

Engagement without recognition as a way of protecting refugees in unrecognized states: a comparison between the ROC and the TRNC

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Abstract. In this research, we tried to find the answer to the question whether and how state recognition affects the protection of refugees. This issue is one of the most puzzling aspects of International Relations. Answering it illuminates questions regarding recognition, the possibilities of engagement without recognition and its implication for the protection of refugees. It sheds light on debates over recognition and its implications for statehood and subjection to International Law. It also shows the degree to which human rights are applicable in unrecognized states.

Engagement without recognition is one answer, and in our opinion, the most logical answer, to the problem. The solution involves the engagement of relevant IGOs as well as states in solving the problem of refugee protection in unrecognized states, without recognizing these entities.

Keywords. engagement without recognition, refugee protection regime, UNHCR, unrecognized states, international recognition, international law

1 INTRODUCTION

In this research, we tried to find the answer to the question whether and how state recognition affects the protection of refugees. This issue is one of the most puzzling aspects of International Relations. Answering it illuminates questions regarding recognition, the possibilities of engagement without recognition and its implication for the protection of refugees. It sheds light on debates over recognition and its implications for statehood and subjection to International Law. It also shows the degree to which human rights are applicable in unrecognized states.

Engagement without recognition is one answer, and in our opinion, the most logical answer, to the problem. The solution involves the engagement of relevant IGOs as well as states in solving the problem of refugee protection in unrecognized states, without recognizing these entities.

1.1 STATE RECOGNITION AND THE PROTECTION OF REFUGEES

The world has been facing a flow of asylum seekers in the last couple of decades. The numbers especially grew in the aftermath of the Syrian internal conflict. The protection of refugees and the relevant duties of states have been identified in the 1951 Convention

relating to the status of Refugees and the subsequent 1967 Protocol. However, these conventions are silent about the management of refugees in unrecognized countries. Although the literature of refugee protection regime is very rich, very few studies have touched the issue of refugee protection in unrecognized states. This article aims to fill in the gap in the study of the refugee protection regime in unrecognized States by examining the status of refugees in the Turkish Republic of Northern Cyprus (TRNC) and comparing it with the protection regime in the Republic of Cyprus (ROC) as well as the provisions of the 1951 Convention and 1967 Protocol. The study of unrecognized states helps us understand the issue better (Pegg, 2017). In general, the literature on unrecognized states can be divided into two groups. The first group, also known as the traditional school, sees recognition as a vital feature of sovereignty and statehood and rejects the possibility of statehood without external recognition (Kelsen, 1941). The second group, however, rejects the binary view of the traditional approach and suggests that there are different degrees to statehood (Berg & Pegg, 2016).

The Montevideo convention identifies four conditions that make states eligible for recognition. These include (1) a population that permanently resides in a (2) territory the limits of which are clearly delimited (3) and a government that (4) can be party to international treaties (Baker, 2000).

According to the traditional view, sovereignty could simply not exist without recognition. Sovereignty can be divided into two modes including internal and external sovereignty. Internal sovereignty addresses the absolute authority within the borders of the state while external sovereignty refers to independence from interference of other states (Caspersen, 2013). Some have argued that the lack of one mode of sovereignty immediately makes the other type obsolete (Caspersen, 2015). However, other scholars have considered these two as independent concepts and have emphasized that one can exist in the absence of the other as seen in the case of unrecognized states.

Crawford (2012) identifies two commonly used definitions for 'recognition' in International Law terminology. This term may refer to the recognition of another geographical entity as an independent state or to the recognition of that entity's government as the sole representative of its constituents in international relations (Crawford, 2019).

Opinions are divided on recognition in International Law. Some consider state recognition a constitutive (status-creating) act while others consider it declaratory (status-confirming) (Talmon, 2005).

Brownlie (2012), for example, represents the constitutive viewpoint. It focuses on the legal aspects of statehood and not on the empirical aspect. From this perspective a state requires four features. Including clear delimitation of territory, a population that permanently resides in that territory, a government that can effectively control the territory and the population in it, and independence from foreign control (Crawford, 2019). Kelsen (1941), also, counts three features for states in International Law. The first feature focuses on more or less centralized legal and administrative order. Secondly, this order should be applicable to the territory acclaimed by the central government and the population living in that territory. Finally, the established

community must be independent of external pressures and legal control of other states (Kelsen, 1941). These last two features are often translated into internal and external sovereignty and have shaped the backbone of the arguments regarding recognition.

