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## A Lost Generation: Syrian Refugees and the Right to Education in Turkey

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## ESSAY

### A LOST GENERATION: SYRIAN REFUGEES AND THE RIGHT TO EDUCATION IN TURKEY

*Tyler J. Smith\**

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### I. INTRODUCTION

Turkey is a country approximately twice the size of Montana,<sup>1</sup> uniquely situated between Europe and Asia. Throughout its history, Turkey has acted as both a barrier and a bridge to the peoples in the Balkans, Caucasus, Middle East, and the eastern Mediterranean regions.<sup>2</sup> The Treaty of Lausanne, signed in July 1923, officially ended the conflict that had existed between the Ottoman Empire and the Allies<sup>3</sup> since the onset of World War I, and defined the modern border of Turkey.<sup>4</sup> Despite comprising nearly a third of the future state of Turkey's population, the Treaty did not make a provision for a Kurdish state, leaving the Kurds with minority status in Turkey and other countries throughout the region, including Syria.<sup>5</sup>

Turkey has most recently been the recipient of a mass influx of Syrians, including Syrian Kurds,<sup>6</sup> who have fled a devastating civil war. Since the first bombs from the Assad regime in Syria fell on Syrian citizens in 2011, more than one in ten Syrians have been killed or

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1. See Malcolm Edward Yapp & John C. Dewdney, *Turkey*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/place/Turkey> [<https://perma.cc/R7BH-JC79>] (last visited Sept. 23, 2018); *State Area Measurements and Internal Point Coordinates*, U.S. CENSUS, <https://www.census.gov/geo/reference/state-area.html> [<https://perma.cc/D68L-2DBW>] (last visited Sept. 29, 2018).

2. See Yapp & Dewdney, *supra* note 1.

3. The British Empire, French Republic, Kingdom of Italy, Empire of Japan, Kingdom of Greece, and the Kingdom of Romania. *Treaty of Lausanne*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Treaty-of-Lausanne-1923> [<https://perma.cc/WF9Y-P3RD>] (last visited July 17, 2018).

4. *Id.*

5. See *id.*; *Who are the Kurds?*, BBC NEWS (Oct. 31, 2007), <https://www.bbc.com/news/world-middle-east-29702440> [<https://perma.cc/3YW9-GJND>] (last visited Sept. 28, 2018).

6. See Mark Lowen, *Turkey's Fear of a Reignited Kurdish Flame*, BBC NEWS (Oct. 8, 2014), <http://www.bbc.co.uk/news/world-middle-east-29542040> [<https://perma.cc/R28K-EL4J>] (last visited Sept. 28, 2018).

wounded.<sup>7</sup> According to the same report, a staggering 470,000 deaths have occurred in the conflict, caused either directly or indirectly by the war.<sup>8</sup> Not surprisingly, millions have been fleeing for their lives. Estimates indicate nearly 4.8 million Syrians have left Syria and are considered to be refugees,<sup>9</sup> with millions more displaced from their homes within Syria. 2.7 million Syrians have crossed the northern border into their neighbor, Turkey.<sup>10</sup>

Turkey as a whole has struggled to cope with the continuous inundation of refugees and at the same time has tried to reduce the number of refugees traveling into Europe.<sup>11</sup> Kilis, a town of 90,000 on the Turkey-Syria border that received a Nobel Peace Prize nomination for its initial warm welcoming of Syrian refugees from nearby Aleppo, essentially closed its doors to Syrians due to the city's inability to cope with the continuing influx.<sup>12</sup> Turkey has promised the European Union to be the gatekeeper for the number of refugees entering Europe, who are sent back to Turkey after entering Greece illegally.<sup>13</sup> In exchange, the European Union promised Turkey EU€6 billion<sup>14</sup> However, the President of Turkey, Recep Tayyip Erdogan, recently stated the European Union has not made good on its promises of aid money.<sup>15</sup> In October 2016, the European Parliament approved EU€ 400 million to aid Turkey, Lebanon, Jordan, and other European nations dealing with

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7. Priyanka Boghani, *A Staggering New Death Toll for Syria's War*, PBS (Feb. 11, 2016), <http://www.pbs.org/wgbh/frontline/article/a-staggering-new-death-toll-for-syrias-war-470000/> [https://perma.cc/U9K8-HJZH] (last visited Sept. 28, 2018).

8. *Id.*

9. *Syria Crisis September 2016 Humanitarian Results*, UNICEF (Oct. 26, 2016), <https://data.unhcr.org/syrianrefugees/documents.php?page=1&view=grid> [https://perma.cc/E2EN-NZXW] (last visited Sept. 28, 2018).

10. Lauren Zanolli, *Syrian Refugees: Struggles in Turkey Intensify*, AL JAZEERA (July 25, 2016), <http://www.aljazeera.com/indepth/features/2016/07/syrian-refugees-struggles-turkey-intensify-160717072943845.html> [https://perma.cc/3DYV-ZZSC] (last visited Sept. 28, 2018).

11. Richard Spencer, *Turkish town at center of Syrian refugee crisis says: 'We're full,'* THE TELEGRAPH (Apr. 19, 2016), <http://www.telegraph.co.uk/news/2016/04/19/turkish-town-at-centre-of-syrian-refugee-crisis-says-were-full/> [https://perma.cc/9TAN-UCXC] (last visited Sept. 28, 2018).

12. *Id.*

13. See Ceylan Yeginsu, *Refugees Pour Out of Turkey Once More as Deal With Europe Falters*, N.Y. TIMES (Sep. 14, 2016), <http://www.nytimes.com/2016/09/15/world/europe/turkey-syria-refugees-eu.html> (last visited Sept. 28, 2018).

14. *Id.*

15. *Id.*

the flood of Syrian refugees.<sup>16</sup> This is far short of the amount originally promised to Turkey alone.<sup>17</sup>

Meanwhile, living conditions for Syrians in Turkey continue to worsen. A large majority of Syrians are located outside camps, mainly in urban areas, and receive “little or no governmental assistance” and are “not granted the right to work.”<sup>18</sup> The socioeconomic disparities caused in part by the inability of Syrian adults to gain employment and other basic needs, have disproportionate consequences for children.<sup>19</sup> Of the estimated 2.7 million Syrians in Turkey, 700,000 are school-aged children and less than half are enrolled in school.<sup>20</sup> The Turkish Ministry of National Education reported for the 2014-2015 school year, 212,000 Syrian children were enrolled in formal education at the primary and secondary levels.<sup>21</sup> Despite an enrollment rate of ninety percent inside refugee camps, most children live outside of the camps and only twenty-five percent of those living outside of camps were enrolled in school.<sup>22</sup>

#### A. *Education for Kurds and Other Minorities*

Syrian refugees are not the only group with limited access to the free and compulsory non-secular education Turkey is supposed to provide.<sup>23</sup> Roma children often lack personal identification documents that are required for public services, including public education.<sup>24</sup> The

16. *Id.*

17. See Callum Paton, *Migrant crisis: EU approves €400 million funding for Turkey and nations overwhelmed by refugees*, INT'L BUS. TIMES (Oct. 15, 2016), <http://www.ibtimes.co.uk/migrant-crisis-eu-approves-400-million-funding-turkey-nations-overwhelmed-by-refugees-1524143> [https://perma.cc/9GY5-GNJM] (last visited Sept. 28, 2018).

