of an interpreter. As a result of the in-depth interview, besides the descriptive analysis of the demographic structure of the participants, interview analyzes were carried out based on the interpretative approach with qualitative data analysis techniques. In the light of the information provided by the participants, the human rights violations encountered during the road process will be presented among the findings of the study. The study will provide up-to-date content on monitoring irregular

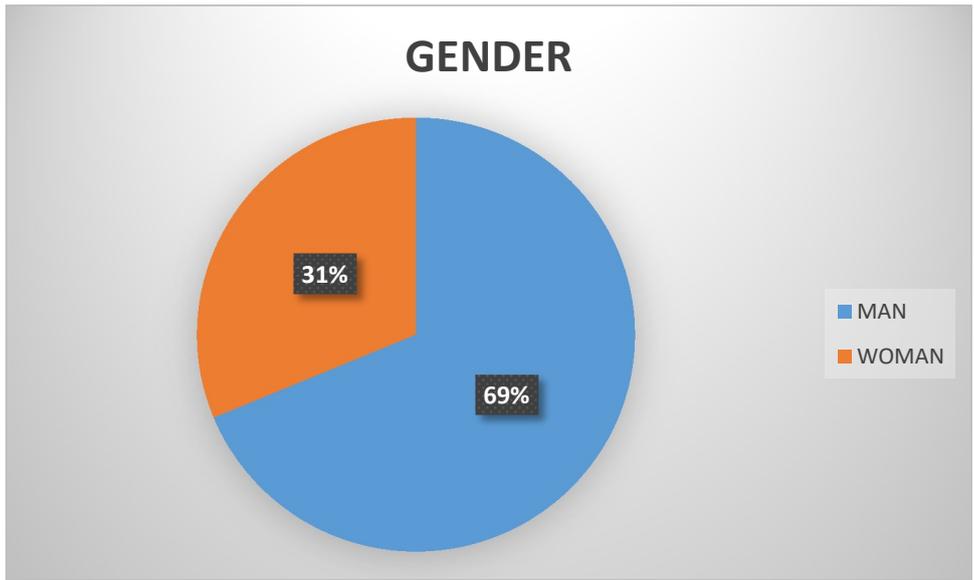
migration based on human rights, by addressing these violations at the level of both national laws and international conventions.

Basic Findings of the Research

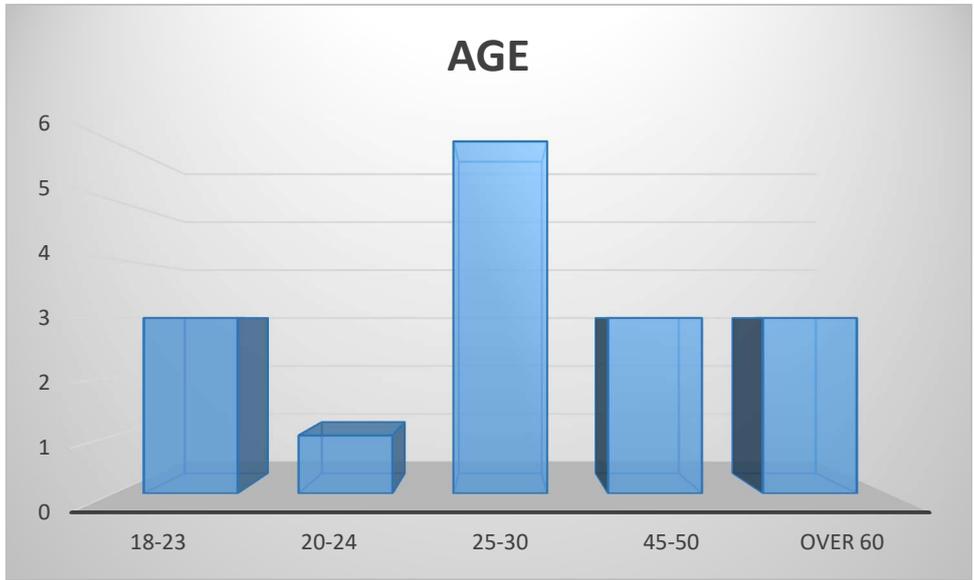
I. Demographic Data

Within the scope of the study, 17 people in total were interviewed. Each of these people was reached by phone, the content of the study was explained, and as a result of their acceptance to the study, they were interviewed by sending an online interview invitation. The interviews were conducted in three-person interviews, including translator-researcher-participant. Interviews were recorded with video or audio, with verbal consent from the individuals. Sharing irregular migration travel experiences is sensitive to the privacy of individuals, so they will be given a name information was definitely not asked.

