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## Turkey Chronicle – Forced Migration in Turkey

by hCa

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The policy of forced migration which has been applied against the Kurds since the foundation of the Republic of Turkey was considered an instrument/method to assimilate the Kurds. This policy well reflected the nation-state perspective in its approach to humanitarian issues which is based on the homogenisation of the population. The last and the most extensive version of this policy was applied by the state in its fight against the PKK (*Partiya Karkeren Kurdistan-Kurdistan Workers' Party*) in the 1990s when the conflict between the Turkish Armed Forces and the PKK reached its peak. In those years, a considerable part of the Kurdish population was forced to move since their villages were evacuated by the security forces and village guards. There were also some Kurds who had to leave their territory due to the PKK's pressure.<sup>1</sup> Nevertheless, the majority of the Kurds were forced to move since they did not accept to be village guard<sup>2</sup> and to fight against the PKK beside the state. Within this framework, it is reported that more than one million Kurds have been displaced.<sup>3</sup>

This migration policy has had negative impact on the security perceptions and conditions of the Kurds. The basic citizenship rights and freedoms of the Kurds were violated. First of all, the freedom of travel and the rights to own and inherit property stipulated by the Article 35 of the 1982 constitution were violated. The inviolability of domicile which is a right indicated by the Article 21 of the constitution was also ignored since more than one million Kurdish people in more than 3000 settlements became the victims of the forced migration policy. Within this framework, almost one out of ten Kurds who were displaced by the security forces became deprived of their basic rights and freedoms. Moreover, due to this policy, the status of a considerable part of the Kurds was damaged in the society. The Kurds exposed to the forced migration were not allowed to reach their property for many years, their houses were burned, their relatives became victims of torture and unsolved murders. The state did almost nothing to meet the basic needs of the victims such as nutrition and housing.<sup>4</sup>

Although, in the 1990s, the human rights violations of officials by their actions were exempt from juridical control in the context of the state of emergency and fears among the Kurdish people increased to the highest level, many victims chose to react against these illegal practices via legal process. However, their demands were not met by the judiciary. Accordingly, the applications of the victims for the authorities regarding their urgent needs such as nutrition and accommodation remained, to a great extent, ineffective.<sup>5</sup>

Many victims of the forced migration have applied to the European Court of Human Rights (ECtHR) since their attempts to get response regarding their problem in domestic level failed. Turkey has been condemned many times by the Court to pay high amounts to the victims since Turkey violated the basic rights and freedoms of its citizens. However, this way for the victims of the forced migrations to compensate their loss and damage to some extent would be closed over the course of time due to the AKP's (*Adalet ve Kalkınma Partisi-Justice and Development Party*) some legal arrangements. Following its rise to power in 2002, the AKP government seemed committed to integrate Turkey into the European Union. In order to impede the decisions of the ECtHR condemning Turkey for violating the basic rights of its Kurdish citizens, the Law No.

<sup>1</sup> Dilek Kurban and Mesut Yegen, *Adaletin Kiyisinda, Zorunlu Goc Sonrasinda Devlet ve Kurtler/5233 Sayili Tazminat Yasasai'nin Bir Degerdendirmesi-Van ornegi, Istanbul, Tesev Yayinlari, 2012, p. 45-51.*

<sup>2</sup> 'Village guards' (*Koy koruculari*) are members of a paramilitary system set up in 1985 by the state to combat the PKK movement. However, in general, they have been involved in many criminal acts and rights violations. More than 50,000 village guards are still present in Turkey's south east. See "Turkiye'de Koruculuk Sistemi: Zorunlu Goc ve Geri Donusler", GOC DER, Istanbul, 2013, p. 2 and 9.

<sup>3</sup> "Migration and Internally Displaced Population Study in Turkey (MIDPST)," Hacettepe University Institute of Population Studies, [http://www.hips.hacettepe.edu.tr/eng/dokumanlar/TMIDPS\\_press\\_release.pdf](http://www.hips.hacettepe.edu.tr/eng/dokumanlar/TMIDPS_press_release.pdf), (6 December 2006).

<sup>4</sup> Kurban and Yegen, *op.cit.*, p. 15.

<sup>5</sup> *Ibid.*, p. 51.

5233 entitled “Law on Compensation for Losses Resulting from Terrorism and the Fight against Terrorism” (Compensation Law) was passed by the Grand National Assembly of Turkey in 2004.

This law which fuelled hope among the Kurdish victims in the beginning turned out to be ineffective. Since the law “lays down the principles and procedure for compensating damage sustained by persons as a result of terrorist acts or of measures taken by the authorities to combat terrorism”, it comprises not only the Kurdish people exposed to forced migration but also civil servants, security forces, and village guards. In this context, the village guards and security forces who were involved in many criminal acts and rights violations have become holders of the right. Due to this large and controversial extent, forced migration which caused the displacement of more than one million people was considered in isolation from its ethnic context. The issue was thus reduced to “unwanted result of the fight against the terrorism”. Another problem is based on the fact that the amounts of compensation vary from one individual to another despite the damage to be compensated is similar. Moreover, among the similar applications, while some are accepted, the others may be refused without a reasonable explanation.<sup>6</sup> The Compensation Law has not only turned out to be ineffective given these reasons, but also it blocked the ways of applications to the ECtHR. Following the enactment of this Compensation Law, the ECtHR began to reject the applications related to the forced migration in Turkey.<sup>7</sup>

Since the mechanisms to express and to compensate their loss and damage are not available, the exclusion and insecurity remained unresolved issues for the displaced, dispossessed and marginalised Kurdish people by the nation-state. On the one hand, the Kurdish people exposed to the forced migration keep living in the suburbs of the cities they have migrated. They live in unfavourable conditions.<sup>8</sup> On the other hand, the victims who could return to their villages are suffering from the poverty and discrimination. They may find that the village guards have illegally occupied their homes. And the village guards are still perceived as a threat against their lives.<sup>9</sup> Moreover, it is reported that those who have been displaced and wish to return may face forcible recruitment into the village guard system.<sup>10</sup> As such, the current realities have been fuelling insecurity perceptions and feelings of the Kurds exposed to forced migration.

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<sup>6</sup> *Ibid.*, p. 78-84 and p. 146-149.

<sup>7</sup> See the decision of the ECtHR regarding the application of Aydın İcyer, a victim of the forced migration, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-72123#{\"itemid\":\[\"001-72123\"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-72123#{\), (12 September 2013).

<sup>8</sup> « Zorunlu Goc ve Diyarbakir », Kalkinma Merkezi Dernegi, Diyarbakir, 2010, p. 12-14 and 33-55.

<sup>9</sup> “Turkiye’de Koruculuk Sistemi: Zorunlu Goc ve Geri Donusler”, GOC DER, Istanbul, 2013, p. 10.

<sup>10</sup> *Ibid.*, p. 11 ; « Turkey’s village guard system », KHRP Briefing Paper, 22 March 2011.