

Immigrant Access to Health Care and the Right to Health: What Is the Position of Bioethics?

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Introduction

The total number of immigrants in the world exceeds 281 million (McAuliffe & Triandafyllidou, 2022). While the country that has sent the most immigrants is Syria at 6.7 million, the country that has accepted the largest number of immigrants is Türkiye at 3.4 million (Presidency of Migration Management, 2023; McAuliffe & Khadria, 2019). Limited evidence is found regarding immigrants' health statuses. The data point to insufficient access to health services, which may both harm immigrants, as well as increase the burden on healthcare systems (Bradby et al., 2015; Vearey et al., 2019). International documents recognize the right to health. However, immigrants' ability to realize this right varies according to conditions. Moreover, the idea of the right to health is controversial among bioethicists. Nevertheless, bioethical debates more realistically reflect the actual status of health systems and can therefore contribute to the issue.

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Kara, M. A., (2023). Göçmenlerin sağlık hizmetine erişimi ve sağlık hakkı: Biyoetik hangi konumda. *İş Ahlakı Dergisi*, 16 (1), ss. 47-75.

Research Paper

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DOI: 10.12711/tjbe/m3962
Turkish Journal of Business Ethics, 2023
isahlakidergisi.com

International Regulations on Immigrant Access to Health Care: The Right to Health on Paper

Key documents regulating immigration and health-related issues include the Constitution of the World Health Organization (WHO; 1946); the Universal Declaration of Human Rights (1948); the Convention Relating to the Status of Refugees (1951); the 2008 and 2017 Resolutions of the World Health Assembly; and the International Covenant on Economic, Social and Cultural Rights (1966). The idea behind the framework drawn by international documents is that all people, regardless of their citizenship status, should have equal access to basic human benefits (Calduch et al., 2008; Pace, 2011). The Turkish Foreigners and International Protection Law (*Yabancılar & Uluslararası Koruma Kanunu No. 6458*, 2013) and Temporary Protection Regulation (2014, amended in 2019; *Geçici Koruma Yönetmeliği No. 2014/6833*, 2019) regulate immigrant access to health services. Türkiye signed the 1951 Geneva Convention with a geographical exception where only European people are accepted as refugees (Yavuz, 2015). The Foreigners and International Protection Law included new concepts such as conditional refugees and secondary protection (Yaman, 2021; *Yabancılar ve Uluslararası Koruma Kanunu*, 2013). During mass migration, temporary protection can be provided, as happened in the case of Syrians. This status can be terminated collectively by a Presidential Decree and in some cases individually. Temporary protection does not provide an internationally recognized status (Erdoğan, 2022). Türkiye's regulation can be criticized in terms of not providing full rights (Assi et al., 2019; Ekmekci, 2017). However, providing rights is not only a matter of legislation, evaluating the extent to which international documents can be applied is also necessary in order to understand how appropriate this criticism is.

Immigrants' Actual Access to Health Care: The Right to Health in the Field

Approximately 3.4 million Syrians are under temporary protection in Türkiye. Of these, 98% live in cities, with about 64% of them living below the poverty line. The resources Türkiye allocates for humanitarian aid is higher than that of developed countries and has exceeded \$8 million USD as of 2019, corresponding to 0.79% of the national income. International support is limited, and the health system has suffered a financial burden, despite some of the help provided by the Migrant Health Centers that were established with the European Union Project. Syrian health workers are employed in these centers, and attempts are made to overcome language and cultural barriers (Presidency of Migration Management, 2023; Bahar

Özvarış et al., 2020; Association of Turkish Travel Agencies [TÜRSAB], 2012; Sürmeli et al., 2022; Abohalaka & Yeşil, 2021).