18. See AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2015/2016 (2016).

19. See Ihsan Kyumcu & Hulya Kosematoglu, *The Impacts of the Syrian Refugees on Turkey's Economy (2011-2016)*, 2 J. OF TURKISH SOC. SCI. 78, 85.

20. Diana Al Rifai, *Most Syrian Refugee Children Not in School in Turkey*, AL JAZEERA (Nov. 9, 2015), <http://www.aljazeera.com/news/2015/11/syrian-refugees-school-turkey-151109101947670.html> [https://perma.cc/5KY8-6BLS] (last visited Sept. 28, 2018).

21. *Id.*

22. *Id.*

23. Girls are often kept out of school due to the belief that education hurts their marriage chances. See Thomas Seibert, *Getting Turkish Girls Back to School*, THE NATIONAL (July 12, 2008), <http://www.thenational.ae/news/world/europe/getting-turkish-girls-back-to-school> [https://perma.cc/ZW2P-S5YC] (last visited Sept. 23, 2018).

24. The European Commission stated in a 2014 report on the discrimination of Roma children in education:

same problems apply to Kurdish children who often live in poverty and whose families receive little help from the government. Despite comprising up to twenty percent of the population in Turkey, Kurds have faced systemic discrimination for many years after being excluded from the Treaty of Lausanne.<sup>25</sup> In the modern era, this can be attributed to the armed conflict, beginning in 1978, between the Turkish government and Kurdish insurgents.<sup>26</sup> However, the Kurds made some ground when elective Kurdish courses were introduced into middle schools in 2012, and when legislation was passed in 2013 allowing the establishment of private Kurdish schools.<sup>27</sup>

The education policy in Turkey is steered directly by the Ministry of National Education, the Council of Higher Education, and several other advisory entities.<sup>28</sup> Schools are afforded very little autonomy and have little capacity to respond to their own needs.<sup>29</sup> At the start of the most recent school year, questions lingered as to whether there would

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Discrimination against millions of Roma children in schools is an acute economic, political and social issue as most recently pinpointed by the UNDP and the World Bank. The Council recommendation on effective Roma integration measures in the member states warns that the 'situation of Roma children in the Union is particularly worrying, due to a range of factors that may make them especially vulnerable and exposed, inter alia, to poor health, poor housing, poor nutrition, exclusion, discrimination, racism and violence. The social exclusion of Roma children is often linked to the lack of birth registration and identity documents, to low participation in early childhood education and care as well as higher education, and to elevated school drop-out rates. Segregation is a serious barrier preventing access to quality education.

LILA FARKAS, REPORT ON DISCRIMINATION OF ROMA CHILDREN IN EDUCATION FOR THE EUROPEAN COMMISSION 5 (2014).

25. Nurettin Kurt, *UN committee warns Turkey over discrimination and human rights violation*, HURRIYET DAILY NEWS (Jan. 19, 2016) <http://www.hurriyetdailynews.com/un-committee-warns-turkey-over-discrimination-and-human-rights-violations-94022> [<https://perma.cc/P7H4-QHAW>] (last visited Sept. 28, 2018).

26. *Who are the Kurds?*, *supra* note 5.

27. See Bekir S. Gur, *What Erdogan really wants for education in Turkey: Islamization or Pluralisation?*, AL JAZEERA (Mar. 17, 2016), <http://studies.aljazeera.net/en/reports/2016/03/160317094912447.html> [<https://perma.cc/4UF7-HCF8>] (last visited Sept. 28, 2018); see also *Three Schools in Turkey Open Kurdish Education for First Time, Despite Opposition*, RUDAW (Sept. 15, 2014), <http://rudaw.net/english/middleeast/turkey/15092014> [<https://perma.cc/Q42H-KFUK>] (last visited Sept. 28, 2018).

28. ORGANISATION FOR ECONOMIC CO-OPERATION & DEVELOPMENT [OECD], EDUCATION POLICY OUTLOOK: TURKEY, (2013) [hereinafter EDUCATION POLICY OUTLOOK].

29. *Id.*

be a shortage of teachers due to the failed military coup in July 2016.<sup>30</sup> During the post-coup crackdown, the highly centralized Turkish government revoked the licenses of 21,000 private school staff, more than 15,000 Ministry of Education employees were fired, and the Council for Higher Education run by the government demanded the resignation of 1,577 university deans, which amounts to every dean in the entire country.<sup>31</sup>

This paper will analyze the right to education in Turkey, specifically looking to the Syrian refugee crisis as an example of how Turkey is struggling to fulfill its obligations with respect to the right to education. Part II discusses the international obligations binding on Turkey. Part III details Turkey's regional obligations under the European system. Part IV analyzes Turkey's domestic laws regarding the right to education. Finally, Part V provides conclusions and recommendations.

## II. INTERNATIONAL OBLIGATIONS

### A. International Human Rights Instruments

Turkey has ratified the following international human rights treaties that require Turkey to respect, protect, and fulfill the right to education for those living in Turkey:

- Convention on the Rights of the Child (1989);<sup>32</sup>
- Convention Relating to the Status of Refugees (1962);<sup>33</sup>

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30. *18 Million Children Head to School in Turkey*, HURRIYET DAILY NEWS (Sept. 19, 2016), <http://www.hurriyetdailynews.com/18-million-children-head-to-school-in-turkey.aspx?pageID=238&nID=104029&NewsCatID=341> [https://perma.cc/2AZ9-AUNW] (last visited Sept. 28, 2018).

31. Isobel Finkel, *Turkey Extends Purge to Universities, Asking All Deans to Go*, BLOOMBERG (July 19, 2016), <http://www.bloomberg.com/news/articles/2016-07-19/turkey-extends-purge-to-universities-asking-all-deans-to-go> (last visited Sept. 28, 2018).

32. Convention on the Rights of the Child, *opened for signature* on Nov. 20, 1989, 1577 U.N.T.S. 3 (ratification by Turkey on Apr. 4, 1995).

33. Convention Relating to the Status of Refugees, *adopted* on July 28, 1951, 2545 U.N.T.S. 137 (ratification by Turkey on June 28, 1962).

□ International Covenant on Economic, Social, and Cultural Rights (1966).<sup>34</sup>

Turkey has not ratified the Optional Protocol to the International Convention on Economic, Social, and Cultural Rights. Turkey has neither ratified nor signed the Convention Against Discrimination in Education.

i. Universal Declaration of Human Rights

Article 26 of the Universal Declaration of Human Rights provides that “everyone has the right to education” that, at least in elementary and fundamental stages, “shall be free.”<sup>35</sup> The Declaration also provides “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom” and that “parents have a prior right to choose the kind of education that shall be given to their children.”<sup>36</sup>

ii. International Covenant on Economic, Social, and Cultural Rights (“ICESCR”)

Article 13(1) of the ICESCR recognizes the right of everyone to education, and sets forth the aims and purposes of education that are agreed upon by the parties to the Covenant.<sup>37</sup> Article 13(2) provides that in order to achieve the full realization of the right to education, states parties must ensure primary education is compulsory and free to all, secondary education and higher education must be generally available and accessible to all, and “fundamental education” must be encouraged or intensified as far as possible for those who have not completed their primary education.<sup>38</sup> Additionally, states parties must actively pursue the development of a system of schools at all levels and continuously improve the material conditions of teaching staff.<sup>39</sup>

Article 13(3) requires the states parties to respect the liberty of parents and guardians to choose schools established by non-public

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34. International Covenant on Economic, Social and Cultural Rights, *opened for signature* on Dec. 19, 1966, 993 U.N.T.S. 3 (ratification by Turkey on Sept. 23, 2003) [hereinafter ICESCR].