Max Weber's sociological definition of state focuses on the monopoly over the use of force on the population and the territory. Weber, therefore, focuses on empirical rather than legal aspects of statehood (Jackson & Rosberg, 1982). Weber's definition is closer to the declaratory viewpoint of recognition. His sociological definition of statehood provides us the ground for unrecognized states. For Weber, any internal or external entity that has effective control over parts of the territory and population possesses the necessary features of statehood (Jackson & Rosberg, 1982).

Recognition for the purpose of this research simply refers to external recognition of the state's sovereignty.

1.2 UNRECOGNIZED STATES

Pegg (2017) has proposed the most concise definition of unrecognized states. Based on this definition, unrecognized states are secessionist states that have gained control over a territory and population and effectively govern them. An important feature of these states is the existence of internal recognition and the lack of external recognition (Pegg, 2017). Most unrecognized states attempt to create functional economic, military and administrative institutions as these increase their chance to be recognized as a state. The existence of such functional institutions is often seen as a prerequisite for state building (Pegg, 2017).

Unrecognized states, unlike recognized states have not acquired international recognition despite their de facto control over their proclaimed territory and population (Caspersen, 2013). They are usually the consequence of the inability of a state to control its territory and are sometimes born out of state collapse (Caspersen, 2015).

The traditional view of statehood suggests that without sovereignty the state does not exist. It is, therefore, possible to claim that unrecognized states are not states because they suffer lack of sovereignty (Caspersen, 2015). However, this traditional view has been challenged by the idea that sovereignty itself has different degrees (Berg & Toomla, 2009). Having divided sovereignty into external and internal, Berg and Kuusk (2010) identified different degrees of sovereignty and rejected the binary view of the traditional International Relations approach (Berg & Kuusk, 2010). Ker-Lindsay (2015) proposed that, although the declaratory school may be right in saying that recognition does not make a state, recognition is still important, as it legitimizes the state as a member of the international system (Ker-Lindsay, 2015). Recognition has legal consequences in the relationship between the recognizing state and the recognized. It can be an attempt to maintain the existing system or to change it (Wilde

et al., 2010).

1.3 A THEORETICAL GROUND FOR ENGAGEMENT WITHOUT RECOGNITION

The social constructivist International Relations explains sovereignty as a social construct that is constantly constructed and reconstructed through the practices of states and institutions (Biersteker & Weber, 1996). Absence of recognition, does not necessarily translate into absence of international engagement (Caspersen, 2015). Neither does it mean that the unrecognized state is doomed to failure (Krasner, 1999). Talmon (2005), for example, suggests that recognition or non-recognition can neither prevent statehood nor confirm it. An entity that has the features and functions of a state cannot be destroyed by mere non-recognition (Talmon, 2005).

1.4 ENGAGEMENT WITHOUT RECOGNITION

Engagement without recognition is quite a recent construct in the literature of international relations. Among the scholars who have contributed to this field are Ker-Lindsay (2015), Berg & Pegg (2016), Cooley & Mitchell (2010) and Kyris (2020). The proliferation of unrecognized states in the last couple of decades has led to a discussion over whether it is possible to engage with these entities without recognizing them. The term engagement without recognition has been a term of art at least in the last 15 years (Ker-Lindsay, 2015). Engagement without recognition is important because it is impossible to neglect an unrecognized state and the rights of its population. It also facilitates the process of conflict resolution by creating a platform for communication (Berg & Pegg, 2016).

As an example, the United States engaged with the unrecognized state of the Turkish Republic of Northern Cyprus on issues like illegal immigration, security, tackling infectious diseases. This was done to facilitate the solution of the Cyprus problem by helping the Turkish Cypriot authority whose institutions were unprepared to tackle these issues on their own (Berg & Pegg, 2016).

