

The Convergence of Migrants and Refugees

Western and Muslim Perspectives

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Abstract

The paper addresses the migrant-refugee debate in relation to recent refugee flows from Syria, Afghanistan, Iraq and other countries gaining unauthorized entry into Europe. This is compared with the accusations (and denials) that the wealthy countries of the Gulf Cooperation Council (GCC) states have not accepted any refugees from Syria in particular. It is argued that the definition of migrants and refugees is problematic in that they often converge with respect to livelihood needs and rights. Current provisions should adapt to contemporary circumstances as in the current refugee 'crisis' and perhaps more regard by Muslim states in the use of Islamic ethical principles applicable to the treatment of migrants and refugees. In this sense, there is a serendipitous convergence of recent arguments about refugee livelihood requirements and practices of Muslim countries such as the GCC. The primary difference is that for refugees, resettlement is assumed to be permanent, while the GCC states only offer temporary residence status.

Keywords

Islam – economic migrants – refugees – asylum – livelihood – refugee rights

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'Nobody is ever just a refugee'

Nigerian author Chimamanda Ngozi Adichie

World Humanitarian Day, August 19, 2016

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1 Introduction

The global refugee crisis is overwhelmingly a Muslim phenomenon. As of 2015, over 65 per cent of the world's 21.3 million refugees come from Muslim countries (including 5.2 million Palestinian refugees). Almost 40 per cent of the 65.3 million forcibly displaced, are hosted in the Middle East and North Africa region. Over half of refugees are children under the age of 18. Around 54 per cent of the 8.7 million non-Palestinian officially registered refugees are from 3 Muslim countries – Syria (4.9 mill), Afghanistan (2.7 mill) and Somalia (1.1 mill) (UNHCR 2015a). As of June 2016, most Syrian refugees were being hosted by neighbouring countries of Turkey (2.8 million), Lebanon (1.02 million), Jordan (655,000), and Iraq (230,000). Around 900,000 Syrians have filed asylum claims in Europe, while resettlement countries have taken relatively few – USA (18,000), Canada (40,000), Australia (12,000) (Migration Policy Centre, 2016).

The so-called migration or refugee 'crisis' of Europe began with the increasing number of Tunisians arriving on the island of Lampedusa in 2011, followed by Africans from Sub-Saharan who had migrated to Libya after the toppling of Muammar Ghaddafi. More recently are the Syrians, fleeing the uncivil war as the largest group (39%), Afghans fleeing the war with the Taliban (11%) and Eritreans fleeing forced labour and military conscription (7%) (Park 2015). In late 2014, the International Organization for Migration considered Europe to be the most dangerous destination for irregular migration in the world (IOM 2014).

This is the most recent context for discussions about migrants and asylum seekers – to Europe, not only because of the numbers entering Europe's southern and Eastern border countries, but also because decisions are being made as to who is 'deserving' of entry and protection and who is not. The distinction between migrants and refugees is that 'refugees', by definition in international law, are deemed to be deserving of special protection and assistance; so-called 'economic migrants' are not. It is an essentially 'Western' debate that has not

been present in the Muslim world although there have been attempts to engage the Muslim Gulf States for not sharing the burden of Syrian refugees in particular. However, the Gulf States, who have not ratified the 1951 UN Refugee Convention, do not accept refugees as refugees, but as 'guests' or 'guest workers' who are subsumed within the foreign workforce under temporary, but renewable, work or visitor visas.

The Migration-Asylum Nexus

The conceptualization of the 'migration-asylum nexus' is in recognition of the difficulty in distinguishing between forced and economic migration, where similarities between the migratory processes lack differentiation in policy responses to both asylum seekers and (economic) migrants, particularly in Europe (Castles and Van Hear 2005). The concept arose in the 1990s highlighting the common roots of movement, where economic factors were often connected to human rights abuses and violence and recognition by multilateral agencies and governments in the global North that the asylum system was being abused for other migration motivations (Van Hear et al 2009). Governments, however, are keen to differentiate between those they consider 'desirable migrants' (highly skilled migrants that strengthen Europe's economies) and 'undesirable migrants' (asylum seekers, low-skilled migrants), who are perceived as a burden on the state (Castles 2007, Van Liemt 2011).

Concerns around the asylum-migration nexus coalesced around the notion of 'mixed migration' that also included irregular and transit migration as well as smuggling and trafficking. For example, a person may present as an asylum seeker or equally as a labour migrant, fleeing war, staying in transit for a considerable time, then smuggled into Europe. Alternatively, a group of people may travel the same routes with a complex mixture of motivations and journeys. Thus, when a boat arrives on a European coast it is impossible to immediately differentiate between the asylum seeker and the economic migrant. This results in debates about whom are deserving of protection and how to ensure protection in light of such 'mixed migration' practices and at the different stages of migration. The UNHCR's stance is that 'refugees are not migrants' and that it is detrimental to refugee protection to confuse the two groups, terminologically or otherwise (Feller 2009).