35. G.A. Res. 217 (III) A, Universal Declaration of Human Rights, (Dec. 10, 1948).

36. *Id.*

37. See Finkel, *supra* note 31.

38. ICESCR, *supra* note 34, art. 13.

39. *Id.*



authorities that conform to state minimum educational standards and states parties must ensure the religious and moral education of their children is in conformity with the convictions of the parents.<sup>40</sup>

General Comment No. 13 explains the scope and implementation of the right to education by identifying four interrelated and essential features: availability, accessibility, acceptability, and adaptability.<sup>41</sup> Regarding the availability of functioning educational institutions and programs, all institutions and programs require facilities, which include sanitation, drinking water, trained teachers, and teaching materials.<sup>42</sup> With regards to adaptability, education also has to be flexible to adapt to the changing needs of changing societies and communities. This element is particularly relevant to refugee communities.<sup>43</sup>

### iii. Convention on the Rights of the Child

Children's rights are considered human rights and were first recognized after World War I with the adoption of the Declaration of Geneva in 1924.<sup>44</sup> However, the rights of children were not fully recognized in a binding text until 1989 with the adoption of the International Convention on the Rights of the Child.<sup>45</sup> Turkey ratified the Convention on April 5, 1995. The Convention sets out the individual, collective, civil, political, economic, social, and cultural rights of all children.<sup>46</sup> Among these rights is the fundamental right to education.<sup>47</sup> Articles 28 and 29 specifically address the right to education.<sup>48</sup> Article 28 takes the view that states parties must progressively a) make primary education compulsory and free; b) encourage the development of secondary education; c) make higher education accessible; d) make educational and vocational information and guidance accessible to all children; and e) take measures to

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40. *Id.*

41. Comm. on Econ., Soc., and Cultural Rights, General Comment No. 13: The Right to Education (art. 13), on its Twenty-First Session, U.N. Doc. E/C.12/1999/10 (1999).

42. *Id.*

43. *Id.*

44. *Rights of the Child*, HUMANIUM, <http://www.humanium.org/en/child-rights/> [https://perma.cc/M8D8-VNMG] (last visited Sept. 28, 2018).

45. Convention on the Rights of the Child, *supra* note 32.

46. *Id.*

47. *Id.*

48. *Id.*

encourage attendance to reduce drop-out rates.<sup>49</sup> Parties must also take steps to ensure school discipline is not in violation of the child’s human dignity, and promote international cooperation in matters relating to education.<sup>50</sup> Article 29 provides more aspirational statements towards which the right to education should be directed.<sup>51</sup>

#### iv. Convention Relating to the Status of Refugees

Refugees and displaced persons were high on the international agenda following the devastation of World War II.<sup>52</sup> In response, members of the newly formed United Nations ratified the Convention Relating to the Status of Refugees in 1951<sup>53</sup>, and an updating protocol in 1967.<sup>54</sup> Today 144 members have ratified either one or both of these instruments. The Convention is particularly relevant to present-day Turkey due to the mass influx of refugees fleeing across the border attempting to escape from the Syrian Civil War.

Article 22 of the Convention requires states to “accord to refugees the same treatment as is accorded to nationals with respect to elementary education.”<sup>55</sup> In addition, states must treat refugees as “favorable as possible . . . with respect to education other than elementary, . . . access to studies, the recognition of foreign school credentials, the remission of fees and charges, and the award of scholarships.”

#### B. International Recommendations

Even amidst a national crisis, human rights obligations must be adhered to. During the declared state of emergency following the coup attempt in Turkey, human rights experts from the United Nations urged the Turkish government to uphold its obligations under the treaties to

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49. *Id.*

50. *Id.*

51. *Id.*

52. Bernard Wasserstein, *European Refugee Movements After World War Two*, BBC (Feb. 17, 2011), [http://www.bbc.co.uk/history/worldwars/wwtwo/refugees\\_01.shtml](http://www.bbc.co.uk/history/worldwars/wwtwo/refugees_01.shtml) [<https://perma.cc/BU9Q-MTAP>] (last updated Sept. 28, 2018).

53. Convention Relating to the Status of Refugees, *supra* note 33.

54. Protocol Relating to the Status of Refugees, 8791 U.N.T.S. 267.

55. Convention Relating to the Status of Refugees, *supra* note 33, art. 22.

which they are bound.<sup>56</sup> Ensuring states parties adhere to obligations under the various instruments is carried out by treaty monitoring bodies.<sup>57</sup> Of the international instruments related to the right to education Turkey has ratified, only one is monitored by a separate agency within the United Nations. The United Nations High Commissioner for Refugees (“UNHCR”) “serves as the ‘guardian’ of the 1951 Convention and its 1967 Protocol.”<sup>58</sup> The 1951 Convention “is the key legal document that forms the basis of” the work by the UNHCR.<sup>59</sup> The other treaties are monitored by committees that are located within the Office of the High Commissioner for Human Rights (“OHCHR”).<sup>60</sup>

i. Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social, and Cultural Rights noted several concerns in 2011 related to Turkey’s obligations to respect, protect, and fulfill the right to education under Article 13 of the ICESCR. The Committee expressed concern about Turkey’s reservation to interpret and apply the provisions of Articles 13(3) and 13(4) of the ICESCR in accordance with its Constitution.<sup>61</sup> The Committee noted the absence of court cases on the applicability of the provisions in the ICESCR and requested that Turkey include in its next periodic report information on court decisions that have applied the applicable provisions of the ICESCR. They also urged Turkey to increase the length of its compulsory education from eight to eleven years.<sup>62</sup>

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56. *UN experts urge Turkey to adhere to its human rights obligations even in time of declared emergency*, UNITED NATIONS OFF. OF THE HIGH COMMISSIONER FOR HUM. RTS. (Aug. 19, 2016), <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20394#sthash.nYd2NBD5.dpuf> [https://perma.cc/KS7U-BJ2G] (last visited Sept. 28, 2018).

57. Human Rights Treaty Bodies, UN Office of the High Commissioner, <https://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx> [https://perma.cc/SLQ3-Q2DG] (last accessed Oct. 4, 2018).

58. *The 1951 Refugee Convention*, UNHCR, <http://www.unhcr.org/pages/49da0e466.html> [https://perma.cc/VRU9-G499] (last accessed Nov. 13, 2016).

59. *Id.*

60. See Human Rights Treaty Bodies *supra* note 57.

61. Comm. on Econ., Soc. and Cultural Rights, Concluding Observations, ¶ 6, U.N. Doc. E/C.12/TUR/CO (July 12, 2011).

62. *Id.* Turkey did raise the length of compulsory education from 8 to 12, though not without conflict, *see infra* note 74.