However, contemporary scholars, like Caspersen, have criticized this innovative literature. Caspersen (2015), argued that engagement without recognition is limited by, both, the traditional view of sovereign states as well as the loyalty of the population of the unrecognized state that is looking for recognition (Caspersen, 2015).

1.5 THE STATUS OF REFUGEES IN INTERNATIONAL RELATIONS

World War II resulted in the massacre of millions of innocent people and massive migration, especially across Europe. Due to the special circumstances that had led to

this massive migration, states sought a mechanism through which protection of this group of migrants was organized. Their efforts resulted in the adoption of the 1951 Convention relating to the status of refugees and the 1967 Protocol Relating to the Status of Refugees.

The rights and duties of refugees and asylum seekers have been identified in the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. Further in this section we will provide a review of the literature related to refugees, asylum seekers and the rights attributed to refugees by the international documents.

Refugees have been clearly defined in the Convention Relating to the Status of Refugees. The definition combines lack of protection and fear of persecution as grounds for refugee status (Fortin, 2000). Article 1(A) (2) of this convention defines refugees as:

"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it"

(United Nations High Commissioner for Refugees, 1951)

The definition includes specific conditions for a person to be considered a refugee. These include (1) a well-founded fear of being persecuted due to the reasons counted in the article, (2) being outside the country of nationality, and (3) not being able or willing to accept the protection of the country of nationality (or habitual residence in case of stateless people) due to the fear that s/he will be prosecuted. All three conditions are necessary for the person to acquire the status of refugee.

The United Nations High Commissioner for Refugees was established in 1950 with a three-year mandate to deal with the issue of refugees in Europe after the Second World War. It replaced the International Refugee Organization as a temporary organization with a narrow mandate and limited autonomy. This situation has changed as the UNHCR mandate was extended to cover not only refugees in the European context but also refugees in general and the size of the budget and the institutional magnitude of the organization has increased drastically (Loescher et al., 2012).

The 1951 Convention and the 1967 Protocol to the status of refugees are at the core of the protection regime regarding refugees. They defined the principal terms regarding refugees and refugee protection. The UNHCR and signatory states frequently refer to these documents in their efforts to protect refugees. The UNHCR has been given the mandate to safeguard the protection regime as defined by these documents (UNHCR, 1951b).

The rights of refugees and asylum seekers have been clearly defined in the 1951 convention and the 1967 protocol relating to the status of refugees. In addition, refugees

enjoy the rights assigned to them under other human rights documents. In the following paragraphs, the rights assigned to refugees under the 1951 convention and the 1967 protocol will be discussed.

In general, the rights of refugees and asylum seekers have been identified in articles 3 to 34 of the 1951 convention. A total number of 18 rights have been counted in this regard.

Non-Discrimination

The first, and the broadest, right assigned to refugees under this convention is the right not to be discriminated against based on race, religion, color, language, gender, and opinion (article 3).

Freedom of Religion and Religious Education

Article four of the convention states that refugees should have the freedom to practice their religion and educate their children of that religion at least as much as the host countries citizens have been given this right.

The Right to Access Judicial Institutions and Legal Assistance

As an essential human right, the right to have access to judicial institutions in the host country and obtaining legal assistance has been assigned to refugees and asylum seekers. In this regard, refugees should be treated as favourably as a citizen of the host country.

The Right to be Immune from Refoulement and Expulsion

The right not to be punished for illegal entry and immunity from refoulement and expulsion has been recognized in articles 31 to 33. The only exceptions to the rule are when there is evidence that the refugee may be a security threat to the host state.

Identity Papers

Refugees have been guaranteed the right to acquire identity papers in the host country through Article 27 of the convention. This right can only be revoked in exceptional cases for security and public order purposes.

The Right to Housing

The 1951 convention has recognized the right of to housing in article 21. In this regard refugees, according to this Article, should be treated at least as favorably as other aliens in the country of refuge.

Having a Source of Income

For refugees to survive, refugees have to be able to earn money in the country of refuge. Articles 17, 18, and 19 have dealt with this right. According to Article 17, refugees have the right to be employed and earn a wage for their employment. They also have

the right to venture in their own business including establishing industries, agriculture, etc. This right is applicable upon application for refugee status (Article 18). In line with these two articles, article 19 assumes the right to practice liberal professions for which the refugees possess an accredited diploma and are qualified (Article 19).

