

RESEARCH ARTICLE

Drawing Parallels Between Al-Muhājirūn and Contemporary Migrants

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ABSTRACT

The paper compares the situation of the refugees to Medina (al-Muhājirūn) and the contemporary asylum seekers through the prism of the 1951 Convention Relating to the Status of Refugees. Moreover, the analysis is grounded in two thematical items: prerequisites for the acceptance of refugees within national borders and their condition after their formal reception into the host country. The academic endeavor suggests that the moral principles that governed the “hijra” can be used to procure relative rectitude in the conditions of present-day asylum seekers.

Keywords: Islam, migration, 1951 Convention, refugees, Al-Muhajirun

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INTRODUCTION

According to a recent report put forward by Islamic Relief, the number of refugees and displaced people rounds to 80 million. It comes as no surprise that 66.7% originate from developing countries with some Muslim-majority representation, such as Syria, Afghanistan, and Somalia, featured on the list (Islamic Relief, 2019). Moreover, the statistics are not a recent reflection of the exacerbated situation under the dominion of the Taliban or the heightened humanitarian crisis in the Palestinian territories. The cited data, coupled with the nature of political regimes, economic capabilities, and the degree of social cohesion, induced many pundits to view Muslim polities as the points of inception and transit of migrants, but also as final destinations (De Haas et al., 2020). The reasoning behind this assumption is that areas of conflict often have neighboring regions that face similar structural deficiencies.

Historically, the movement across or within geographies is not foreign intellection but rather it became problematic with modernity. One of the earliest accounts of mass relocation is the Migration Period (4th–7th century AD). Tribes of non-Roman descent moved towards the borders of the Roman Empire due to environmental factors (Wright, 1997). Their movement eastwards was restricted by the Great Wall of China, thus allowing them to explore opportunities of resettlement in the Great Empire, which at that time could have been characterized as politically and economically dysfunctional (Halsall, 2006). If one compares the situation at that time and today in the reality of the Western nation-state, one might observe that the discourse regarding migration is tied to national security and the protection of a specific social identity and way of life (Rydgren, 2018). This framing of migration has been reflected in policies that aim at curbing migratory influx through bureaucratic hurdles and legal obstacles in addition to a hard-power securitized approach in the form of “militarized border management by a global border and migration industry by private contractors—companies, firms and agencies—that build and operate detention centres, exercise border control, and carry out deportations” (Knudsen & Berg, 2023).

In contrast to such measures that limit human mobility, the Islamic tradition takes a more philosophical outlook on migration. Migrants do not necessarily represent a threat to an existing socio-political fixture. They are viewed more as portable cruisers than the average city-dwellers but do not bear the stigma of being disenfranchised members of the community, as essentially all residents of the *dunya* (worldly life) are travelers. The Prophet (peace be upon him) instructed the *umma* (larger Muslim community): “Be in this world as if you were a stranger or a traveler” (Sahih al-Bukhari 6416).

The hadith encourages the denial of attachment to worldly assets. For the migrant community, worldly assets in connection to migration can be a homeland and possessions acquired therein while the host community can be equally attached to their homeland and possessions they might acquire if public expenditure was not directed to the integration of refugees and migrants in the economic system of their countries. Having said that, the situation in the contemporary Middle East is not ideal for asylum seekers in terms of food offering, settlement, and healthcare. However, these countries receive and provide for

migrants according to their financial capabilities with a low level of militarized migration governance (Cabot, 2018; Lemberg-Pedersen, 2013).

