

# The rights of refugee women and children in Islam

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**Faith and religious beliefs play an undeniable role in defending the rights of refugees and asylum seekers. Respect for refugees and asylum seekers and appreciation of those who provide refuge have a particular place in *shari'a*, and Islam pays special attention to the suffering of forced migrants.<sup>1</sup>**

*Aman* (safeguard) is the term which Islamic law uses to refer to the refuge that Muslims offer to non-Muslims. Such refuge remains inviolate even if the person who is being offered protection is in a conflict against Muslims [9: 6]. Islamic scholars of jurisprudence believe that *aman* creates an indissoluble bond.

Many instances of migration by the faithful and prophets appear in the holy Koran and in history books. After suffering persecution and torture, the Muslims of Mecca migrated to Abyssinia on the orders of Prophet Muhammad (peace be upon him and his descendents) where they were protected by a Christian king. Prophet Muhammad, was himself a refugee, having fled Mecca with his followers in 622 in order to escape persecution, and as a refugee was cared for by host communities. The Prophet Abraham and his family were forced to migrate and were supported by Almighty God [21: 71]. After being harassed by the Egyptians, Moses moved to Midian where he was provided with housing, employment and other amenities [28: 20-28].

## Some relevant practical concepts in Islam

*ihsan* (compassion): All those who are in dire straits, particularly children, should be treated compassionately both in word and deed [2: 83, 4:36, 37, 17: 26].

*ikram* (respect): The needs of children and the needy should be met respectfully, in a way conforming to human dignity. Respect for children and efforts to meet their needs are a divine requirement [89: 17, 18].

*eiwa* (full support): Children, especially migrant children and those who have no caregivers, should be offered shelter and protection without expecting anything in return [93: 6, 10, 75: 8, 90, 24: 22]. Not paying attention to these children constitutes a failure in practice to comply with Islamic regulations [107: 1-7, 2: 177].

These Koranic verses show that migration can become a necessity for anyone in times of trouble or when one's life and beliefs are in danger. Some verses go as far as requiring the faithful to choose migration in such circumstances (if they are able to do so) [4: 97-99].

The holy Koran requires the faithful to comply with agreements and treaties on the rights of refugees [5:1]. It provides a set of instructions in dealing with refugees and migrants, praising those who go to the assistance of people in distress and requiring the faithful to protect refugees [9:100 and 117]. It recognises the rights of refugees and internally displaced persons, entitling them to certain rights and to humane treatment [8: 72-75, 16: 41]. It condemns people whose actions prompt mass migration and views them as lacking faith in God's words [2: 84-86]. Article 12 of the 1990 Cairo Declaration on Human Rights in Islam says: "Every man shall have the right, within the framework of sharia, to free movement and to select his place of residence whether inside or outside his country and, if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety."

The holy Koran puts forth certain regulations to lend additional support to women and children, who are considered more vulnerable [4: 2, 9, 36, 75, 98, 127, 17:34]. Besides, under the principle of justice, which is the basis of all Islamic regulations [42: 15, 16: 90], those who are more at risk as a result of migration and asylum should be offered extra support. This remains the case even in the case of non-Muslims or those who oppose the Muslim faith [5: 8].

Required alms – such as *khums* (one fifth of income or of the spoils of war that Muslims are required to hand out as charity) and *zakat* (a portion of property that the faithful are required to give away for charitable causes) – as well as optional alms constitute a fund that can be used to meet the basic needs of refugees. That part of *khums* and *zakat* which is originally reserved for travellers in distress, orphans and the needy could be spent for migrants and refugees.

### Some rights in Islam of refugees and asylum seekers, especially women and children

- All people fleeing persecution are entitled to asylum and the rights associated with that status.
- Measures to meet the needs of these individuals are a public duty.
- Refugees should not be left vulnerable to persecution and injustice.
- The rights of the women and children of the host country are the same as the rights of women and children who are taking refuge there [8: 75]. That was why the Prophet declared brotherhood among the Muhajirun and Ansar and stated that "The rights of migrants are the same as those of their hosts." In other words, such women and children, whether accompanied by their families or not, should be offered the same protection as women and children of the host country, in keeping with local or international law.
- Any decision with regard to refugee children should take account of their basic interests [2: 220]. They are entitled to a healthy upbringing and education. From an Islamic perspective, children are innocent, their talents should be fostered [4: 2-4] and they should not be discriminated against.
- Children and women, according to some interpretations of *shari'a*, being more vulnerable, should be treated with affirmative action (positive discrimination). The Muslim prophet reiterated the rights of women and children more than any other groups. Refugee children and women are among the most deprived people in the world and Muslims should allocate part of their charitable efforts

to their support. From a religious perspective, what is offered to these individuals is theirs by right [70: 24, 25].

- If the guardian of a child is granted asylum, the child has to be offered the same status thus preserving the right of children to remain with their family.
- The right of these individuals to be reunited with their families should be respected. If the parents of these children are not found, the children's relatives should provide protection.
- The stage should be set for these refugees to return to their place of origin when such movement is deemed safe [9: 6].
- They should be treated well at all times.

### Conclusion

Islamic rules and regulations constitute a valuable source for protection of the rights of refugees, migrants and asylum seekers. In addition to contractual responsibilities, they could serve as a faith-based guarantor of the rights of refugees, particularly women and children. Further exploration of respected Islamic sources could result in new mechanisms in this regard.

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1. Suras of the Koran 7: 128 and 137, 2: 49 and 246 on the Israelites, 3:195 on people of the book, 22:40, and 60: 9 on Muslims.

All further references to Suras are in square brackets in the text.