Knowledge about the health of immigrants is limited, and the data are inconsistent. The current literature on research about immigrant health is limited in scope and focuses mostly on immigrants living in Europe and North America, as well as on some specific health issues and immigrant groups (Vearey et al., 2019; Rodriguez et al., 2021; Kohlenberger et al., 2019; Wadsworth, 2013; Berlinger & Raghavan, 2013; Nørredam & Krasnik, 2011). This issue is important for the health systems of the destination countries as well as the immigrants, because of the load this places on the system. The number of immigrants countries accept differs, and states can limit the care to basic or emergency services (Gottlieb & Schülle, 2021; Matlin et al., 2018; Brannan et al., 2016). Being excluded from costly services such as chronic disease treatment or rehabilitation may harm patients (Kuczewski, 2019).

Legal status is the leading factor affecting the degree of access. Problems regarding language and culture may affect access to as well as the quality of health care. Income and social security reasons may limit access (Kim et al., 2019; Peled, 2018; Taylor, 2009; Kavukcu & Altıntaş, 2019; Bradby et al., 2015; Vearey et al., 2019; Ingleby, 2009; Campbell et al., 2014). Centers established by civil society organizations also serve immigrants, but these are generally not enough to meet the needs (Canada, 2019). Racist and discriminatory attitudes and the lack of cooperation from healthcare professionals also limit access to health services (DeCastro & Sy, 2017). Xenophobia can have dangerous consequences, as can be seen in the example of Malaysia's fight against the COVID-19 pandemic (Yusof et al., 2020). The relationship between the social determinants of health and health status is stronger for immigrants (Lebano et al., 2020), and immigrants' health may improve or deteriorate in the destination country depending on the comparison between the levels of access in the source and the destination countries (Bauer et al., 2020). As seen in the examples of Singapore and Portugal, including immigrants into the system can have positive results for the receiving society and negative results if they are not included (Xafis, 2020; Xafis et al., 2020; Cordeiro-Rodrigues, 2020).

A gap exists between the targets of international documents and the actual situation, with a similar gap also being observed between the human rights framework of documents and bioethical debates.

Ethical Debates on Health Care Access: The Right to Health as an Idea

The idea of the right to health is controversial among philosophers. Even if the right is accepted to exist, its scope is open to debate. Questions need to be answered such as what kind of services will be provided, who will be served, and who will provide it (Widdows & Marway, 2015; Arras, 2015; Beauchamp & Childress, 2001; Singer, 1972; Nussbaum, 2006; Miller, 1998). Questions still remain to be answered about the role of citizenship, the limit of countries' responsibility, and the acceptability of differences according to local conditions (Wild, 2021). In theory, the right to health does not mean that any citizen can access any service, and in practice, access depends on the health system (Wendt et al., 2009; Rice et al., 2013; United States Census Bureau, 2022; Blümel et al., 2020; Cylus et al., 2015; Herring, 2009). Some can argue that no one has the right to health, so immigrants do not have it either. In contrast, others can argue that they should have equal access to basic services. In addition, the possibility of access varies by country and health system, even without including immigrants in the discussion.

The distance between bioethics and the human rights framework can be criticized for ethicists thinking too abstractly and for not addressing the suffering of real people. On the other hand, the human rights framework has also been argued to be able to play a role as a common language for addressing issues (Fenton, 2105). The United Nations Educational, Scientific and Cultural Organization (UNESCO, 2005) Universal Declaration of Bioethics and Human Rights (2005) is a document that brings together the two frameworks and obliges states to develop the health and social aspects of all segments of society. This statement was not warmly received by all bioethicists. The objections included the declaration being unnecessary, not answering ethically controversial issues, and being too individualistic. In contrast, it was also welcomed for addressing human rights and bioethics together (Wolinsky, 2006). However, the highest attainable standard as required by this document is open to interpretation. What will happen to immigrants in a country that does not or cannot provide access to all health services, even to its own citizens, is unclear. Talking about the right to health without considering health systems, organization, and financing also seems unrealistic.