Distinctions between economic migrants and refugees may be blurred at different times throughout the migration-asylum cycle (Koser 1997). Zetter (2007) argues that such labels in this dimension are not just static features of geographical origin, national identity and legally designated statuses, but in fact form a life narrative and an overlapping sequence of events and shifting natures. The 1951 UN Refugee Convention has been called into question regarding

its usefulness for catering to the complexity of migration in the post-Cold War era (Hyndman 2000), with commentators advocating that it is out-of-date and not in tune with the reality of today's forced migration (Harvey 2000).

However, at the operational level, the 1951 Refugee Convention exists parallel to other institutional arrangements to accommodate the Northern states' politicized agenda to curtail migration. The UNHCR argues that the quality of refugee protection is undermined by the creation of militarized interventions against attempts by migrants to enter into Europe (Betts 2007). In addition, draconian deterrence measures have been forcefully introduced including detention, employment restrictions, limited social welfare provision and restrictions on family reunion (Castles, Crawley and Loughna 2003). These practices are more in line with the management of migration, rather than humanitarian responses based on country of origin. The circumscribed misperception by countries of the global north is that the asylum-migration nexus is a South–north migration phenomenon. There is an obsession with concern over irregular migration, the control of borders, unfounded asylum claims and the return of asylum seekers whose claims for refugee status has been rejected (Crisp 2008).

There is recognition that both migrants and asylum seekers travel the same routes, and suffer very similar human rights violations, deprivation and exclusion. At the same time, they both have rights and require international protection of those rights, even though refugees have special needs and rights as determined by international law. Individuals who leave their homes may do so with mixed motivations that might at once include fear of persecution, as well as a desire to improve their standard of living, find work and so on. It is argued, 'refugee migration can transmute into economic or labour migration and vice versa' (Van Hear et al. 2009, 12). Others, such as Bakewell (2009), more deliberately refer to 'mixed groups of asylum seekers and labour migrants' that seems to acknowledge the collective association, but not the mixed motives within individuals themselves.

Distinguishing labour or economic migrants from refugees is important from the perspective of humanitarian agencies distributing donated resources earmarked for refugees, but not necessarily from the general principles of human rights. Within the broad realm of 'irregular migration' the recognition by UNHCR and others is that people 'on the move' have protection needs, but despite existing norms of international migration law, these norms lack operationalization on the ground and a confusion regarding which international aid agencies should take responsibility for them (ibid). Thus, the fluidity of motivations and movements, of policies and practices, of academic reflections and assistance practicalities, the distinction between economic migrants and

refugees remains unresolved as does the conceptualization versus policy, distribution of resources and protection dilemmas.

2 Migrants v/s Refugees

A uniform international legal definition of a migrant does not exist, but there are formal definitions specifically of migrant workers and their rights articulated in a number of UN and ILO Conventions. The United Nations defines a migrant as a person who has freely decided to leave his or her country of origin and relocate somewhere else. Article 2.1 of the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families states that '[the] term 'migrant worker' refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.' (UN 1990) Hence, the Convention excludes refugees and stateless persons (UN 1990: art. 3c). The distinction is purposely created to shed light on the need to grant special treatment to both refugees and migrants separately. In the same way, migrants as people seeking better living conditions and working opportunities are also regarded as a special category or group that need to be protected, as foreign workers are generally more vulnerable vis-à-vis nationals unless treated equally under the law. This is why the United Nations also endorses the idea that migration is generally motivated by lack of economic opportunities (UN 2005: 16).

International conventions make a clear distinction between migrants and refugees. According to the 1951 Geneva Convention Relating to the Status of Refugees (and its 1967 Protocol), a refugee is someone who 'owing to a 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/[her] nationality, and is unable to, or owing to such fear, is unwilling to avail himself/[herself] of the protection of that country' (UN 1951, 1967). Included in the Convention is refugees' right to work (UN 1951: art. 17–19).

It should also be noted that Article 31 of the of the 1951 Convention relating to the Status of Refugees specifies that States should not impose penalties on refugees because of their illegal entry or presence 'coming directly from a territory where their life or freedom was threatened [...], enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence' (UN 1951). This is an important principle that many states around the world are not abiding by. The provision means that there cannot be an

'illegal refugee,' or a refugee as an 'illegal entrant' into a country. Countries like Australia have used the clause 'coming directly' (Phillips 2015: 2) to impose penalties as they can show that Australia is not the first safe country of asylum.