Of the 17 interviewees, 6 (31%) are women and the remaining 11 (69%) are men. It is tried to be paid attention to the distribution to be equal. However, as stated by the participants from Afghanistan, most of the individuals coming from Afghanistan through irregular immigration are men. The source of imbalance is mostly due to this reason. However, travel conditions include different struggles for both men and women. Within the scope of the study, a diversity has been provided in this respect.

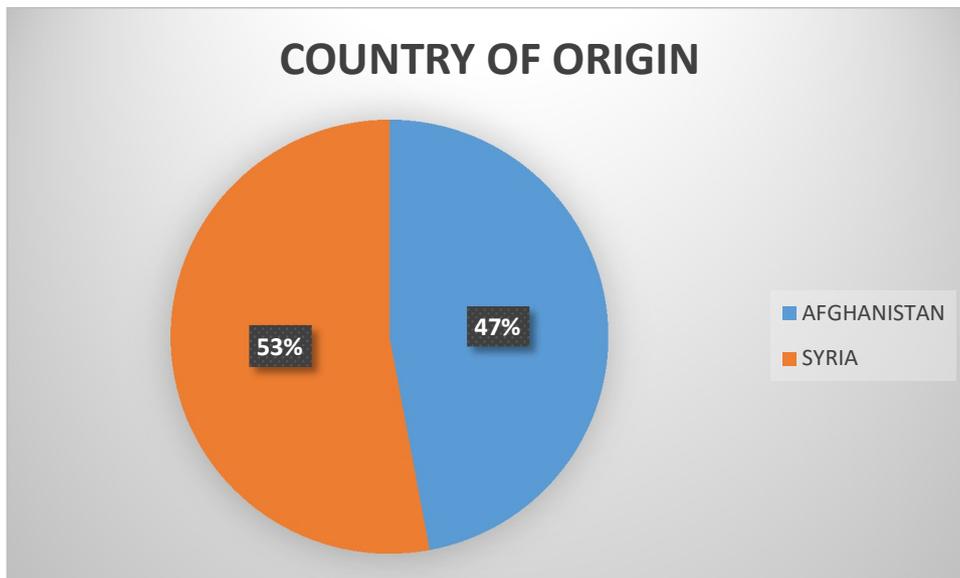


Considering the age distribution of the people; It is possible to say that the age of the people coming from Afghanistan is quite young compared to the individuals coming from Syria. The total age average of 17 interviewees is 37. While the average age of Syrians among these people is 48.77, the average age of Afghans is 23.75. Based on the statements of the participants, it is possible to say that the average age of the relatives of the Syrian participants is higher.

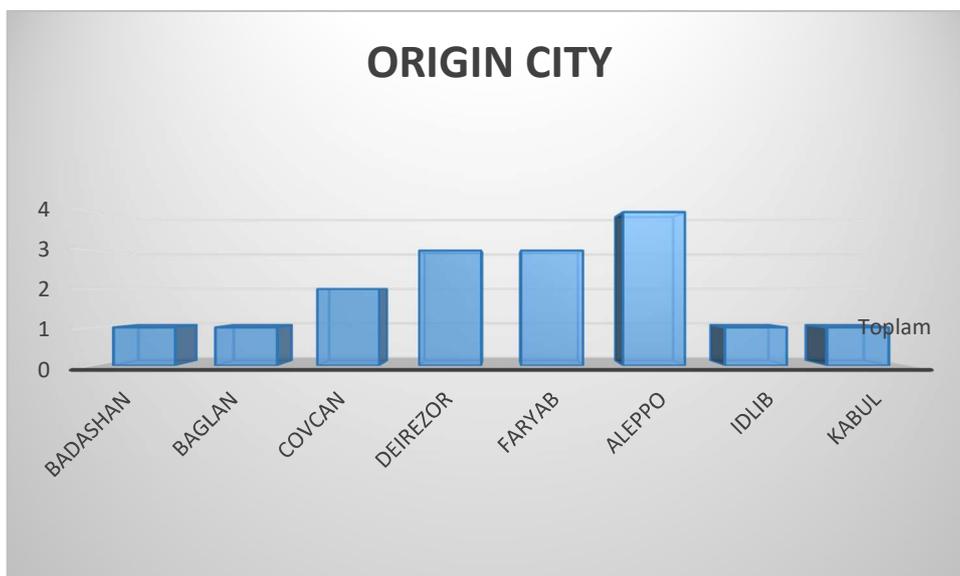


In terms of country of origin data of the study, participants from as many countries as we could reach were interviewed within the scope of COVID-19 measures. Accordingly, the participants