Migration in Islam

Travelling from one place to another, i.e., migration, is unanimously equated by previous research with the Arabic word *hijra*. This act of venture has been thought to be “the starting point of Muslim civilization” and a foundation for the erection of an Islamic society (Jureidini & Hassan, 2020, p. 2). Authors such as El Fadl (2020) found justification for such an argument in the Holy Qur’an: “And We have certainly honored the children of Adam and carried them on the land and sea” (Q 17:70). In his writing, the phrase *wa hamalnahum fil-barri wal-bahr* is translated as “ha[ve] facilitated to them mobility on earth and the seas” (El Fadl, 2020, p. 13). Therefore, his logical continuum promotes the idea that the freedom of movement is not only a mere opportunity but is a requirement for the attainment of human dignity, although actual displacement is not necessary (El Fadl, 2020, p. 13). The stance might not be too far-fetched as elsewhere in the scripture, the angels address the ones who failed to migrate to Medina with the Prophet (peace be upon him): “Was not the earth of Allah spacious [enough] for you to emigrate therein?” (Q 4:97).

Nevertheless, Al-Tabari (d. 310 AH), one of the earliest interpreters of the Qur’an, understood the phrase *wa hamalnahum fil-barri wal-bahr* as the subjugation of all creations, especially the creations that facilitate transportation over land and sea such as pack animals and ships, to the human race. His reading offers a broader perspective on the concept of mobility. Mobility in his analysis is intertwined with God-given authority. Other verses in the Holy Qur’an (Q 2:164; Q 10:22; Q 14:32; Q 22:65) build on the idea of authority by mentioning mobility alongside Allah’s omnipotence.

The Migration to Medina

It is quite interesting that migration in the Qur’an is primarily realized with the verb *hājara* whose root *h-j-r* comes as the opposite of *w-s-l*. The usage signals that mobility is viewed as a disconnection from the place of origin or its abandonment. The thread resonates with the reality of the procedural legitimatization of the voyage to Medina. First of all, the resettlement was delayed to the last moment, even though the oppressive measures undertaken by Quraysh impacted new converts, both psychologically and physically. The postponement implies that the decision of departure is not to be taken lightly despite the obstacles one might face in their home country.

Nowadays, it can be seen that people with skills and talents are willing to readily commit to permanent residence in the West because no favorable circumstances for personal growth and professional advancement are present in their polities of origin. If their potential could be adroitly utilized for building up a strong institutional edifice that would withhold the norms set out by international law and ensure the just distribution of wealth among community members, the choice of leaving should be reconsidered. Furthermore, if the world population is concentrated in a few prosperous states, the

deserted countries might in the long term develop into failed states. This would permit the expansion of violent extremist groups and cement their role as refugee suppliers and drug production sites (Delpech, 2007). Contemporary examples are Syria, Iraq, Yemen, Afghanistan, and Somalia, but the record is likely to amass more entities in the near future.

Secondly, the hijra to Medina took place for a particular purpose—the assemblage of a united Muslim nation under religiously ordained rules and regulations. Thus, it does not rest on whims but clear intentions to live in accordance with the Divine Law. The semblance of this rationale can be found in the following hadith: “Deeds are but by intentions and each man will have but that which he intended. If a man’s migration was for the sake of Allah, then his migration was for that for which he migrated, but if his migration was to achieve some worldly aim or to take some woman in marriage, his migration was for that for which he migrated” (Musnad Ahmad 168). Moreover, the relocation was not recognized as a durable solution but as a respite for the aggregation of spiritual, civilizational, and military confidence to neutralize the oppressing agent at a later stage. This is why the feasibility of migration was censored after the conquest of Mecca (Sahih al-Bukhari 4311).

Therefore, it can be concluded that the exodus to Medina was not only a normative response to persecution and human suffering but also a cleverly calculated movement. Looking into the Islamic juristic discourse produced after the time of the Prophet (peace be upon him), one might hypothesize that the nascent narrative, which converged between a refugee and a migrant, diverted from its course in order to align with matters of convenience. Hijra was taken up to signify a duty to leave territories of disbelief (*dār al-kufr*) and seek asylum in abodes with a predominant Muslim presence (*dār al-Islām*). Factual illustrations of this phenomenon are the flight in aversion to colonial rule in North Africa and the emigration of Muslims from India to the newly founded Islamic Republic of Pakistan (Jureidini & Hassan, 2020). After World War II, the paradox of reverse hijra occurred. Large masses of people migrated to non-Muslim countries, often to those colonial powers which governed their respective states of ancestral background. Due to the pressures of the new reality, some Islamic circles were convinced to license the trend under *fiqh al-muwāṭana*¹ (jurisprudence of citizenship) (Jureidini & Hassan, 2020). However, the granted preliminary approval acted as a regulatory decision based on the duration and reasons for resettlement (Ramadan, 1999).