In addition to this, the 1951 Convention offers three so-called 'durable solutions' for refugees. These include integration into the first country of refuge; resettlement to a third country that will accept them and, importantly, provide them with permanent residence or citizenship; or finally, repatriation back to their home country, which must be voluntary. Hence, the UNHCR discourse insists that the distinction between migrant and refugee 'does matter,' because 'two terms have distinct and different meanings, and confusing them leads to problems for both populations' (Edwards 2016). For the UNHCR, migration generally implies a *voluntary* process, whereas 'this is not the case for refugees who cannot return home safely and accordingly are owed specific protections under international law.' To conflate the two denominations 'runs the risk of states reducing their responsibility towards refugees' (UNHCR 2016a). This means that using the concepts interchangeably may take 'attention away from the specific legal protections refugees require, such as protection from *refoulement* and from being penalized for crossing borders without authorization in order to seek safety' (ibid).

3 Refugee Status in Muslim States

Only eleven Muslim-majority countries have ratified the 1951 Convention Relating to the Status of Refugees (and the 1967 New York Protocols); the Muslim countries are Algeria, Djibouti, Egypt, Iran, Mauritania, Morocco, Somalia, Sudan, Tunisia, Yemen and Turkey. GCC states are not signatories to the 1951 Convention, largely because resettlement conditions require access to citizenship (Article 34), a provision they were unwilling to accept because citizens are given particular privileges stemming from their oil wealth. Iraq and Jordan issued their own refugee protection laws in conformity with the stipulations of the Convention. These countries, however, are signatories to the 1990 Cairo Declaration of Human Rights in Islam (a Muslim response to the secular United Nations Universal Declaration of Human Rights of 1948). With resonance from the Quran (9:6): *And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allah. Then deliver him to his place of safety*, the Declaration states clearly:

Every man (sic) shall have the right, within the framework of the Sharia, to free movement and to select his place of residence whether within or outside his country and if persecuted, is entitled to seek asylum in

another country. The country of refuge shall be obliged to provide protection to the asylum-seeker until his safety has been attained (*aman*).

Organization of the Islamic Conference 1990: art. 12

In 1994, the Arab League passed the 'Arab Convention on Regulating the Status of Refugees in Arab Countries' (again, largely based on the 1951 UN convention), but it was never ratified or implemented. In 2012, there was the Ashgabat Declaration of the International Ministerial Conference of the Organization of Islamic Cooperation (OIC) on Refugees in the Muslim World. This declaration basically supported the 1951 Convention and its 1967 Protocols and urged the UNHCR to continue its work.

Despite its commitments to the 1951 Refugee Convention, only Sudanese refugees in Egypt are permitted to work that resulted from the Four Freedoms Agreement with the Sudanese government. All other refugees (from Ethiopia, Eritrea, Somalia, Ghana, etc.) require work permits that are difficult to obtain and are therefore forced to work illegally (Jureidini 2009). In Lebanon, strict work restrictions for refugees have been in place since the establishment of the Central Committee for Refugees in 1950, designed to regulate Palestinians in the country. Jordan also does not provide refugee rights to residency or employment, although a new initiative to provide work for Syrian refugees from the Zaatari refugee camp in the free economic zone has been mooted (Betts, 2016).

4 Livelihood and the Paradox of the UN Refugee Convention

As it has been shown, arguments in support of a clear differentiation between a migrant and a refugee emphasize not only the aggravating circumstances leading to the resettlement of refugees in another country, but also the particular legal implications of both migration and asylum-seeking. The exclusion of refugees also seeking economic opportunities is highly problematic. Recent research has shown that prior to the 1951 Convention with displaced persons under the League of Nations, 'refugees were considered as migrants' or 'a subcategory of migrants' (Long 2013: 4). The conflation of the two meant that refugees were only considered for protection on economic criteria – that is, if they were suitable for the receiving country based on its labour market needs. Therefore, before the 1950s, there was no real distinction, in practice, between refugees and migrants. In other words, refugees were selected for resettlement if they were assured of getting jobs, and able to contribute to economic development and integrate into the host society and culture (Long 2013). Another

crucial issue is the politicization of migration and displacement. In the inter-war period, between the first and second world wars, the focus of refugees was more politicized and more in line with a migration framework. The Displaced Persons Act of 1948 in the United States, for example, was concentrated on their desirability as anti-communists and requiring 30 per cent to have had agricultural experience.

However, the 1951 Refugee Convention gave refugees an 'exceptional right to cross borders and claim asylum.' They could be given protection on humanitarian grounds, including those who could not work. On the other hand, the special humanitarian category given to refugees has prevented refugees 'from finding durable solutions, which depend upon securing an economic livelihood and not just receiving humanitarian assistance' (Long 2013: 4). Because states interests are more essentially economic, their priority is to have regulated, managed migration over refugees. They want to be selective. The humanitarian focus on refugees created a dilemma because to identify a 'genuine' refugee that conforms with refugee law includes ensuring that the person is *not* motivated by economic factors, such as seeking better economic opportunities, when entering a host country. For governments, border agencies and immigration departments, a refugee is presented as a figure of humanitarian rescue, qualifying for protection only by virtue of the *absence* of any explicit economic aspirations (Long 2013: 7).