With respect to refugees, migrant workers, and asylum-seekers, the Committee recommended that Turkey raise public and official awareness about those grounds with a view to according everyone their full rights under the ICESCR.<sup>63</sup> The Committee specifically noted the difficulties these groups face in accessing health services, education, and employment, despite laws promoting their access to those services.<sup>64</sup>

ii. Committee on the Rights of the Child

The Committee on the Rights of the Child considered the combined second and third periodic reports of Turkey in its concluding observations, issued in 2012.<sup>65</sup> Turkey made a reservation when signing the Convention stating that it reserves the right to interpret Articles 17, 29, and 30 of the Convention “according to the letter and spirit” of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 1923.<sup>66</sup> The Committee expressed concern about Turkey’s reservation, especially as Article 29 relates directly to education.<sup>67</sup> The Committee encouraged Turkey to withdraw the reservations “in order to provide better protection and opportunities to all groups of children, in particular children of Kurdish origin, who are not recognized as a minority under the Turkish Constitution and the Treaty of Lausanne of 1923.”<sup>68</sup> The Committee reiterated that, with respect to access to adequate health and education, the principle of non-discrimination is not fully implemented for children belonging to minorities not recognized under the Treaty of Lausanne, in particular those of Kurdish origin, children with disabilities, girls, refugee and asylum-seeking children, and children living in rural areas.<sup>69</sup>

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63. *Id.*

64. *Id.*

65. Comm. on Rights of the Child, Concluding Observations, ¶ 1, U.N. Doc. CRC/C/TUR/CO/2-3 (July 20, 2012).

66. *See supra* note 22.

67. Comm. on Econ., Soc. and Cultural Rights, Concluding Observations, *supra* note 61 at ¶ 8.

68. Comm. on Econ., Soc. and Cultural Rights, Concluding Observations, *supra* note 61 at ¶ 9.

69. *Id.*

### III. EUROPEAN SYSTEM

#### A. *European Human Rights Instruments*

##### i. European Convention on Human Rights

The European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>70</sup> (“European Convention”), as adopted in 1948, does not explicitly guarantee the right to education. However, Article 2 of the First Protocol to the European Convention (“First Protocol”) does guarantee that right.<sup>71</sup> Turkey is a signatory to the European Convention and the First Protocol.

In the “Belgian Language Case”<sup>72</sup>, the European Court of Human Rights discussed the meaning and scope of Article 2 of the Protocol and Articles 8<sup>73</sup> and 14 of the European Convention.<sup>74</sup> Article 2 of the Protocol states that “no person shall be denied the right to education.”<sup>75</sup> This formulation does not positively say that all have a right to education. However, despite the negative formulation, the provision uses the term “right” and speaks of a “right to education.”<sup>76</sup> Therefore, the court declared that Article 2 of the First Protocol does in fact enshrine a right to education.<sup>77</sup>

The right to education is not absolute, however, and may give rise to acceptable limitations. Consequently, domestic authorities are given a margin of appreciation, although the Court is the ultimate authority on whether the state’s actions are in observance of the Convention’s requirements.<sup>78</sup> In its evaluation of the right to education under Article 2 of the Protocol, the Court must determine whether the limitation

70. Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, CETS No. 005, *opened for signature* Nov. 4, 1950, (ratification by Turkey on May 18, 1954).

71. Council of Europe, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, 1952.

72. *See generally* Relating to Certain Aspects of Laws on the use of Languages in Education in Belgium v. Belgium (Belgian Language Case), 6 Eur. Ct. H.R. (ser. A) (1968).

73. Convention for the Protection of Human Rights and Fundamental Freedoms, *supra* note 70, § 8. Article 8 of the Convention details the right to respect for private and family life. *Id.*

74. *Id.*

75. *Id.*

76. *See* Belgian Language Case, 6 Eur. Ct. H.R. (ser. A).

77. *Id.*

78. *See* Sahin v. Turkey, 2005-XI Eur. Ct. H.R. 173.

pursues a “legitimate aim.”<sup>79</sup> In doing so, the Court is not bound to an exhaustive list of “legitimate aims.”<sup>80</sup> A limitation will only be compatible with Article 2 of the First Protocol “if there is a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.”<sup>81</sup>

Article 14 of the Convention requires states to provide the guarantees in the Convention without discrimination based on sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.<sup>82</sup>

## ii. European Social Charter

The European Social Charter<sup>83</sup> (“Social Charter”) is a Council of Europe treaty that guarantees fundamental social and economic rights, and serves as a counterpart to the European Convention, which refers to civil and political rights.<sup>84</sup> The Social Charter was originally adopted in 1961 and revised in 1996 as the Revised European Social Charter (“Revised Social Charter”).<sup>85</sup> Turkey signed the Revised Social Charter in 2004 and ratified it in 2007.<sup>86</sup> The Revised Social Charter is aimed at applying the 1948 United Nations Declaration of Human Rights within Europe and is therefore linked to the United Nations Human Rights Treaty System and the European Union’s Charter of Fundamental Rights.<sup>87</sup> In assessing cases, the European Court of Human Rights and the European Committee of Social Rights take the

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79. *Id.*

80. *Id.*

81. *Id.*

82. Convention for the Protection of Human Rights and Fundamental Freedoms, *supra* note 70, § 14.

83. Turkey has not ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. Council of Europe, European Social Charter (Revised), *opened for signature* May 3, 1996, CETS No. 163 (ratification by Turkey on 27 June 2007).

84. *European Social Charter*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/turin-european-social-charter> [<https://perma.cc/E3GE-JEAH>] (last visited Oct. 9, 2018).

85. *Charter Texts*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/turin-european-social-charter/charter-texts> [<https://perma.cc/KJ8N-D4F8>] (last visited Oct. 9, 2018).

86. *Id.*

87. Turkey is not a member of the European Union. *See The Charter in Four Steps*, COUNCIL OF EUR., <http://www.coe.int/en/web/turin-european-social-charter/about-the-charter> [<https://perma.cc/7D9J-KVE6>] (last visited Sept. 28, 2018).

connections between the Revised Social Charter and the European Convention into account.<sup>88</sup> The right to education, as set forth by Article 2 of the Protocol to the European Convention, is developed in Articles 7, 10, 15, 17, and 19 of the Revised Social Charter.<sup>89</sup>

### *B. European Court of Human Rights*

Turkey is one of the most heavily litigated against states in the Council of Europe system.<sup>90</sup> A number of cases have been brought before the Court dealing specifically with conflicts of religion and education. In *Mansur Yalçın and Others v. Turkey*,<sup>91</sup> the applicants, who were adherents of the Alevi faith, an unorthodox minority branch of Islam, complained that the content of compulsory religious and ethics classes in schools was based on the Sunni understanding of Islam.<sup>92</sup> The Court found a violation of Article 2 of the first Protocol, and the violation was based on inadequacies in the Turkish education system previously identified in another case dealing with Alevism, *Hasan and Eylem Zengin v. Turkey*.<sup>93</sup>

Though not explicitly speaking to the right to education under the European Convention, the case of *Sükran Aydın and Others v. Turkey*<sup>94</sup> gives a poignant example of the discrimination faced by Turkish Kurds and perhaps illustrates the difficult road ahead for Syrians residing in Turkey. The case originated in five applications against Turkey lodged

88. *European Social Charter and European Convention on Human Rights*, COUNCIL OF EUR., <http://www.coe.int/en/web/turin-european-social-charter/-european-social-charter-and-european-convention-on-human-rights> [https://perma.cc/DU8X-7737] (last visited Sept. 28, 2018).

89. *Id.* Turkey has accepted 91 of the Charter's 98 provisions, including all related to education.

