

This short paper aims to examine the evolution of the principle of non-refoulement beginning with Kant's famous term "universal hospitality". The basic thesis is that Turkey's legal framework is not deficient in terms of granting rights to foreigners. Even the Turkish law is broader than the international documents with regard to defining who will be recognized as the person who has to include international protection regime.

1. Universal Hospitality

What was the most significant outcome of the Enlightenment is defining the relationship between human and nature within a secular base instead of religious terms? In this secular view, priorities of humanity are re-defined in accordance with a new sense of world-view. Re-defining intersubjective relations mainly focus on how the individual should treat *the Other*.

While discussing the relationship with *the other*, Kant's explanations on the *cosmopolitan right* have the central importance. It is "*limited to conditions of universal hospitality*" defined as "*the right of a foreigner not to be treated with hostility because he has arrived on the land of another.*" In this context, Original rights are given equally to every individual in nature. Now we need to emphasis upon "being a man" rather than "being from somewhere".(Onkal: 2) So no matter where you come from, you have the same rights and obligations like all other people.

Such theoretical framework draws the borders of the basic principle of *non-refoulement*. It is the fundamental part of

refugee status. This based on the widely-accepted essential principle of non-refoulement. It provides that *no one shall expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom.*

2. Non-Refoulement in the Geneva Convention

The principle of non-refoulement first mentioned at the 1892 Geneva Session of the Institute of International Law. It was formulated that a refugee should not by way of expulsion be delivered up to another State that sought him unless the guarantee conditions set forth with respect to extradition were duly observed (Règles internationales sur l’admission et l’expulsion des étrangers 1892, Article 16). (Molnar: 1)

1951 Geneva Convention is seen as the first legislative document that recognizes and explains the term refugee regulation. The text describes who is a refugee, what are their rights, and what have to states to cope with a possible crisis. So it is guaranteed that *“no one shall expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom”*

Article 33:

1. *No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the*

*frontiers of territories where his
life or freedom would be
threatened on account of his race,
religion, nationality, membership
of a particular social group or
political opinion.*

*2. The benefit of the present
provision may not, however, be
claimed by a refugee whom there
are reasonable grounds for
regarding as a danger to the
security of the country in which
he is, or who, having been
convicted by a final judgment of a
particularly serious crime,
constitutes a danger to the
community of that country.*

Non-refoulement obligations related to refugees are also mentioned in regional treaties, notably the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa and the 1969 American Convention on Human Rights.

3. Non-Refoulement in the Turkish Law

Turkey was one of the countries that signed the convention even though it put a geographic limitation which means the country only accepts refugees from members of the Council of Europe. The key document in Turkey for the regulation for foreigners is Law on Foreigners and International

Protection enshrined on April 2013 and came into force in April 2014.

The objective of the Regulation is *to determine the procedures and principles pertaining to temporary protection proceedings who were forced to flee and are unable to return to their countries. It also aims to determine proceedings to be carried out related to their reception, stay, rights and obligations, and a possible exit from Turkey.*

According to this law, Turkey provides a temporary protection establishes a safeguard against the return of Syrians who flee from ongoing conflicts. Temporary Protection Regime forbids to compel people who have this status against their will. It also gives legal residence to those registered. Apart from them, the law enables accessing fundamental rights and entitlements on health care, education, and social assistance.

The regime only comprises foreigners “who were forced to leave their countries and are unable to return to the countries they left and arrived at or crossed our borders in masses to seek urgent and temporary protection and whose international protection requests cannot be taken under individual assessment.”

No one within the scope of this of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or

*political opinion (Article 4, Law on Foreigners
and International Protection)*

Law on Foreigners and International Protection, in 2013, was enshrined inspired by EU laws that were about the same context. However, the striking point is that while Geneva Convention only mentions threats to freedom and life, in the Turkish law, in addition to these, torture and inhuman/degrading punishment or treatment are written explicitly.