From the perspective of the refugees this does not make sense, for by and large they will want to pursue a livelihood. Thus, the separation between humanitarian relief and economic opportunity for both refugees and host countries became problematic. Only when resettlement takes place in a third country is there an undertaking that refugees will be granted rights to work, education and most importantly, permanent residence and citizenship, unless negotiations with first country host states can be arranged for integration as a durable solution. In recent times, resettlement of refugees to third countries has been weak. In 2014, only 21,000 Syrians were resettled. Iraqis, 12,000, Afghans, 5,000 and Eritreans, 4,000. Of these, 16,000 refugees were resettled from Turkey, 9,000 from Lebanon and 7,000 from Jordan. These are very small numbers compared with the many millions needing resettlement (UNHCR 2014a). It is no wonder, therefore, that they take it upon themselves to find their own way to countries where they may have work opportunities and education, and advance their lives. In the meantime, most refugees remain scattered in camps dependent on aid that is insufficient to lead a normal life and holding temporary status. This situation creates other psycho-social problems that require to be addressed. In this sense, international and national laws rightly privilege refugees because of the special circumstances surrounding their move.

However, the status of a refugee has its problems. In an early and celebrated essay by Roger Zetter argued that the labelling of a person as a refugee institutionalizes and de-individualizes the person, who becomes controlled by a range of bureaucratic dictates as the recipient of aid. Zetter (2007) argues that psychological underpinnings of being labelled a refugee included passivity and dependence, in other words, to act out being a refugee as demanded by aid agencies that provide welfare benefits.

5 Humanitarian Assistance and the Host Countries' Migrant-Refugee Dilemma

International UN and voluntary humanitarian aid agencies, mainly non-governmental organizations (NGOs) created an aid industry that relied on public appeals through the mass media, but after the media left the crisis areas and the NGOs had depleted their budgets and went home, the stranded refugees, particularly in camps, had no way of caring for themselves. This was the idea of 'imposing aid' (Harrell-Bond 1986). The huge humanitarian aid program was delivered through northern-based NGOs. More contemporary developments, with large number arriving at Europe's borders, created increasing complexity in the determination of who is a refugee, particularly given the politicization of migration and asylum-seeking and exaggerated security fears brought by the nature of protracted conflicts, and thus a shift from NGOs determining refugee aid to governments (Zetter and Raudel 2014). Security includes the attitude that Muslims in Europe are seen by many as a 'political and ethno-cultural threat' (Wang 2014). In addition to this, it is argued, 'the humanitarian discourse that intended to *protect* refugees has in fact strengthened many states' restrictionist migration agendas, and prevented refugees being included within migration-development discourses' (Long 2013: 5). In Europe, the distinction has also meant a rift between states in terms of European values and humanitarian principles. Slovenia, Serbia, Croatia and Macedonia shut their borders and built barbed wire walls. Hungary, Poland, Czech Republic and Slovakia have refused the EU's proposal of accepting Syrian refugees. Some argued that the very fabric of European unity is under challenge over this issue.

Under the Refugee Convention, asylum seekers can legally enter a country without authorization, but migrants cannot. UNHCR states clearly that 'There is nothing illegal about seeking asylum – on the contrary, it is a universal right' (UNHCR 2016a). Asylum seekers cannot (or should not) be punished for this; however, migrants can. Thus, if a country feels overwhelmed by the number of people entering without prior authorization, one way to stop them is to classify

them as economic migrants. This, for instance, has been the case recently for people arriving in Europe from Afghanistan. On March 3, 2016, the president of the European Council specifically warned 'potential illegal economic migrants' by stating: 'Do not come to Europe. Do not risk your lives and your money. It is all for nothing. Greece, or any other European country, will no longer be a transit country' (Calamur 2016). At that time, those from Syria and Iraq were not affected by this measure, but those from Afghanistan were not considered to be in imminent danger if they were returned to their home countries (Calamur 2016). Afghan asylum seekers disagreed. Thus, at the beginning of 2016, hundreds of Afghans watched Syrians and Iraqis walk past them to an awaiting train on the Greece-Macedonia border to take them to Germany. Prior to this, they were allowed through, but then, Afghan asylum seekers were denied entry into Macedonia because of Germany's decision that Afghan nationals are fleeing poverty, not war. As this event has shown, their classification was transformed from refugees to migrants, at the same time preventing them from access to the European labour market. This is not what Long (2015) is advocating by transforming refugees into economic migrants.