90. See Başak Çali, *Turkey's relationship with the European Court of Human Rights shows that human rights courts play a vital role, but one that can often be vastly improved*, LONDON SCHOOL OF ECON. & POL. SCI. (Mar. 14, 2012), <http://blogs.lse.ac.uk/euoppblog/2012/03/14/turkey-echr/> [https://perma.cc/R3EY-VTG4] (last visited Sept. 28, 2018).

91. *Mansur Yalçın and Others v. Turkey*, EUR. CT. OF HUM. RTS. (Sept. 16, 2014), <http://hudoc.echr.coe.int/eng?i=001-146381> [https://perma.cc/Z3V5-A8P7] (last visited Sept. 28, 2018).

92. *Id.*

93. See *Hasan and Eylem Zengin v. Turkey*, EUROPEAN CT. OF HUM. RTS. (Oct. 9, 2007), <http://hudoc.echr.coe.int/eng-press?i=003-2142546-2275681> [https://perma.cc/A5UM-ZJUJ].

94. *Sükran Aydın and Others v. Turkey*, EUROPEAN COURT OF HUMAN RIGHTS (June 23, 2013), <http://hudoc.echr.coe.int/fre?i=001-116031> [https://perma.cc/HU5E-MXYU] (last visited Sept. 28, 2018).

with the European Court of Human Rights between 2006 and 2009.<sup>95</sup> All five applicants were running for office in the parliamentary or municipal elections, and all spoke Kurdish.<sup>96</sup> They were charged criminally and found guilty of violating Law no. 298, Section 58, which stated “it shall be forbidden to use any language or script other than Turkish in campaigning for election on radio or television or by other means.”<sup>97</sup> The applicants asserted that their convictions for simply speaking Kurdish during an election campaign violated various rights under the European Convention, particularly the right to freedom of expression under Article 10.<sup>98</sup> The final judgment of the Court, issued in 2013, held the Turkish law to be an “interference” with the applicants’ right to free expression that was in violation of the Convention.<sup>99</sup>

### C. *European Committee of Social Rights*

The European Committee of Social Rights (“Committee”) is charged with assessing, through the receipt of yearly reports, whether countries are respecting the rights in the Social Charter.<sup>100</sup> The Committee has made several conclusions regarding Turkey’s obligations with respect to the right to education. The Committee has concluded that with respect to Article 7 section 3 of the Revised Social Charter, “Turkish law and practice do not ensure that children are not deprived of the full benefit of compulsory education.”<sup>101</sup> Additionally, regarding Article 17, section 2, which provides the right of children to social and economic protection and free primary and secondary education, “[c]hildren unlawfully present . . . [in Turkey] do not have effective access to education.”<sup>102</sup>

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95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *European Committee of Social Rights*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/turin-european-social-charter/european-committee-of-social-rights> [https://perma.cc/ES9N-94QH] (last visited Sept. 28, 2018).

101. *European Comm. of Soc. Rights, Turkey and the European Social Charter*, COUNCIL OF EUROPE (Jan. 2018).

102. *Id.*



*IV. TURKISH LEGISLATION AND JURISPRUDENCE**A. The Turkish Government*

Turkey's parliamentary republic government has three branches.<sup>103</sup> The unicameral legislature is called the Grand National Assembly.<sup>104</sup> The judiciary branch features an independent judiciary with a constitutional court and various other superior and appellate courts.<sup>105</sup> The power over the executive branch was divided between the prime minister and president.<sup>106</sup> However, voters in a referendum voted to eliminate the role of Prime Minister and expand the power of the President.<sup>107</sup> The structure and functioning of Turkey's highly centralized government is a breeding ground for power struggles, as was evidenced by the most recent coup attempt, which was predicted as "probable" several years earlier by a Turkish political professor.<sup>108</sup> Consequently, Turkey's education system has been a political and philosophical "battleground" between the ruling Justice and Development Party ("AKP") party comprised of religious conservatives and the secularists, backed by the military apparatus.<sup>109</sup> This instability results in problems with the functioning of local and regional democratic institutions, including schools.<sup>110</sup>

*B. Turkish Constitution*

Since the founding of the modern Republic of Turkey in 1923, four constitutions have guided the government.<sup>111</sup> The 1982

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103. World Factbook, Central Intelligence Agency, <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> (last visited Oct. 7, 2018).

104. *Id.*

105. *Id.*

106. Yapp & Dewdney, *supra* note 1.

107. *Id.*

108. See generally Ergun Özbudun, *Turkey's Constitutional Reform and the 2010 Constitutional Referendum*, IEMED MEDITERRANEAN YEARBOOK 2011, at 191 (2011).

109. *Education in Turkey*, WORLD EDUC. NEWS AND REVIEWS (Apr. 4, 2017), <https://wenr.wes.org/2017/04/education-in-turkey> [<https://perma.cc/E7CR-8ASP>] (last visited Sept. 28, 2018).

110. See Cong. of Local and Reg'l Authorities, *Local and Regional Democracy in Turkey*, COUNCIL OF EUROPE (Mar. 1, 2011), <https://wcd.coe.int/ViewDoc.jsp?p=&id=1754625&Site=COE&direct=true> [<https://perma.cc/V7SA-SMD3>].

111. See generally 1921 Türk Anayasası [Constitution] Jan. 20, 1921 (Turk.) [hereinafter 1921 Constitution]; 1924 Türk Anayasası [Constitution] Apr. 20, 1924 (Turk.) [hereinafter 1924

Constitution (the current Constitution) was the product of the National Security Council (“NSC”) military regime of 1980-1983.<sup>112</sup> The NSC saw the excessive liberalism of the 1961 Constitution to be the primary reason for the breakdown of law and order in the late 1970’s.<sup>113</sup> Consequently, the NSC created a constitution designed to strengthen the authority of the state at the expense of individual liberties, with a set of tutelary institutions to exercise strict control over elected civilian authorities.<sup>114</sup> The Constitution of 1982 has been observed to “protect the state against the actions of its citizens, rather than to protect the citizens against the encroachments of the state, which is what a democratic constitution should do.”<sup>115</sup>

The Constitution of 1982 has been amended eighteen times, with the most recent amendment in 2017.<sup>116</sup> Article 10 provides that “everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.”<sup>117</sup> An empty provision, it seems, when it comes to the actualization of that equality for Syrians and Kurds.

Article 15 explicitly allows for the partial or complete suspension of the exercise of fundamental rights and freedoms embodied in the Constitution in times of war, mobilization, martial law, or a state of emergency, “as long as obligations under international law are not violated.”<sup>118</sup> With respect to the status of aliens, Article 16 provides

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Constitution]; Türkiye Cumhuriyeti Anayasası [Constitution] July 9, 1961 (Turk.); Türkiye Cumhuriyeti Anayasası [Constitution] Nov. 7, 1982 (Turk.) [hereinafter 1982 Constitution].