Nevertheless, providing health services to immigrants might be defended without mentioning human rights. Developed countries can be argued as having duties toward developing countries (Brannan et al., 2016; Brock, 2015). Providing health services to immigrants can also be said to provide a common benefit for the destination country and immigrants, as in the case of infectious diseases (West-O-

ram, 2018; Widdows & Marway, 2015). Immigrants could be considered as participants of social cooperation (Daniels & Ladin, 2015). The identity and professional role of health workers can also be mentioned (Kuczewski, 2019). While these arguments may be considered insufficient for providing the required level of service, strengthening such defenses in policy development and public persuasion would be more realistic. On the other hand, the idea of the right to health can be useful as a leading ideal.

Conclusion

International documents recognize the right to health as a valid right for all people, regardless of citizenship status. The extent to which this right can be exercised, however, depends on local circumstances. Countries may be reluctant to accept immigrants and provide health care and may not have the necessary financial resources. Quality of service may also be affected by different factors. Access to health care is dependent upon health systems. To find solutions, national and international solidarity is necessary. The human rights approach represented by international documents is not one that originates from the field of bioethics, and bringing the two frameworks together has been difficult. In order to take further steps in this regard and strengthen international cooperation, ethical discussions should proceed at a higher level.

Kaynakça | References

- Abohalaka, R., & Yeşil, S. T. (2021). Determination of perceived language barriers according to Syrian refugees visiting two hospitals in Ankara. *Turkish Journal of Public Health*, 19(2), 92–105.
- Arras, J. D. (2015). The right to health care. In J. D. Arras, E. Fenton, & R. Kukla (Eds.), *The Routledge companion to bioethics* (pp. 3-15). Routledge.
- Assi, R., Özger-İlhan, S., & İlhan, M. N. (2019). Health needs and access to health care: The case of Syrian refugees in Turkey. *Public Health*, 172, 146–152. <https://doi.org/10.1016/j.puhe.2019.05.004>
- Association of Turkish Travel Agencies. (2012). T. C. Sağlık Bakanlığı'nın tercümanlık hattı duyurusu. Retrieved from https://www.tursab.org.tr/ihtisas-baskanliklari/saglik-turizmi/t-c-saglik-bakanliginin-tercumanlik-hatti-duyurusu_8828

- Bahar Özvarış, Ş., Kayı, İ., Mardin, D., Sakarya, S., Ekzayez, A., Meagher, K., & Patel, P. (2020). COVID-19 barriers and response strategies for refugees and undocumented migrants in Turkey. *Journal of Migration and Health*, 1 & 2, 100012. <https://doi.org/10.1016/j.jmh.2020.100012>
- Bauer, J. M., Brand, T., & Zeeb, H. (2020). Premigration socioeconomic status and postmigration health satisfaction among Syrian refugees in Germany: A cross-sectional analysis. *PLOS Medicine*, 17(3), e1003093. <https://doi.org/10.1371/journal.pmed.1003093>
- Beauchamp, T. L. & Childress, J. F. (2001). *Principles of biomedical ethics* (5th ed.). Oxford University Press.
- Berlinger, N., & Raghavan, R. (2013). The ethics of advocacy for undocumented patients. *Hastings Center Report*, 43(1), 14–17. <https://doi.org/10.1002/hast.126>
- Blümel, M., Spranger, A., Achstetter, K., Maresso, A., & Busse, R. (2020). Germany: Health system review. *Health Systems in Transition series*, 22(6), 1–272. Retrieved from <https://apps.who.int/iris/bitstream/handle/10665/341674/HiT-22-6-2020-eng.pdf>
- Bradby H., Humphris R., Newall D., & Phillimore J. (2015). Public health aspects of migrant health: A review of the evidence on health status for refugees and asylum seekers in the European Region. *Health Evidence Network Synthesis Report 44*. WHO Regional Office for Europe.
- Brannan, S., Campbell, R., Davies, M., English, V., Mussell, R., & Sheather, J.C. (2016). The Mediterranean refugee crisis: Ethics, international law and migrant health. *Journal of Medical Ethics*, 42, 269–270. <https://doi.org/10.1136/medethics-2016-103444>
- Brock, G. (2015). Global justice, cosmopolitan duties and duties to compatriots: The case of healthcare. *Public Health Ethics*, 8(2), 110–120. <https://doi.org/10.1093/phe/phu039>
- Calduch, E. N., Diaz, A., 7 Diez, M. (2008). Ethical and legal issues related to health access for migrant populations in the Euro-Mediterranean Area. *Eurosurveillance*, 13(50), 19061. <https://doi.org/10.2807/ese.13.50.19061-en>
- Campbell, R. M., Klei, A. G., Hodges, B. D., Fisman, D., & Kitto, S. (2014) A comparison of health access between permanent residents, undocumented immigrants, and refugee claimants in Toronto, Canada. *Journal of Immigrant and Minority Health*, 16(1), 165–176. <https://doi.org/10.1007/s10903-012-9740-1>. PMID: 23124632
- Canada, R. E. (2019). Best practices for teaching care management of undocumented patients. *American Medical Association Journal of Ethics*, 21(1), E44–49. <https://doi.org/10.1001/amajethics.2019.44>