Ironically, while the terrible suffering of Syrians has given them *prima facie* recognition as refugees, this has also become a privileged status compared with others on the same desperate journeys. For instance, in September 2015, on the Greek island of Kos, Syrians were given food and shelter in a stadium while others from other nationalities were left to sleep outside with no food. On the issue, Zacharoula Tsirigoti, head of Greece's border protection stated: 'Refugees are from Syria. The others are immigrants' (Mesco, Bradley and Legorano 2015). As a result, Iraqis and Arabs from other countries posed as Syrians to obtain the advantages. Fake Syrian passports produced in Turkey became valuable – and, at least one of the Paris bombers held a fake Syrian passport. Similarly, Africans posed as Eritreans who also have *prima facie* refugee status and many also pretended to be unaccompanied minors (less than 18 years), who are granted protection regardless of nationality.

The question remains, how does a government decide what number of refugees is too many? German Chancellor Angela Merkel announced an acceptance of 1 million refugees because Germany needed to increase its workforce – thus accepting the relationship between refugees and migrants, both of whom need to earn their livelihoods. However, in light of the 2016 agreement between the European Union and Turkey in exchange for \$6.6 bill, (plus visa-free travel for Turkish nationals to Europe and the promise of a resumption of negotiations on Turkey's membership of the European Union), Turkey has undertaken the role of preventing people from taking boats on the Aegean Sea to reach Greece. Turkey would accept the return of all new irregular entrants

who made it to Greece (Kanter 2016) and, for every two new refugees in Turkey, one will be resettled in Europe.

However, the conditions for refugees in Turkey are not ideal. In 2014, Turkey passed a law that provided limited, temporary protection to Syrians and other refugees. On paper at least, Syrians who registered with the Turkish authorities could access healthcare services and send their children to public schools (Vio 2015). But they could only apply for a work permit if they had entered the country using a valid visa. This barred the vast majority of Syrians, who fled the conflict in their country by simply crossing the border into Turkey. Up until mid-January 2016, with 1.8 million in the country, only around 7,200 Syrians had been able to obtain work permits (Farooq 2016).

The announcement in January 2016 that all Syrians would be allowed to apply for Turkish work permits (Murray 2016) raised hopes that life would improve for the many refugees who were dependent on aid or working in the informal economy for low incomes. But the new regulations have yet to be completely implemented and are being described as prohibitively complex and costly. Non-Syrian refugees from Iraq, Afghanistan and elsewhere, who account for about 50 per cent of arrivals to Greece, still do not have the right to work in Turkey. The new law removed the requirement that Syrians must have arrived in the country with a valid visa, but other restrictions remain in place. They must wait for six months after registering as a refugee with Turkish authorities before they become eligible for a work permit and then remain in the district where they registered and where they should find a company willing to give them a contract and carry out all the required paperwork. It has been argued that very few employers will be willing to do this because working illegally means that Syrians will be working long hours and paid significantly less than the minimum wage. Confirming Zetter's argument about labelling, one young Syrian IT engineer stated, 'You are an expert in your field, but nobody treats you like an expert. They treat you like a refugee' (Farooq 2016). The idea of paying off states to take refugees that are unwanted in the richer countries is not new. Australia has been doing this for many years, but quite unsuccessfully. In one example, in desperation, the Australian government funded Cambodia to resettle Syrian and Iraqi refugees from their detention centres in Nauru and Manus Island. Australia provided them with \$40 million - but only six refugees went and all have since left (Hasham 2016).

In response to this growing anxiety and complex dilemmas in treatment arising from the classification and labelling of migrants and refugees, a new strategy is being developed that may be taking the issue full circle back to the pre-1951 Refugee Convention. In two recent reports by the Migration Policy Institute (MPI) in Washington, it is recognized that countries of first asylum

'refugees face numerous restrictions on their ability to lead a normal life, including legal tights to pursue livelihoods or secure formal legal status' (Collett et al 2016: 1; Long 2015). The durable solutions of integration, resettlement and repatriation are not working because of the 'large scale of need.' The idea is to document the skills and competencies of refugees to match them with labour market needs and employers in potential receiving countries. This could significantly expand the number of destination states to the more traditional resettlement countries. The main paths of migration are threefold – for labour, education and family reunion. There will be encouragement of private sponsorship of refugees by individuals, families, local groups or faith-based organizations; this, in turn, will foster the development of new sources of finance for international protection. Another initiative that aims to develop a comprehensive approach to the treatment of refugees is the United Nations Summit for Refugees and Migrants. The general objectives are to identify the root causes of the movement of migrants and refugees (UN 2016; Siegfried 2016). The 'root causes' approach, however, is seen as fundamentally flawed while it assumes economic development in origin countries will reduce emigration, when the opposite is more likely the case (see Castles & Van Hear 2011).