112. The National Security Council, or MGK, is not a regime itself, but is comprised of the President, vice presidents, ministers of Justice, National Defense, the Interior and Foreign Affairs, the Chief of General Staff of the Turkish Armed Forces, commanders of the Turkish Land, Naval and Air Forces. *See About the National Security Council*, REPUBLIC OF TURKEY SECRETARIAT-GENERAL OF THE NATIONAL SECURITY COUNCIL, <https://www.mgk.gov.tr/en/index.php/national-security-council/about-the-national-security-council> [https://perma.cc/SS42-96T2] (last visited Sept. 28, 2018). In 1980, the military orchestrated a coup. *See* Ekrem Buğra Ekinci, *The 1980 coup: Fearful period amid political crackdown*, DAILY SABAH (Aug. 11, 2016), <https://www.dailysabah.com/feature/2016/08/12/the-1980-coup-fearful-period-amid-political-crackdown> [https://perma.cc/9WNS-XCFV] (last visited Sept. 28, 2018).

113. Özbudun, *supra* note 108, at 191.

114. *Id.*

115. *Id.*

116. Sinan Ekim & Kemal Kirişçi, *The Turkish constitutional referendum, explained*, THE BROOKINGS INSTITUTION (Apr. 13, 2017), <https://www.brookings.edu/blog/order-from-chaos/2017/04/13/the-turkish-constitutional-referendum-explained/> [https://perma.cc/LS9M-7BHV] (last visited Oct. 10, 2018).

117. *See* 1982 Constitution, *supra* note 111, art. 10.

118. *Id.* at art. 15.

that domestic law compatible with international law may restrict the fundamental rights and freedoms.<sup>119</sup> Part II, Article 42 explicitly provides that “no one shall be deprived of the right of education,” and that the “scope of the right to education shall be defined and regulated by law.”<sup>120</sup>

### C. *Constitutional Court of Turkey*

The Constitutional Court of Turkey, the highest legal body in Turkey, examines “the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Grand National Assembly of Turkey, and decide[s] on individual applications.”<sup>121</sup> Created by the Constitution of 1961, the Constitutional Court has been viewed by many an active participant in the ongoing political conflict, acting as a guardian to two basic pillars of Kemalist ideology, consisting of a secular, national and unitary state.<sup>122</sup> This puts the Court at odds with minority groups fighting for a voice in the government, and the present governing party that is accused of seeking to make the state anti-secular.

The political division of the Constitutional Court and the ruling Justice and Development Party has been highlighted by the Court’s decisions that have shut down a number of Kurdish ethnic political parties through strict interpretation of the Constitution’s provisions on political parties.<sup>123</sup> Most recently the Court stood up to Prime Minister Erdogan by rejecting a law, which he had championed and which was passed by the AKP, declaring all private university prep courses illegal.<sup>124</sup> The Court’s decision is viewed as good news in that in its current form, the Court has shown itself to be “a key stronghold of the rule of law—especially at a time when the AKP government, and

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119. *Id.* at art. 16.

120. *Id.* at art. 42.

121. *Id.* at art. 148.

122. Özbudun, *supra* note 108. Kemalist ideology or Kemalism comes from the ideology of Mustafa Kemal Atatürk, the founder and first president of the Republic of Turkey. His ideology was distilled into the “six arrows of Kemalism:” republicanism, nationalism, populism, revolutionism, secularism, and statism.

123. Mustafa Akyol, *Turkey’s Constitutional Court stands up to Erdogan*, AL MONITOR (July 22, 2016), <http://www.al-monitor.com/pulse/originals/2015/07/turkey-constitutional-court-last-stronghold-rule-of-law.html> [<https://perma.cc/77ME-KKEF>] (last visited Sept. 28, 2018).

124. *Id.*

especially Erdogan, are criticized for trying to make the judiciary a handmaiden of the executive.”<sup>125</sup>

#### D. Ministry of Education

The administration of all stages and types of pre-tertiary education falls to the Ministry of Education.<sup>126</sup> Higher education falls under the non-partisan and non-governmental national board of trustees, the Yükseköğretim Kurulu (the Council for Higher Education, YÖK).<sup>127</sup> The National Ministry sets the primary school curriculum and approves textbooks and teaching aids.<sup>128</sup> The official language of instruction for schools is Turkish, though some programs are taught in English, German, or French.<sup>129</sup>

#### E. Domestic Legislation and Policies

##### i. Current State of Education

While the rhetoric in the Turkish government and media calls education in Turkey a priority, and several improvements have been made, many indicators suggest there is still much room for improvement. As of 2014, Turkey has over 14 million students enrolled in primary and secondary schools.<sup>130</sup> While the primary school completion rate is 99.8%,<sup>131</sup> approximately 8% of primary-school-aged children are not enrolled in school at all.<sup>132</sup> The “biggest disparit[ies] can be seen between the poorest and richest” children, and between

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125. *Id.*

126. *Education in Turkey*, *supra* note 109.

127. *Id.*

128. See Turkish education ministry reveals new curriculum: Evolution out, ‘jihad’ in, *Hurriyet Daily News* (July 18, 2017), <http://www.hurriyetdailynews.com/turkish-education-ministry-reveals-new-curriculum-evolution-out-jihad-in-115673>.

129. Ahmet Sertan Usul, *Turkey: 2 new foreign languages to be taught at schools*, AA (April 11, 2018), <https://www.aa.com.tr/en/turkey/turkey-2-new-foreign-languages-to-be-taught-at-schools/1114703> [<https://perma.cc/F42P-KGJS>] (last visited Oct. 10, 2018).

130. See generally, EDUCATION POLICY DATA CENTER, TURKEY NATIONAL EDUCATION PROFILE (2014).

131. *Child Labor and Forced Labor Reports: Turkey*, BUREAU OF INT’L LAB. AFF., [https://www.dol.gov/agencies/ilab/resources/reports/child-labor/turkey#\\_ENREF\\_13](https://www.dol.gov/agencies/ilab/resources/reports/child-labor/turkey#_ENREF_13) [<https://perma.cc/Q673-NFNE>] (last visited Sept. 27, 2018) [hereinafter *Child Labor*].

132. EDUCATION POLICY DATA CENTER, *supra* note 130.

male and female students.<sup>133</sup> Sixty-four percent of children not in school are poor, and forty-five percent are females.<sup>134</sup>

Statistics from the Organization for Economic Cooperation and Development (“OECD”) indicate Turkey falls below other OECD countries in many of the key performance and quality indicators.<sup>135</sup> In 2010, less than one third of adults (aged twenty-five to sixty-four) had a high school diploma, compared to the OECD average of seventy-four percent.<sup>136</sup> The upper secondary graduation rate for the current generation (aged under twenty-five) was fifty-four percent, well below the OECD average of eighty-four percent.<sup>137</sup> On the qualitative front, Turkish students perform significantly worse than the OECD averages in reading literacy, math, and the sciences.<sup>138</sup> According to the OECD’s Program for International Student Assessment (“PISA”), a test used to measure the comparative quality of secondary education systems, in 2015 Turkey placed second to last among the 35 OECD countries.<sup>139</sup>

In 2012, Turkey allocated only 2.9 percent of its GDP to education, and in 2013, Turkey allocated 4.9 percent.<sup>140</sup> Previous numbers available are all under three percent. This is significantly lower than many other European countries that average five to six percent.<sup>141</sup> Not only is the overall amount of money spent on schools relatively low, but also different schools in different regions face disparities in the amount of actual funding they receive from the government.<sup>142</sup>

## ii. Education Laws

The structure of education in Turkey has undergone a number of significant changes in the last two decades. Prior to 1997, the system

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133. *Child Labor*, *supra* note 131.