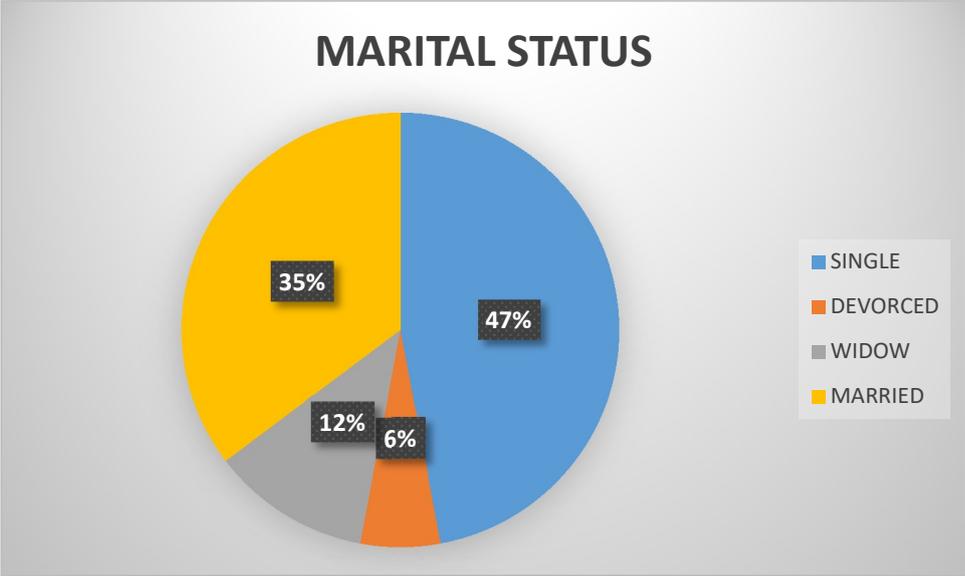
of the study are Afghans and Syrians. 9 of the 17 people were Syrian and 8 were Afghan participants, and agreed to participate in the study.



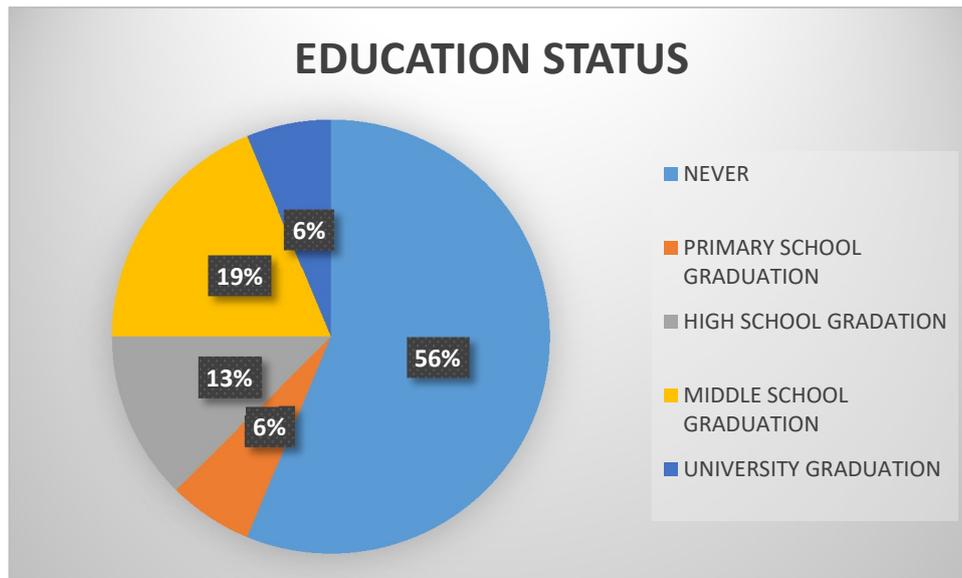
In addition to the country of origin, the city of origin is also an important factor in the migration journey of the participants. While conflicts and armed groups belonging to different factions are active in both Afghanistan and Syria; the city of destination is decisive in terms of the migration route. While Badashan, Baglan, Cevizcan, Faryab and Kabul are the starting points of individuals coming from Afghanistan; The starting points of Syrian participants are stated as Aleppo, Deirezor and Idlib.