In other words, the objective is to develop an explicit management of migration for refugees who have economic needs as well for those in need of humanitarian assistance. Recognition that refugees can also seek economic opportunities – indeed, be motivated to seek economic opportunities without being penalized for it by having their refugee status denied and classified as merely economic migrants. The MPI emphasizes, however, that, among other caveats, 'Paramount is the need to maintain the guarantees and protections that accompany refugee status...and with careful attention to work conditions to prevent exploitation' (Collett et al 2016: 1). But what seems clear is that there is an urgent need for more new and principled innovations that recognize the moral and legal dilemmas that international migrants and refugees are facing today. Long (2013: 4) has suggested, 'in the interests of refugee solutions the extent of separation between refugee protection and access to migration should be reversed.'

6 Islamic Perspectives on Migration and Refugees, Status of Migrants and Current Refugee Crisis in the Arab World

Hijra in the Islamic tradition has been seen as the starting point of Muslim civilization and set the foundations for an Islamic society. It was one of the defining elements that revolutionized the conception of unity among the nascent

Islamic community, not only among the Meccan supporters of Prophet Muhammad themselves, later known as the migrants (*al-muhajirun*) but also between them and the hosting community in Medina, later known as the helpers (*al-ansar*). Unity meant solidarity between the *muhajirun* and the *ansar*. Thus, Islamic teachings associated with *hijra* have contributed to the ethical principles relating to the treatment of foreign or migrant communities. The tradition not only considers *hijra* a purely religious practice, but also as a source of social norms and ethical conventions, as well as an obligation for those who are subject to injustice (Elmadmad 2008: 54).

In his path-breaking book, Ahmed Abou-el-Wafa (2009) addresses the principles and mechanisms relating to the right to asylum in Islamic law, including definitions, conditions for asylum and the legal status of refugees according to Shariah and international law. As dictated by the tradition and the uses of the concept in the promulgation of Islamic law, asylum may be granted to any person for a number of different reasons. Particularly, it is argued that seeking refuge in a foreign land is always accompanied by a motive and, hence, 'all motives for asylum are equal' (Abou-el-Wafa 2009: 45). Islam 'does not specify a particular reason for seeking refuge' (Shoukri 2010: 95). Thus, Islam embraces a broader definition of refugee (Abou-el-Wafa 2009: 45; Shoukri 2010: 94) and there is no explicit legal differentiation between migrants and refugees in Islamic law. Important also is the moral imperative of Muslims to work, to be self-sufficient and productive, and the prohibition against begging, which are issues related to the situation of refugees in Muslim countries today.

In light of the current refugee crisis, statements and resolutions made by a number of attending religious scholars at the European Council for Fatwa and Research (ECFR) session held in Turkey in 2015, 'addressed Muslims in Europe stressing coexistence and positive integration and highlighting their duties towards the Syrian refugee brethren in terms of sponsoring their families and children' (ECFR 2015: 3). Regarding the question of refugees, resolution no. 3 of the final statement emphasized the importance of equality between Muslims and non-Muslims: 'One of the foundations of coexistence is equal expression of sympathy and support to Muslims and non-Muslims, when suffering natural afflictions, e.g. earth quakes and flood, donation of organs and blood and helping and rescuing refugees. Discrimination between Muslims and non-Muslims in such circumstances contradicts fundamental Islamic values indicated in the Qur'an' (ECFR 2015, 7), since, according to the Quran, and Islamic law and jurisprudence, asylum may be granted regardless of socio-economic status, color or religion (Abou-el-Wafa 2009: 71; Abd al-Rahim 2008: 15).

Further to this, in a fatwa relating to the question of custody of refugee children in Europe, religious scholars ruled that 'Self-evident is the fact that

refugees are utterly released from blame for migrating from their land when they have no other option to protect their lives against almost a certain death caused by destructive missiles, devastating shells and explosive barrels. They are protecting themselves and their children against imminent danger [...]’ (ECFR 2015: 9). The fatwa continues by highlighting the importance of protecting refugee children by recognizing that ‘[since] many Syrians and others migrated as refugees to non-Muslim lands, Muslims in Europe have duty incumbent by virtues of brotherhood and sisterhood in humanity and take into their custody under age refugees, let them live with their children and take care of them as they take care of their children as an endeavor to protect their distinctiveness’ (ibid). On the ground, for instance, faith-based organizations (FBOs) claim to endorse and advance these principles in their humanitarian activities, particularly those that provide assistance to displaced Syrian communities today (Zaman 2014). FBOs such as the Syrian Expatriate Medical Association (SEMA) state that humanitarian assistance to people in need and an Islamic approach to humanitarianism are compatible and that there cannot be a separation between them (Zaman 2014).