- Cordeiro-Rodrigues, L. (2020). Social justice for public health: The COVID-19 response in Portugal. *Bioethical Inquiry*, 17, 669–674. <https://doi.org/10.1007/s11673-020-10058-z>
- Cylus, J., Richardson, E., Findley, L., Longley, M., O'Neill, C., & Steel, D. (2015). United Kingdom: Health system review. *Health Systems in Transition series*, 17(5), 1–126. Retrieved from https://www.euro.who.int/__data/assets/pdf_file/0006/302001/UK-HiT.pdf
- Daniels, N., & Ladin, K. (2015). Immigration and access to health care. In J. D. Arras, E. Fenton, & R. Kukla (Eds.), *The Routledge companion to bioethics* (pp. 56–68). Routledge.
- De Castro, L. D., & Sy, P.A. (2017). Ethics in migration and global health delivery: Issues of justice and integrity. *Asia Pacific Journal of Health Law & Ethics*, 10(2), 29–50.
- Ekmekci, P. E. (2017). Syrian refugees, health and migration legislation in Turkey. *Journal of Immigrant and Minority Health*, 19(6), 1434–1441. <https://doi.org/10.1007/s10903-016-0405-3>
- Erdoğan, M. M. (2022). Suriyeliler barometresi 2021: Suriyelilerle uyum içinde yaşamın çerçevesi. Eğiten Kitap Yayıncılık. Retrieved from <https://www.unhcr.org/tr/wp-content/uploads/sites/14/2023/01/SB-2021-TR-MME-FINAL-19-Ocak-2023.pdf>
- Fenton, E. (2015). Bioethics and human rights. In J. D. Arras, E. Fenton, & R. Kukla (Eds.), *The Routledge companion to bioethics* (pp. 71–83). Routledge.
- Geçici Koruma Yönetmeliği. (2019). Retrieved from <https://mevzuat.gov.tr/mevzuat?MevzuatNo=20146883&MevzuatTur=21&MevzuatTertip=5>
- Gottlieb, N., & Schülle, M. (2021). An overview of health policies for asylum-seekers in Germany. *Health Policy*, 125(1), 115–121. <https://doi.org/10.1016/j.healthpol.2020.09.009>
- Herring, J. (2009). *Older people in law and society*. Oxford University Press.
- Ingleby, D. (2009). European research on migration and health. *International Organization for Migration – Background Paper*. Brussels, Belgium. International Organisation for Migration.
- Kavukcu, N., & Altıntaş, K. H. (2019). The challenges of the health care providers in refugee settings: A systematic review. *Prehospital and Disaster Medicine*, 34(2), 188–196. <https://doi.org/10.1017/S1049023X19000190>
- Kim, G., Sanchez, M., & Saadi, A. (2019). Should immigration status information be included in a patient's health record? *American Medical Association Journal of Ethics*, 21(1), E8–16. <https://doi.org/10.1001/amajethics.2019.8>
- Kohlenberger, J., Buber-Ennsner, I., Rengs, B., Leitner, S., & Landesmann, M. (2019). Barriers to health care access and service utilization of refugees in Austria: Evidence from a cross-sectional survey. *Health Policy*, 123(9), 833–839.