According to the marital status changes of the participants, the highest number of participants (8 people) answered single. Considering the age distribution of the participants from Afghanistan and their age in the year of arrival, it is seen that they constitute the majority of singles. The next highest answer, 'married', consists of people (6 people) who did not separate with their spouses during the interview and traveled without disturbing their family unity. There are also individuals who have lost their spouses / widows (2 people) and divorced (1 person) in the graph.



The last demographic information of the participants included in their descriptive analysis is their education status. This information was asked on the basis of their last graduation school information. It was found that the majority of the participants (9 people) had never been to school before. Following this, the rate of secondary school graduates (3 people), high school graduates (2 people), primary school graduates (1 person) and university graduates (1 person) are respectively. However, the large difference between the rates reveals the difficulty of accessing education in these geographies.



II. Examination of the Road in The Context of Human Rights

a. Decision to Set Off

It has been observed that the decision to set out and its implementation are related to the basic right to living in the context of the interviews. The reasons for the displacement of people were the lack of safe living spaces in their cities or they were forced into individual recruitment.

According to the Syrian participants, the increase of conflict in their cities, their homes or in the school, workplace, squares, etc. They cited the bombing of the regions as the reason to set off. At the same time, there are participants who declared that they applied for irregular migration journeys because they were persecuted due to their nationality in regions under the control of ISIS or PKK / PYD elements. At the same time, there are situations in which environmental factors caused by war affect individuals. As an example of this situation, one of the participants stated that their lungs were damaged due to the chlorine gas used in Aleppo.¹

News on the allegation that chlorine gas bombs were used in Aleppo / Syria:
<https://www.bbc.com/turkce/37291194>

Afghan respondents stated that they generally live in Taliban-controlled areas. Interviews were made with individuals who fled from the region due to the forced recruitment of men living in these regions and the murder of those who did not accept. When traveling, these young people, aged between 17 and 25, stated that they were exposed to violence from different elements on the road.

According to the related substances of Human Rights Universal Declaration; prepared by United Nations Commission on Human Rights in 1948 and signed by Turkey in 1949; all people are born equal, they have indiscriminately equal rights and freedoms (Birleşmiş Milletler İnsan Hakları Komisyonu, 1948). In this context, the decision of individuals to depart is based on the threat of the most fundamental right of the person to live in safety and freedom.

b. The Procces of Preapretion and Travel with The Smugglers

After the decision of departure, people got into the preparation process for the road. This preparation usually contains providing the necessary connections for the road, contacting smugglers and obtaining money. The statements made by the participants in the interviews were in this direction.

The participants from Syria moved towards to northern border of the country and reached the border provinces in order to contact the smugglers. Sometimes, it was reported that the smugglers sometimes found them before they even searched for them. The payment to the smugglers changes between 700\$ and 1500\$ and the time spent with them varies from a few hours to a few days. During the bargain or before the departure, the smugglers say the road will take five minutes and no more than ten minutes but the road passes with a long walk that takes many hours.

Participants stated that some could not walk on mountainous roads, fell and fainted, some drowned in the teams coming through the river. Some participants become disabled or sick

depending on the road conditions. One participant had a heart attack on the road and learned about it in a hospital in Turkey. Another participant lost their ability to walk due to the damage to their feet due to falls on the road. It may be impossible to even ask questions to the smugglers who do not even allow people to speak against the risk of being caught during the border crossing. So much that smugglers give medicine to young children, despite the possibility of crying on the way. According to the statements of the participants, families who refuse to take medicines for their children cannot continue their journey. The name and packaging of the drug are not known, nor is it known.

The people which are caught at the border are sent back to their home countries. Repatriated individuals to traffickers, if they want to come back to Turkey, are required to pay the same amount again. Especially in cases where family members fall apart on the way, some of the members of the same family across the border, and some of them are caught, the same money is discarded again.

After arriving in Turkey, people move to the city centers, bus stations, or next to their relatives who migrated before them. Smugglers are directing migrants in this process for additional money.