In an excellent summary of the history of Muslim humanitarian aid organizations and the charitable use of *zakat*, including the International Committee of the Red Cross and Red Crescent, Islamic Relief Worldwide, Muslim Aid and other Islamic NGOs and charities, Mohamed & Offeringer (2016: 3) point out the difficulties of Muslim aid organizations following 9/11 ‘with the imposition of severe restrictions on the assets, transactions and personnel of a number of Islamic NGOs and charities that were designated by the United States and United Nations as terrorism supporters, and were curtailed by their host governments in the framework of local counterterrorism policies.’ However, humanitarian aid into conflict zones and accepting refugees into Muslim-majority countries as residents are quite different.

In September 2015 a flurry of international media attention was given to statements that the Muslim Gulf States had not taken any Syrian refugees. On 3 September 2015, Al-Khatteeb (2015), a fellow of the Bookings Institute, tweeted a map of the Middle East showing the number of Syrian refugees accepted by Turkey (1.8 million), Lebanon (1.2 million), Jordan (628,427), Iraq (247,861), Egypt (133,000) and with a zero for Saudi Arabia, UAE, Qatar and Kuwait (omitting Oman and Bahrain). On the same day, the Human Rights Watch Deputy Director for the Middle East and North Africa tweeted: ‘Shameful that GCC countries are not taking Syrian refugees.’ On 4 September, the Washington Post carried the same argument but pointed out that the GCC states were not signatories to the 1951 Refugee Convention, and there were around 500,000 Syrians in Saudi Arabia, though it was not clear when they had entered

(Tharoor, 2015). On the same day, Amnesty International issued a press release stating: 'Gulf countries including Qatar, United Arab Emirates, Saudi Arabia, Kuwait, and Bahrain have offered zero resettlement places to Syrian refugees' (Amnesty International 2015). On 7 September, acknowledging that the Gulf States had accepted Syrians since 2011 but not as 'refugees,' the executive director of Human Rights Watch tweeted: 'Gulf states giving money and insecure jobs isn't enough.' CNN, on 8 September, reiterated the criticism, reproducing Al-Khatteeb's info-graphic, but noted that the Gulf States were not obliged to resettle refugees. In response, the government of Saudi Arabia announced 2.5 million Syrians in the Kingdom (*Arab News* 2015), most arriving after the conflict had begun, stating:

Saudi Arabia was keen to not deal with them as refugees, or to put them in refugee camps, to preserve their dignity and safety, and gave them complete freedom of movement. [We] gave [shelter to] whoever chose to stay in the kingdom, which are in the hundreds of thousands, proper residency ... with all the rights that are included like free health care and engaging in the workforce and education.

ANTHONY, 2015

The UAE also stated it had taken over 100,000 since 2011 and that over 242,000 Syrian nationals were living there (*Khaleej Times*, 2015). Further articles began to backtrack on the zero-intake claim in the *Huffington Post*, *Time*, *Euronews* and other international media outlets. *Newsweek* published an article with the title 'The Gulf States Are Taking in Syrian Refugees' in December citing World Bank Bilateral Migration Indices that showed significant increases of Syrians in all GCC countries except Oman since 2010 (Nowrasteh, 2015).

In an attempt to verify the GCC claims, De BelAir (2015) was unable to confirm the Syrian intake claims of the various Gulf States because of the lack of credible and publicly available data. The study concluded that the only figures verifiable were that, since 2011, the intake of Syrians amounted to a minimum of 420,000 in Saudi Arabia, 136,000 in UAE, 18,114 in Kuwait and 2,500 in Bahrain. The Qatar claim of 40,000 was unverifiable. She concluded:

We do not know for certain (except in the case of Bahrain) how many, and who are the Syrians who entered Gulf countries since the start of the conflict, in terms of age, sex, profession and migration status ... From the evidence available, our conclusion has thus to remain limited in scope. Besides being major donors to Syrian refugees in Syria and in neighbouring countries, Gulf States 1) have continued attracting Syrian workers,

and may have facilitated family reunions; 2) have enforced social protection and residency facilitation measures for Syrian residents, those who entered before 2011 and could not return, and those who entered since 2011, because of the conflict.

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In addition to the Syrian intakes it was also made clear that the Gulf States had collectively donated US\$4 billion for Syrian refugees abroad and the internally displaced (Luck 2015). De Bel Air (2015) identified that Saudi Arabia only donated US\$117.6 million plus US\$2.1 million from the private sector; UAE, US\$38.0 million plus US\$17.1 million from the private sector; Qatar, US\$26.6 million plus US\$20.9 million from the private sector; and Oman, US\$13 million. According to the UNDP, Kuwait was the largest donor, contributing US\$500 million in 2014 and US\$300 million in 2013 (*Gulf News* 2014). The idea that the GCC states were not taking more Syrians, but relying mostly on financial assistance prompted Hanafi (in this volume) to argue that the humanitarian concern was more a politics of pity from afar, than the more desirable compassion, empathy and justice of bringing them into their midst.