134. *Id.*

135. Education at a Glance: OECD Indicators, OECD, <https://www.oecd-ilibrary.org/docserver/eag-2018-69-en.pdf?expires=1539101141&id=id&acname=guest&checksum=35F81566DCA741BC575DD8168E77D4C7> [https://perma.cc/6XP3-ELUP] (last accessed Oct. 9, 2018).

136. *Education in Turkey*, *supra* note 109.

137. *Id.*

138. *Id.* at 13.

139. *Id.*

140. *Id.*

141. *Id.*

142. See EDUCATION POLICY OUTLOOK, *supra* note 28, at 4.

consisted of five years of compulsory primary education followed by three years of optional middle or junior high school.<sup>143</sup> In 1997, the Grand National Assembly passed a law that mandated eight years of compulsory primary education followed by three years of optional secondary education.<sup>144</sup> The three years of optional secondary education was increased to four in 2005.<sup>145</sup> It then passed a controversial and highly debated education system reform bill on March 30, 2012.<sup>146</sup> That bill extended compulsory education from eight to twelve years and allowed middle school students to attend Islamic schools, undoing a military action in 1997 that closed religious middle schools, which were viewed by the military as breeding grounds for militant Islamist groups.<sup>147</sup> The opposition feared this bill would increase the influence of Islamic schools, endangering the “strong secular tradition.”<sup>148</sup> The bill prompted public riots and even scuffles among the legislators themselves.<sup>149</sup> Under the bill, students were also given the option to attend vocational schools as early as age ten.<sup>150</sup> Opponents said the provision would prevent students from obtaining the “broad-based education they need.”<sup>151</sup>

Another area of controversy in Turkish law, albeit much less political, is the lack of an explicit prohibition on corporal punishment in schools, and the acknowledgment of the “disciplinary power” of parents in the penal code.<sup>152</sup> Though corporal punishment has been considered unlawful in schools since 1923 and various laws punish the

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143. Necmi Aksit, *Educational Reform in Turkey*, 27 INT’L J. OF EDUC. DEV. 129, 131 (2007).

144. *Id.*

145. *Id.*

146. *Turkey Passes Hotly Contested School Reform Bill*, FOX NEWS (Mar. 30, 2012), <http://www.foxnews.com/world/2012/03/30/turkey-passes-hotly-contested-school-reform-bill.html> [<https://perma.cc/NGT5-AM9X>] (last visited Sept. 28, 2018).

147. *Id.*

148. *Id.* See also Wendy Zeldin, *Turkey: Controversial Education Reform Legislation Passed*, LIBR. OF CONGRESS (Apr. 17, 2012), <http://www.loc.gov/law/foreign-news/article/turkey-controversial-education-reform-legislation-passed/> [<https://perma.cc/HAS4-ASRB>] (last visited Sept. 28, 2018).

149. *Id.*

150. *Id.*

151. *Turkey Passes Hotly Contested School Reform Bill*, FOX NEWS (Mar. 30, 2012), <http://www.foxnews.com/world/2012/03/30/turkey-passes-hotly-contested-school-reform-bill.html> [<https://perma.cc/NGT5-AM9X>] (last visited Sept. 28, 2018).

152. See GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, CORPORAL PUNISHMENT OF CHILDREN IN TURKEY (2018).

ill treatment and beating of students, the Ministry of Education published a report in 2008 concluding that corporal punishment has an “educational value.”<sup>153</sup> While threatening imprisonment for up to one year for the improper use, the Turkish Code of Criminal Law acknowledges the “right to enforce discipline, deriving from his right to educate a person who is under his control or for whom he is responsible for this person’s growth, education, care, protection or training of a profession or trade.”<sup>154</sup>

### iii. Syrian Refugee Status

While Turkey is a state party to the Convention on the Status of Refugees, they became a party to the Convention with a “geographic limitation,” meaning Turkey grants asylum rights only to Europeans.<sup>155</sup> However, following the influx of non-European refugees, the Turkish government passed the Law on Foreigners and International Protection (“LFIP”) in April 2013.<sup>156</sup> This law established a legislative framework to provide (for the first time in Turkish law) those who flee a conflict and arrive in Turkey in masses with “temporary protection.”<sup>157</sup> Article 34 (4) provides that “family resident permits shall entitle the holder right of education in primary and secondary educational institutions until the age of 18 without obtaining a student residence permit.”<sup>158</sup>

### iv. Access to Syrians

Turkish schools are officially available to Syrian school-aged children that are registered for “temporary protection” via a policy adopted by the Turkish government in September 2014.<sup>159</sup> But over

153. *Id.* at 2.

154. PENAL CODE OF TURKEY art. 232(2) (Turk.).

155. Valeria Hansel, “Free Us or Be Responsible for Our Deaths”, HarekAct (July 12, 2017), <http://harekact.bordermonitoring.eu/2017/07/12/free-us-or-be-responsible-for-our-deaths/> [https://perma.cc/74EZ-S6XA] (last visited Oct. 10, 2018).

156. *See generally* Law on Foreigners and International Protection (Turk.)

157. *Id.* *See* Müge Dalkıran, *Law on Foreigners and International Protection: A Real Shift in Turkey’s Migration Policy?*, SHARQ FORUM (May 31, 2016), <https://www.sharqforum.org/2016/05/31/law-on-foreigners-and-international-protection-a-real-shift-in-turkeys-migration-policy/> [https://perma.cc/65V7-2DML] (last visited Oct. 10, 2018).

158. *Id.*

159. Al Rifai, *supra* note 20. *See also* *Syrian Refugees in Turkey Frequently Asked Questions*, UNHCR, <https://www.fluechtlingshilfe.ch/assets/hilfe/syrien/faq-syrians-in-turkey-english.pdf> [https://perma.cc/7675-D68J] (last visited Oct. 9, 2018).

two-thirds of all Syrian children in Turkey do not receive any kind of education.<sup>160</sup> Families who attempt to register their children in schools have been turned away due to not having the proper documentation, and most, if not all, of the children do not speak Turkish.<sup>161</sup> As of March 2017, over 287,000 Syrian children do receive formal education at one of the approximately 432 Temporary Education Centers ("TECs").<sup>162</sup> While these centers are important to minimize the time in school lost by these children, they are clearly not enough to meet the demand.<sup>163</sup>

As of the 2016-2017 school year, elementary school students are given the option to choose Arabic as a second language.<sup>164</sup> The Ministry of Education cited "historical and cultural reasons . . . which have religious significance in Muslim countries" as to why Arabic must be learned in Turkish schools.<sup>165</sup> Not all are thrilled with the idea, seeing it as a ploy by the Ministry to "assassinate secularism."<sup>166</sup> While Syrians offer a new source of potential teachers, assuming they are able to learn enough Turkish, the teaching of Arabic to Turks does not directly increase the access to schools for the hundreds of thousands of Syrian children not enrolled in school. Due in part to lack of schools, and other barriers, such as language and lack of financial resources, many school-aged children are forced to work to help support their parents and other family members who struggle to find jobs with steady living wages, thus leading to an increase in child labor.<sup>167</sup> Under

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160. *Turkey: Events of 2015*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2016/country-chapters/turkey> [<https://perma.cc/NW8T-LRA8>] (last visited Sept. 27, 2018).