For the participants from Afghanistan, the situation is completely different. Immigrants travel to Pakistan first, after that they move to Iran and often enter Turkey from the border of Iran. Because of the length of the road, the journey takes twenty to forty-five days. Immigrants, who sometimes have to walk for days, usually travel in cramped vehicles with twice or three times the number of passengers the car will take. There may be situations in which some people pass out during walking and immigrants have to carry each other. When traveling by vehicle, people faint from heat and sometimes fall from the vehicles. Especially in deserts, the journey continues with jeeps that are driven very fast with open back. The situation of the fallen people is ignored and the vehicles continue their way. Along the road, immigrants do not meet with

the smugglers face to face until they reach Iran, sometimes until the end of the journey to Turkey. The smugglers direct them through the phone. Along the route, there are guides working under the smugglers in order to lead the way, sometimes accompany, people who change region by region. Depending on this situation, the team sizes can vary between five and ten people in some parts of the road, sometimes reaching thousands of people. In that case, some of the immigrants go missing and their non-presence is not noticeable. The route of Afghanistan-Turkey changes through the years and the payment for the road varies from 1000\$ to 3000\$.

Food and beverage supplies are not included in the fare for Syria and Afghanistan. Because of this situation, immigrants need money for the road to feed themselves. Especially on the Afghanistan route, immigrants have to shop at exorbitant prices. In addition, the immigrants had to pay the road money to the thieves and the gangs who cut the road and extorted along the route. Deaths occur due to thirst or cold, and it is not always possible to intervene in this situation.

After people agree with the smuggler and set off, they are completely under the control of the smuggler. They have to stay in places determined by the smugglers, consent to the food found on the roads, and remain silent to the violence perpetrated by the smugglers verbally and physically. Otherwise, there is a risk of not being able to complete the journey. Immigrants who do not want to take this risk also stated that they had to endure all of these inhuman treatments. This situation includes attitudes against the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, which entered into force in 1987. There are 74 state signatures and 136 state approvals regarding the convention. Since 1988, Turkey has taken its place among the signatory states. (Er, 2005).

Conclusion and Suggestions

Irregular migration travel occurs as a result of forced migration, which takes place for compulsory reasons. Travel conditions vary along the route of the home country and the destination country. Even if circumstances change, every irregular immigration journey includes violations of rights. Irregular immigration, which is not bound by any international or national legal rules, carries serious risks in terms of exposure to crime and treatment against human rights. In this context, irregular migration travel should be addressed by human rights defenders, universal human rights mechanisms, and crime prevention authorities. In this way, preventive policies can be developed for people who are exposed to abuse or violence during irregular migration. Also for the destination countries restorative policies should be build up for the irregular migrants in need.

In the context of this study, the migration journey of irregular immigrants from Afghanistan and Syria to Turkey has been observed. The participants provided important data on the migrants' journey by conveying the road process. These data reveal that the road process is not only difficult and demanding but also involves vital risks. Especially the elements of the crime that immigrants have to face along the way increase the sensitivity of the journey.

The United Nations Convention on Transnational Organized Crime (Palermo Convention) was opened for signature in Palermo at the end of 2000 and Turkey adopted this agreement in 2003. Through this convention, it is aimed to provide an international platform against cross-border organized crimes. Although this convention is the first international treaty to combat organized crime, it has an effective function in combating these crimes (T.C. Ministry of Treasury and Finance, 2018). Turkey supports its border security with this contract, especially in the fight against human trafficking.

However, within the scope of forced migration, violence and abuse experienced by irregular migrants continues and the outputs of this study can be given as an example. In this context, making emergency response plans and realizing improvement projects for immigrants at borders and on migration routes is a priority for individuals to be treated more humanely and to prevent human rights violations.

In the consideration of all these outputs, our association convoke for the strengthening of international cooperation. Orr efforts should be made to eliminate the factors that cause migration and to prevent migration before it begins. In this context, make strides to lead peace processes should be taken in war zones. Activities that encourage a peaceful approach should be studied in these geographies. But also where conflicts cannot be prevented; In order to monitor irregular migration in the context of human rights, independent civil society bodies should be increased at the international level and these organizations should be made more active. Also, it is necessary to work more solution-oriented and effectively in order to reduce the damage of the migration journey. Authorities have to make sure that people in the destination countries have access to the support which they need in the fields of social services, health and psychology.

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