Whatever the numbers of Syrians accepted into the GCC countries since 2011, they have been given family visas and were thus able to find work, secure housing and access education, and can, in other words, pursue a livelihood. This had been done without any fanfare as a humanitarian gesture – that is, until the issue was raised accusing them of not taking any Syrian refugees. They are able to integrate with other Syrians with prior residencies supporting their families before the war. However, like other foreigners in the Gulf work force, jobs remain insecure, residence is temporary with no chance of citizenship and can be revoked at any time. There is no information available on exactly how many applied and how many may have been rejected – or how many were approached and invited. There should be more transparency in the way these processes are carried out to better understand them and determine what values and intentions were behind the intakes.

Despite the current challenges that Arab governments face to fully accommodate to the current demographic changes brought by the refugee crisis, in addition to long-lasting political instability and economic crisis in the region, an important ethnographic study by Tahir Zaman, which focuses on Iraqi refugees in Syria just prior to 2011, shows families, households and communities as the primary places of protection and hospitality for Iraqis, Kurds, Circassians, Palestinians, Armenians, internally displaced Syrians and others. Their assistance was independent from government policies and practices, but rooted in 'Islamic traditions of refuge and sanctuary' with an 'Islamic transnational

dimension' (Zaman 2016: 21–22). Similar examples can be found from Tunisian households accepting and protecting Libyan refugees from 2012. The transnational character of Islam, therefore, 'creates and implies the existence and legitimacy of a global public space of normative reference and debate, and that this public space cannot be reduced to a dimension of migration' (Bowen 2004: 880) and justifies why local communities may alternatively attempt to aid refugees based on endemic customs and codes of religio-ethical behaviour. Nevertheless, consistent ways should be found by the governments in order to regularize the status of people escaping conflict and economic deprivation, ensure equality before the law and its application, and make additional efforts to secure the steady provision of rights and protection to refugees and migrants.

Conclusion

A refugee is not just a refugee. A refugee is a human being who seeks and deserves not only safety and security, but also a livelihood with the same opportunities as anyone else in their country of asylum or the world. A refugee is also a migrant, but a migrant is not a refugee and cannot claim the same considerations under international humanitarian law. As has been shown, however, the connections between migrants and refugees who travel similar routes and under pressures to escape poverty and unemployment cannot always avail themselves of authorized entry to countries of destination where they may find better livelihood opportunities.

What does seem clear is that there needs to be greater flexibility in the consideration of refugees as not only requiring humanitarian relief, but they also need to be able to present themselves as desiring of self-sufficiency through economic opportunities. That receiving countries, whether as resettlement countries or countries of asylum, may calculate their acceptance as refugees in accordance with their labor market needs, does not necessarily undermine the principles of compassion and justice. It does not make sense, for example, to have refugees with medical or other professional qualifications undertaking unauthorized menial jobs to survive, which occurs all too often.

Seeking positive models from the Gulf States is not considered in the West or many Arab countries to be a desirable enterprise. While the scale of refugee intakes may be seen to be inadequate by many, certainly hundreds of thousands have been allowed entry on tourist visas or on Hajj in Mecca, and the governments have not taken any action against their overstay. Adhering to the principle of *non-refoulement*, they have allowed family reunions, access to medical services and placed hundreds of thousands of Syrian children

into school. Although noted as a negative discriminatory practice, anecdotal evidence that the UAE government was favouring white collar over blue collar Syrian refugees (De Bel Air 2015), it does indicate a labor market element along with humanitarian assistance that is consistent with Long's (2015) proposal. The Saudi idea that not accepting them as refugees in order to maintain their dignity may be a principle worth further consideration in the West. That they considered them as 'brothers and sisters' may also mean that the Syrian intake (and others such as refugees from Iraq and Afghanistan) has been exclusively reaching out to them as fellow Muslims, but with a sense of limitations and a concern for future security.

Since the Islamic tradition and some contemporary perspectives show that there are many approaches and instruments available to foster cooperation, protection of the vulnerable and oppressed, and equality regardless of religion, promoting principles of equality, non-discrimination, decent living conditions and wages for migrants and refugees should be prioritized by Muslim-majority countries. Most migration often takes place on the basis of work; but migrants comprise refugees and workers, and both definitions are deeply rooted in an understanding of some sort of oppression. Work, when it is not a motivation, is often a result of the move, such as in the case of refugees, who are forced to seek a livelihood in their host country. In this case, labour also plays an important role in the settlement of the refugee in earning a livelihood. These activities fall in the scope of necessities in the principles of Islamic legislation and are essential to preserve human life and dignity, especially in the case of both vulnerable migrants and refugees who escape persecution as well as economic hardship, poverty, conflict and social alienation.

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