Comparison with Contemporary Migration

Having discussed the concept of migration in Islam in the previous section, this section compares the situation of the refugees to Medina (al-Muhājirūn) and the contemporary asylum seekers through the prism of the 1951 Convention Relating to the Status of Refugees. Moreover, the analysis is grounded in two thematic items: prerequisites for the acceptance of refugees within national borders and their condition after their formal reception into the host community.

1 New branch in the Islamic Law which was supplemented in the 1990s and 2000s to address issues of nationality, integration, and citizenship in non-Muslim countries (Jureidini & Hassan, 2020).

The 1951 Convention was initially designed to cater for the needs of European refugees in the aftermath of World War II. With its initial timestamp and ethnic grouping, it primarily served individuals who became refugees owing to events before 1951 which took place in Europe. In the ensuing years, an amelioration of the Convention was introduced in the form of the 1967 Protocol. The appendage, which came out 16 years later, widened the scope of international protection for displaced people, including those of all nationalities who were persecuted because of their religion, race, nationality, political opinion, or group membership. In addition, the 1967 Protocol and the Convention were suited to encompass current and prospective refugee situations.

Nevertheless, the universalized definitions and additional changes made in the documentation did not surmount the geographical limitation of refugee acceptance. Both documents that regulate the international assistance scheme do not have all countries in the world as signatories. Such exclusion raises questions on the readiness of non-participatory agents to comply with the established norms. As Millbank (2000) noted, the obligations enshrined in the Convention apply only when “an asylum seeker has entered a signatory country” (p. i). For example, most Arab countries are not signatories of the Convention. Various reasons have been presented by scholars but the most popular is that there is an inherent reluctance by Arab states to offer permanent accommodation to refugees (Janmyr, 2017). This might not be far from the truth as the Islamic tradition, which is preserved in many of these countries, frowns upon permanent relocation. Countries like Lebanon are willing to accept a significant number of Palestinian refugees, but they are aware that if they become signatories of the Convention and the Protocol, it would require them to fully integrate foreigners into their communities. The integration does not constitute a problem on its own as such practice was observed in the Islamic migration to Medina. Nonetheless, Al-Muhājirūn were emboldened to return to their homes with the conquest of Mecca. In the same manner, Lebanon, by not signing and ratifying the documents, honors the right of Palestinians to return to and claim their own land (Janmyr & Stevens, 2021).

Apart from the limited geographical scope of action, the Convention and the Protocol suffer from various textual discrepancies. The international instruments for refugee protection are designed to provide favorable conditions for displaced persons in the form of rights and obligations. The conceptualization of solidarity and safety, however, are left to the judgment of the individual nation-state.

The Convention and the Protocol codify rights. Rights in the context of refugee protection rely on the measurement of the need for humanitarian assistance, also verbalized as deservingness. Willen and Cook (2022) identify the following characteristics that pertain to deservingness: relational, conditional, contextual, syncretic, affected, mutable, and implicit (p. 32). Deservingness is relational because one assesses the deservingness of others by comparing their own situation with the situation of others. Moreover, the act of comparing is influenced by the social proximity between the evaluating agent and the evaluated. Deservingness is conditional because it takes into consideration the features, presumed or actual, of those in need of assistance. Those features are prerequisites for