Social Security and Relief

In line with the right to have an income, refugees should also be subject to labor and social security laws. Refugees, therefore, should be treated as a citizen of the host country would be treated (Article 24). To complement this right, the right to receive public relief and assistance has been recognized in Article 23.

Education

Education has often been discussed as a universal human right. Article 22 of the 1951 convention has assumed this right to Refugees as well. This right should be assigned as favourably as the nationals of the host country up to the end of primary education and as favourable as other foreign nationals resident in the host country for higher levels of education (Article 22)

The Right to Move

The right to move includes two separate but interconnected rights. The right to move freely within the territory of the host state has been identified in Article twenty-six of the convention. Refugees can enjoy this right at least as favorably as other foreign nationals. This right can be applied upon application for refugee status. In addition to moving freely inside the territory of the host country, refugees also have the right to travel outside this country. Article 28 has guaranteed this right. This article emphasizes the right to receive travel documents from the host state (Article 28).

The Right to Movable and Immovable Property

All the rights assigned to foreign nationals in the host country including the rights to buy and maintain movable and immovable property have also been given to refugees and asylum seekers according to Article thirteen.

The Right to Intellectual Property

Article fourteen gives this group the right to intellectual and industrial property, including inventions, designs, models, etc.

The Right to Non-Political and Non-Profit Association

The right of association in relation to non-political, non-profit organizations and trade unions is the next right has been identified in Article fifteen of the convention. This right has been given to refugees who legally reside in the host state as much as it is given to foreign nationals in the host country.

Article 2 of the convention argues that, in addition to the rights that have been assigned to refugees, they have the obligation to abide by the laws of the host country and respect

the measures taken for security and public order purposes.

1.5 CHALLENGES TO THE PROTECTION OF REFUGEES

Although the main responsibility for the protection of refugees falls on the UNHCR, this organization is still dependent on the donations made by member states, as well as help by regional organizations, NGOs and advocacy groups. The cooperation of member states and their institutions is also critical for the effectiveness of the UNHCR actions. Considering that sometimes the interests of these States and their citizens intersect the UNHCR may have difficulty bringing this interest in line with each other (Goodwin-Gill, 2001).

The UNHCR's direct presence in the host countries seems to play a substantial role in the protection of refugees as their oversight on actions that affect refugees can keep governments from abusing their rights. The UNHCR's experience in protecting refugees can also substitute the actions of the inexperienced or inefficient institutions in the States (Pugh, 2011). Despite the difficulties in the protection of refugees, the UNHCR has been able to implement its mandate effectively in the majority of cases.

There is a divide in the literature between scholars about unrecognized states. The idea of unrecognized States has been a matter of extensive debate. Even the term unrecognized state has not been defined clearly. In general, the literature is divided between two camps. The so-called traditional school suggests that statehood necessarily requires recognition by the International Community. In other words, in the absence of external recognition a state will not come into existence. The contemporary school, on the other hand, suggests that external recognition is not a necessary feature of states. Instead, it suggests that statehood, legitimacy, and sovereignty have different degrees. However, in practice state seem to follow the binary division in that they do not establish diplomatic relations with entities that are unrecognized and this makes it very difficult, if not impossible, for the unrecognized states to practice its sovereignty externally.

Because of the difficulties in interacting with unrecognized entities, both in legal terms and politically, some scholars have proposed that states and non-state actors may engage with these entities without recognizing them. When applied to the literature on refugee protection, this would indicate the engagement of the UNHCR as the organization responsible for the protection of refugees with unrecognized states. However, the nature of this engagement is questionable, as this engagement should not indicate recognition. It is because of this delicate nature that the UNHCR has often engaged with such entities indirectly through NGOs and advocacy groups. This indirect engagement has its own problems, because the UNHCR will not have direct oversight on the activities of these organizations, it is possible that these organizations will abuse their position or at best mishandle the problems. The direct oversight of the UNHCR, therefore, seems necessary.