- Kuczewski, M., (2019). Clinical ethicists awakened: Addressing two generations of clinical ethics issues involving undocumented patients. *The American Journal of Bioethics*, 19(4), 51–57. <https://doi.org/10.1080/15265161.2019.1572812>
- Lebano, A., Hamed, S., Bradby, H., Gil-Salmerón, A., Durá-Ferrandis, E., Garcés-Ferrer, J., Azzedine, F., Riza, E., Karnaki, P., Zota, D., & Linos, A. (2020). Migrants' and refugees' health status and healthcare in Europe: A scoping literature review. *BMC Public Health*, 20, 1039. <https://doi.org/10.1186/s12889-020-08749-8>
- Matlin, S. A., Depoux, A., Schütte, S., Flahault, A., & Saso, L. (2018). Migrants' and refugees' health: Towards an agenda of solutions. *Public Health Review*, 39, 27. <https://doi.org/10.1186/s40985-018-0104-9>
- McAuliffe, M., & Triandafyllidou, A. (Eds.). (2022). World migration report 2022. *International Organization for Migration (IOM)*, Geneva. Retrieved from <https://publications.iom.int/books/world-migration-report-2022>
- McAuliffe, M., & Khadria, B. (2019). Report overview: Providing perspective on migration and mobility in increasingly uncertain times. In M. McAuliffe & B. Khadria (Eds.), *World migration report 2020* (pp. 1–14). International Organization for Migration.
- Miller, R. W. (1998). Cosmopolitan respect and patriotic concern. *Philosophy & Public Affairs*, 27(3), 202–224.
- Nørredam, M., & Krasnik, A. (2011). Migrants' access to health services. In B. Rechel, P. Mladowsky, W. Devillé, B. Rijks, R. Petrova-Benedict, & M. McKee (Eds.), *Migration and health in the European Union* (pp. 67–78). McGraw Hill.
- Nussbaum, M. (2006). *Frontiers of justice: Disability, nationality, species membership*. Belknap Press.
- Pace, P. (2011). The right to health of migrants in Europe. In B. Rechel, P. Mladowsky, W. Devillé, B. Rijks, R. Petrova-Benedict, & M. McKee (Eds.), *Migration and health in the European Union* (pp. 55–66). McGraw Hill.
- Peled, Y. (2018). Language barriers and epistemic injustice in healthcare settings. *Bioethics*, 32, 360–367. <https://doi.org/10.1111/bioe.12435>
- Presidency of Migration Management. (2023). *Geçici koruma*. Retrieved from <https://www.goc.gov.tr/gecici-koruma5638>
- Rice, T., Rosenau, P., Unruh, L. Y., Barnes, A. J., Saltman, R. B., van Ginneken, E. (2013). United States of America: Health system review. *Health Systems in Transition series*, 15(3), 1–431. Retrieved from <https://eurohealthobservatory.who.int/publications/i/united-states-of-america-health-system-review-2013>
- Rodriguez, D. X., Hill, J., & McDaniel, P. N. (2021). A scoping review of literature about mental health and well-being among immigrant communities in the United States. *Health Promotion Practice*, 22(2), 181–192.