161. Coşkun TAŞTAN & Zafer ÇELİ, *The Education of Syrian Children in Turkey Challenges and Recommendations*, EBS (Oct. 20, 2017), XII, [http://www.ebs.org.tr/ebs\\_files/files/yayinlarimiz/Suriye\\_rapor\\_pdf.pdf](http://www.ebs.org.tr/ebs_files/files/yayinlarimiz/Suriye_rapor_pdf.pdf) [<https://perma.cc/93R4-YP7A>] (last visited Oct. 10, 2018).

162. *Id.* at 33.

163. See MAYSJA JALBOUT, PARTNERING FOR A BETTER FUTURE: ENSURING EDUCATIONAL OPPORTUNITY FOR ALL SYRIAN REFUGEE CHILDREN AND YOUTH IN TURKEY 8 (2015).

164. Tulay Cetingulec, *Turks Divided Over Plans to Introduce Arabic-Language Teaching*, AL MONITOR (Nov. 2, 2015), <http://www.al-monitor.com/pulse/originals/2015/11/turkey-arabic-education-divides-country.html> [<https://perma.cc/7PTZ-ASNx>] (last visited Oct. 10, 2018).

165. *Id.*

166. *Id.*

167. See Jalbout, *supra* note 163, at 15.



Turkish law, the employment of children under fifteen is prohibited,<sup>168</sup> and is only permitted between the ages of fifteen and eighteen under special conditions that cannot interfere with school.<sup>169</sup>

Approximately 2.6 percent, or over 320,000 children in Turkey engage in street and industrial work, as well as mobile seasonal work in agriculture.<sup>170</sup> Of those, 27.1 percent are engaged in street work, which includes vending small items, carrying bundles to markets, cleaning windshields, collecting recyclable materials, and begging.<sup>171</sup> 15.8 percent of children (particularly Syrians) work in the manufacturing of shoes, furniture, and textiles.<sup>172</sup> Of the fifty-eight percent of children engaged in agriculture, research has shown that the children of Syrian refugees were particularly vulnerable to exploitation, lived in worse conditions and received lower pay than Turkish workers.<sup>173</sup>

#### V. CONCLUSIONS AND RECOMMENDATIONS

Despite the initial “generous and vigorous” response of Turkish citizens and the promises of the government, discrimination and socioeconomic disparities among the minorities living in Turkey have had disproportionate consequences for children of Kurds<sup>174</sup> and Syrians.<sup>175</sup> Syrian children under temporary protection have an immediate need for safe and friendly environments to foster recreation and socialization. Many children also require psychosocial support to overcome traumatic experiences of the war itself, fleeing the war, and the ongoing hardships from life in their new country.<sup>176</sup> The Turkish

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168. Turkey’s law is in compliance with Article 7§1 of European Social Charter, which has been interpreted to mean, “domestic law must set the minimum age of admission to employment at 15 years.” Digest of the Case Law of the European Committee of Social Rights, COUNCIL OF EUROPE DIGEST, ch. 1, §7, at 59.

169. See Labour Act of Turkey, art. 17 (Turk.).

170. *Child Labor*, *supra* note 131.

171. *Id.*

172. *Id.*

173. *Id.*

174. See INTERNAL DISPLACEMENT MONITORING CENTRE ET AL., CASE STUDY ON EDUCATION AND DISPLACEMENT IN TURKEY (2010), <http://internal-displacement.org/sites/default/files/publications/documents/201008-eu-turkey-principle-versus-practice-case-study-country-en.pdf> [<https://perma.cc/TF7B-BGJ4>] (last visited Sept. 28, 2018).

175. U.N. Econ. and Soc. Council, Country Program Document: Turkey, U.N. Doc. E/ICEF/2015/P/L.19 (July 9, 2015).

176. *Id.*

government has supposedly spent more than US\$25 billion (a figure only a few months ago said to be US\$10 billion) on helping refugees,<sup>177</sup> though it is not readily apparent how this money has been spent.<sup>178</sup>

The political instability and infighting amongst the major players in the government as they fight for power does not help the Syrians who struggle on a daily basis. While the problems Syrians face are enormous, and the Turkish government has made efforts to this point to cope, it has to do more to prevent an entire generation of Syrians from being “lost.”<sup>179</sup> Specifically, the Turkish government should make efforts to reduce barriers for Syrian children to enter school. This includes reducing the administrative difficulty parents face in obtaining the necessary documentation from the government agencies responsible for granting resident permits, temporary protection identification documents, and other identification documents. Parents who have applied but do not yet have the identification documents required to enroll their children in school should continue to be allowed to enroll their children in schools as guest students.

Easier enrollment procedures are however, not enough. Once Syrian children are actually better able access the schools, the schools themselves need to be more accommodating by providing the necessary educational resources the Syrian children need. Recently, the Turkish Ministry of Education recruited 5,600 Turkish language

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177. See Mehmet Cetingulec, *How did Ankara's Spending on Syrian Refugees Jump to \$25 Billion?*, AL MONITOR (Sept. 30, 2016), <http://www.al-monitor.com/pulse/ru/contents/articles/originals/2016/09/turkey-syria-refugees-mind-blogging-increase-expenses.html> [<https://perma.cc/83GY-DGVC>]; see also Dominique Bonessi, *Swapping Schoolbooks for Sewing*, U.S. NEWS (Nov. 16, 2016, 1:50 PM), <http://www.usnews.com/news/best-countries/articles/2016-11-16/turkey-struggles-to-provide-education-for-syrian-children> (last visited Oct. 10, 2018).

178. Turkey placed 66 out of 167 countries on the 2015 Corruption Perception Index with a score of 42 out of 100, but has plummeted in recent years. *More Than 6 Billion People Live in Countries with a Serious Corruption Problem*, TRANSPARENCY INTERNATIONAL (2015), <https://www.transparency.org/cpi2015> [<https://perma.cc/2LBK-4EVG>] (last visited Sept. 28, 2018). Turkey placed 81 out of 180 in 2017. See *Corruption Perceptions Index 2017*, TRANSPARENCY INTERNATIONAL (Feb. 21, 2017), [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017) [<https://perma.cc/TB3T-MT3D>] (last visited Oct. 10, 2018).

179. See Gordon Brown, *Without education, Syria's children will be a lost generation*, THE GUARDIAN (Jan. 12, 2016, 12:03 PM), <https://www.theguardian.com/commentisfree/2016/jan/12/syria-refugee-children-lebanon-double-shift-schools> [<https://perma.cc/G58X-KYP2>] (last visited Oct. 10, 2018).

teachers to assist students in their Turkish language proficiency.<sup>180</sup> Though a good step in helping integration, the government must continue efforts to recruit and train teachers that speak Arabic so that schools can be adequately staffed for children that only speak Arabic.

There is little doubt that the citizens of Turkey have taken on a burden they have not asked for. Many Turks have sacrificed much to help Syrians that have fled war and death and the compassion shown in helping Syrians is inspiring. Individual compassion however, is also not enough. The Turkish government has clear obligations under international law still not yet fulfilled to ensure the children in their care receive the proper education needed to prevent them from becoming a “lost generation.”

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180. Sevil Erkuş, *Syrian Children’s Enrollment in Secondary Education Still Low: Expert*, HURRIYET DAILY NEWS (May 7, 2018), <http://www.hurriyetdailynews.com/syrian-childrens-enrollment-in-secondary-education-still-low-expert-131437> [https://perma.cc/KT3V-WTDX] (last visited Oct. 10, 2018).