Very few, if any, researches have been done on the protection of refugees in unrecognized states. In this research we have made an attempt to fill in this gap by studying the protection of refugees in the Turkish Republic of Northern Cyprus and

comparing it with the regime of protection in the Republic of Cyprus as a recognized state.

2 PROBLEM AND HYPOTHESES

The following paragraphs set out the hypotheses tested for the purpose of this research.

2.1 THE IMPACT OF RECOGNITION ON THE BEHAVIOUR OF STATES IN RELATION TO REFUGEES

The status of refugees and their rights have been identified in the 1951 convention relating to the status of refugees and the 1967 protocol relating to the status of refugees. Refugees normally enjoy the rights and duties delimited in these international documents. The United Nations High Commissioner for Refugees (UNHCR) has been given a mandate to supervise the application of these documents. However, the UNHCR and other United Nations agencies do not have offices in unrecognized states, including in the Turkish Republic of Northern Cyprus (TRNC).

Lack of UNHCR presence in TRNC (as well as other unrecognized entities) and the fact that it is not a member of either of the abovementioned treaties makes the implementation of the rights of refugees a mandatory act. It is, therefore, logical to assume that under such circumstances the unrecognized entity will not carry on the duties that accompany the rights of refugees. Different levels of receptivity towards refugees are expected based on whether the host state is recognized or unrecognized. Accordingly, the following model is proposed.



Accordingly our hypothesis can be formulated as follows:

If the state is recognized then higher level of protection for refugees

If the state is unrecognized then lower level of protection for refugees

In other words, a high level of consistency between the actions of the state and the 1951 convention and 1967 protocol is expected. In unrecognized states, on the other hand, very little or no compliance with these international documents is more likely. This is, to a great extent, because of the limited resources that the unrecognized state has; limitations that are imposed on the unrecognized state due to its status. Lack of supervision from international institutions, including the UNHCR, complicates this fragile state even more.

To solve this problem, we propose that international organization should engage with unrecognized states without recognizing them as independent States. By doing so, the UNHCR will be able to encourage unrecognized states to abide by the relevant treaties

without necessarily recognizing their claim to statehood.

2.2 STUDYING REFUGEE PROTECTION COMPARATIVELY

For the purpose of this research a comparison has been made between the protection of Refugees in the Republic of Cyprus as a recognized state and the Turkish Republic of Northern Cyprus as an unrecognized state. This selection is promising because these two countries occupy a very similar geographical location and they have a similar historical background. However, one is recognized while the other one is not and according to UNHCR reports their response to the plight of refugees has been dissimilar.

Our dependent variable in this research is the level of protection for refugees. To measure the level of protection we have compared the domestic laws of the ROC and the TRNC and their compliance with the 1951 Convention relating to the status of refugees as well as the 1967 Protocol. These documents shape the basis for refugee protection. We have also traced the allocation of budget to immigrant related issues in these countries to examine the level of commitment to solving the problems of refugees and immigrants. We have also accounted for the presence or absence of international organizations that are responsible for the protection of refugees in the countries under study.

The independent variable in this research is state recognition. One of the conditions for statehood according to the 1933 Convention on the Rights and Duties of States (Montevideo Convention) is for the state to have the capacity to enter into relations with other states. Unrecognized states, in most cases, lack this capacity.

The following steps have been taken to test our hypotheses:

1. We have identified the rights assigned to asylum seekers and refugees in the 1951 convention and the 1967 protocol relating to the status of refugees
2. We have identified the rights assigned to asylum seekers and refugees in the domestic laws of the Republic of Cyprus and the Turkish Republic of Northern Cyprus
3. We have compared the result of the previous two steps to determine if they are consistent with each other
4. We have checked the budget allocated to institutions responsible for refugee protection in the two entities to determine their commitment to refugee protection relative to their total annual budget

For the results of our research to produce a meaningful comparison, we have controlled for two different factors. Firstly, the socioeconomic conditions of the studied States have been examined. Secondly, the level of corruption in the administrative institutions of the ROC, was taken into account. The data related to this element was derived from

the Transparency International Index.