- Singer, P. (1972). Famine, affluence, and morality. *Philosophy & Public Affairs*, 1(3) 229-243.
- Sürmeli, A., Yasin, Y., Umay Tolunay, T., User, I., & Topsever, P. (2022). Practicing in exile: Syrian healthcare professionals working in informal outpatient clinics in Istanbul. *International Migration*, 60(3), 188–208.
- Taylor, K. (2009). Asylum seekers, refugees, and the politics of access to health care: A UK perspective. *British Journal of General Practice*, 59(567), 765–772. <https://doi.org/10.3399/bjgp09X472539>
- United Nations Educational, Scientific and Cultural Organization. (2005). *Universal declaration on bioethics and human rights*. UNESCO Digital Library. Retrieved from <https://unesdoc.unesco.org/ark:/48223/pf0000142825.page=80>
- United States Census Bureau. (2022). *Health insurance coverage in the United States*. Retrieved from <https://www.census.gov/library/publications/2022/demo/p60-278.html>
- Vearey, J., Hui, C., & Wickramage, K. (2019). Migration and health: Key issues, governance and current knowledge gaps. In M. McAuliffe & B. Khadria (Eds.), *World migration report 2020* (pp. 209–228). International Organization for Migration.
- Wadsworth, J. (2013). Mustn't grumble: Immigration, health and health service use in the UK and Germany. *Fiscal Studies*, 34(1), 55–82.
- Wendt, C., Frisina, L., & Rothgang, H. (2009). Healthcare system types: A conceptual framework for comparison. *Social Policy & Administration*, 43, 70–90. <https://doi.org/10.1111/j.1467-9515.2008.00647.x>
- West-Oram, P. G. N. (2018). From self-interest to solidarity: One path towards delivering refugee health. *Bioethics*, 32, 343–352. <https://doi.org/10.1111/bioe.12472>
- Widdows, H., & Marway, H. (2015). A global public goods approach to the health of migrants. *Public Health Ethics*, 8(2), 121–129. <https://doi.org/10.1093/phe/phv013>
- Wild, V. (2012). Migration and health: Discovering new territory for bioethics. *The American Journal of Bioethics*, 12(9), 11–13, <https://doi.org/10.1080/15265161.2012.692439>
- Wolinsky, H. (2006). Bioethics for the world. *EMBO Reports*, 7(4), 354–358. <https://doi.org/10.1038/sj.embor.7400670>
- World Health Organization (1946). Constitution of the World Health Organization. Retrieved from <https://www.who.int/about/governance/constitution>
- Xafis, V. (2020). What is inconvenient for you is life-saving for me: How health inequities are playing out during the COVID-19 pandemic. *Asian Bioethics Review*, 12, 223–234. <https://doi.org/10.1007/s41649-020-00119-1>

- Xafis, V., Schaefer, G. O., Labude, M. K., Zhu, Y., & Hsu, L. Y. (2020). The perfect moral storm: Diverse ethical considerations in the COVID-19 pandemic. *Asian Bioethics Review*, 12, 65–83. <https://doi.org/10.1007/s41649-020-00125-3>
- Yabancılar ve Uluslararası Koruma Kanunu. (2013). Retrieved from <https://www.mevzuat.gov.tr/mevzuatmetin/1.5.6458.pdf>
- Yaman, F. (2021). Nitelikli göçmen iş gücünün çalışma yaşamına entegrasyonu, *Politika Notu: 2021/28*. İlim Kültür Eğitim Vakfı.
- Yavuz, Ö. (2015). Türkiye'deki Suriyeli mültecilere yapılan sağlık yardımlarının yasal ve etik temelleri. *Mustafa Kemal Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 12(30), 265–280. Retrieved from <https://dergipark.org.tr/tr/pub/mkusbed/issue/19576/208771>
- Yusof, A. N. M., Muuti, M. Z., Ariffin, L. A., & Tan, M. K. M. (2020). Sharing information on COVID-19: The ethical challenges in the Malaysian setting. *Asian Bioethics Review*, 12, 349–361. <https://doi.org/10.1007/s41649-020-00132-4>