Table 1: Controlling for Competing Explanations

Variable	Republic Of Cyprus (ROC)	Turkish Republic of Northern Cyprus (TRNC)
GDP Per Capita	\$34,900 (2015 est.)	\$11,700 (2007 est.)
Unemployment Rate	13% (2016 est.)	9.4% (2005 est.)
GDP PPP	\$29.58 billion (2015 est.)	\$1.829 billion (2007 est.)
Population	1,237,088 (July 2018 est.)	351,000 (2017 est.)
Budget	revenues: 8.663 billion (2017 est.) expenditures: 8.275 billion (2017 est.)	revenues: \$2.5 billion expenditures: \$2.5 billion (2006)
Corruption Perception	Rank: 42/180 Score: 57/100	No Data

Sources: CIA World Factbook, <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/cy.html> and Transparency International, <https://www.transparency.org/country/CYP>

The economies of the Republic of Cyprus and the Turkish Republic of Northern Cyprus are structured almost identically to each other. They are both heavily dependent on the service sector. The economy of the TRNC, however, is approximately one fifth of the economy of the ROC. The Republic of Cyprus occupies an area of approximately 5,896 square kilometers while the Turkish Republic of Northern Cyprus occupies around 3,355 square kilometers. The two countries share the same historical background. The TRNC declared independence from the ROC in 1983 after a long period of conflictual relations between the two major communities on the Island (CIA Factbook, 2020).

3 THE SITUATION OF REFUGEES IN CYPRUS

According to UNHCR records, in 2018 only one state-run reception centre and a temporary tent shelter were functional in the Republic of Cyprus. In total, these two centres could host 750 asylum seekers at the same time including 400 persons in the permanent reception centre and 350 in the tented reception centre. None of the two centres were properly equipped in terms of facilities and personnel

Cyprus has been a signatory to the 1951 Convention Relating to the Status of refugees since 16 May 1963 and a signatory to the 1967 Protocol since 9 July 1968 (UNHCR, 1951a). The government of the Republic of Cyprus took over the protection of refugees from the UNHCR in 2002 after the adoption of the National Refugees Law in 2000. This law has incorporated the rights attributed to refugees in the 1951 Convention in the domestic law of the Republic of Cyprus and has set the procedures for the application for asylum in the Republic of Cyprus based on the Conventions (Refworld, 2000). As a member of the European Union, the EU Reception Conditions Directive that guarantees a minimum standard of living that safeguards the physical and mental health of the asylum seekers (Official Journal of the European Union, 2013) also binds the Republic of Cyprus. Social Welfare Services (SWS) monitors the application of the reception conditions as defined by the Directive and incorporated in the Cyprus Refugees Law (University of Nicosia, 2018).

Between the years 2002 and 2018, a total number of 66,056 applications were made to the government of the Republic of Cyprus. Of this number, the substantial number of 46445 cases were either refused or closed, while another 9110 cases are pending decision. Only 10317 of these cases have already been granted protection. Of this number, only 15% received full protection, the rest received, only, subsidiary protection. Currently, 1490 refugees reside on the Island (UNHCR, 2018).

To show how these numbers break down on a yearly basis the data related to year 2017 is provided in the following paragraph. The statistical information about asylum-seekers and refugees in the ROC are gathered and provided by the asylum service, which is a department within the ministry of interior. According to the information provided by this department, in 2017 a total number of 4582 applications were made for refugee status. Of this number, only 142 cases were accepted for refugee status, and 680 cases were only given subsidiary protection. In addition to this information 1148 cases have been rejected and 3843 cases were pending decision by the end of 2017. Based on this data the rate of acceptance for refugee status is 7.2 % and the rate of subsidiary protection is 44.5%. This means that the rejection rate has been 58.3%. The asylum seekers from Syria and Somalia received the most favourable treatment in this time frame. Asylum cases from other countries received a highly unfavourable treatment with cases from India, Vietnam, Bangladesh, Pakistan, and Sri Lanka facing 100% rejection (Cyprus Refugee Council, 2019).

The UNHCR has direct representation in the ROC. The UNHCR representative is in direct contact with the relevant ministries and organizations (both NGOs and IGOs). Cyprus Refugee Council, an NGO with which the UNHCR cooperates, provides refugees with free counselling services (UNHCR, 2018). Other organizations that

cooperate with the UNHCR in protecting refugees in the ROC are Agapi (Limasol), Association of Recognized Refugees, Caritas Cyprus Migrant Centres (Nicosia), Cyprus Red Cross Society (Nicosia), Cyprus Stop Trafficking (Nicosia), “Hope for Children” Policy Center (Nicosia), KISA (Nicosia), Kofinu Volunteers Support, mi-HUB Migrant Information Centers, OASIS (Larnaca), and Saint Paul’s Anglican Church (Nicosia) (UNHCR, 2017).

In 2015, a total amount of 32,308,677 EUR was dedicated to the national program of Cyprus related to asylum migration and integration by the European Commission (European Commission, 2015).

In the Turkish Republic of Northern Cyprus, however, the status of refugees has hardly been mentioned in the laws of the country. An exception to this is Article 1(3) of the Constitution of the TRNC. This Article considers the state responsible for the assistance to refugees by giving them equal status and helping them rehabilitate (Cypnet, 1983). Although TRNC has incorporated the 1951 Convention, and for that matter all other conventions entered to prior to 1963, the laws in the TRNC are completely silent about the status of refugees in the country and refugees are often treated as illegal immigrants and are deported. The UNHCR, therefore, has had to adjudicate the cases in the ROC instead of TRNC. In practice, there is no protection for refugees, except on a case-by-case basis, especially, when the Turkish Cypriot Refugee Right Association (RRA) and SOS Children’s Village as UNHCR’s local collaborator have been involved. Despite this case-by-case procedure there have been reports of mass deportation in the last few years (USDS, 2017).

According to the UNHCR factsheet, 84 refugees have been living in the TRNC under UNHCR mandate. The UNHCR does not have direct representation in the TRNC. Instead, they cooperate with NGOs (currently only the SOS Children's Village) in this regard (UNHCR, 2018).

In addition to what has already been said, in the absence of relevant laws in the TRNC, the people’s smugglers have been very active in smuggling illegal immigrants to the TRNC for illicit businesses and from TRNC to ROC to seek asylum. Consequently, the rights of these migrants including refugees are often violated by the smugglers (Çolak et al., 2014). The lack of communication between the police forces in Northern and Southern parts of Cyprus as well as the inefficiency of the UNHCR in TRNC (the corruption scandal regarding Human Relief Mission as the NGO that collaborated with UNHCR) has exacerbated this problem.

Having studied and compared the rights assigned to refugees in the 1951 Convention and 1967 Protocol Relating to the Status of Refugees and the rights assigned to Refugees, both in law and in practice, of the Republic of Cyprus and the Turkish Republic of Northern Cyprus, it is possible to conclude that the research hypothesis has

been proven right.

4 CONCLUSION

A huge gap exists in the regime of refugee protection between the Republic of Cyprus (ROC) and the Turkish Republic of Northern Cyprus (TRNC). The rights attributed to refugees under the 1951 Convention and the 1967 Protocol Relating to the Rights of Refugees have been incorporated to ROC's domestic laws (the National Refugees Law, 2000). In the TRNC, however, despite the acceptance of the conventions that had already been adopted before 1960s, no law exists to address the protection of refugees. The presence of UNHCR in the TRNC has been confined to cooperation with NGOs, however, due to lack of direct control over the actions of these NGOs the cooperation has sometimes led to the abuse of refugees (e.g. the Human Aid Mission in Cyprus and the scandal regarding human smuggling). Although the treatment of refugees in the ROC is also not ideal, due to the direct representation of the UNHCR in this country, its direct relations with governmental institutions, and the financial support given to it by the European Union refugees are much better protected.

Based on these findings, the hypothesis posed for the purpose of this research seems to have been positively proven. The level of protection in the Republic of Cyprus is indeed much higher than that of the TRNC. This is to a great extent because of the lack of direct representation by the UNHCR as well as lack of financial aid and established legal framework for the protection of refugees in the TRNC. The UNHCR's direct engagement in the protection of refugees in the TRNC through a subsidiary organization that is directly under the control and supervision of UNHCR helps solve this problem more efficiently.

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