allowing them to access aid. Deservingness is contextual as it is grounded in a specific socio-political context. It is syncretic as deservingness assessment is articulated in a moral register. As the level of deservingness varies among displaced people, it is influenced by emotions and, as a result, becomes subjective. Deservingness is mutable since it changes in correspondence with the volatile circumstances of a particular context. Deservingness assessment is implicit as it is not expressed in a formal judicial discourse and remains, for the most part, invisible (Willen & Cook, 2022, p. 32). When rights are understood as deservingness, the empirical reality becomes distorted and the applicability of the international law becomes selective. Ultimately, the beliefs about the extent of deservingness predetermine the attitude of the host country and resource allocation to the displaced community. A contemporary illustration of a case in which the recipients' racial background impacted the evaluation of deservingness is the Ukrainian mid-war migration. Ukrainians were received more positively in the European continent compared to their non-white counterparts, who have also experienced war.

Besides the inconvenience introduced by the rights-deservingness divide, it can be said that the definition of a refugee in the Convention is too narrow and excludes people who suffer from enumerated harms but fail to be classified under the protected categories of "race, religion, nationality, membership of a particular social group or political opinion" (Convention Relating to the Status of Refugees, 1951, p. 14; El Fadl, 2020). Withdrawal from the realities of the 20th and 21st centuries would allow the reader to consider the untapped potential of Islamic ethical principles, such as *diyāfa* (hospitality), *mu'ākhā* (brotherly relations), *'ijāra* (protection), and *'amāna* (safety), which are not tied to the individuals' particularities. Even before Islam, Arab tribes had the custom to grant security to whomever asked for it. Additionally, if only one person from the tribe had assumed guardianship responsibility for another, all members of that tribe were required to respect the truce (El Fadl, 2020).

At second glance, even the text of the Convention does little justice to address the practical deficiencies observed in real life. Article 7 accords to refugees the same treatment as foreigners, while subsequent articles such as Article 17.3 confer to them equal rights with the nationals. Nevertheless, the affairs on the ground could not have been more aloof from the spirit in which the Convention was written. Asylum seekers are left most often to the mercy of their host countries.

The initial admittance is followed by a containment in camps or rural settlements near the borders. Furthermore, Schmidt (2003) points out that there was an increase in the use of detention centers in the West as an alternative to camps to which she refers as "the most conspicuous element of refugee assistance" (p. 1). Before refugees acquire similar liberties as the locals, their temporary places of lodging restrict their freedom of movement. The situation in the camps is richly documented. Hoffmann (2017) writes about the harsh entry and exit controls that incorporate biometric technology. Even though open camps are laxer in this regard, there are also regulations put in place to closely monitor the mobility of migrants (Knudsen & Berg, 2023). This type of restraint is justified as the only feasible way to uphold the "international standard of assistance" and "distribute aid faster and

more effectively, especially in the short-run and in immediate emergency situations” (Schmidt, 2003, p. 7).

This reality of encampment or semi-encampment is only possible if migrants manage to reach a signatory country, usually situated in the West. Keeping migrants away from the European mainland is achieved through the creation of buffer zones in the Middle Eastern and border countries. The European Union boosts the facilities of other countries to host asylum seekers by “combining economic incentives (international aid) and concessions (visas and trade)” (Knudsen & Berg, 2023, p. 16). Turkey, Iraq, Lebanon, and Jordan are some of the Oriental states that receive financial support to interfere with the migrants’ journey (Knudsen, 2017). Coastal European countries, like Spain, Italy, and Greece, were sponsored for the acquisition of surveillance systems and other technologies of border management for deterrence (Cabot, 2018; De Genova, 2013; Fisher, 2018). Additionally, some countries in Eastern Europe, such as Bulgaria, Slovakia, and Hungary, have served as supplementary barriers to reduce the migratory flow towards the heart of the European continent (FitzGerald, 2019).

In contrast, the Prophet (peace be upon him) assured the honorable treatment of Al-Muhājirūn by Al-ʿAnṣār by the establishment of an accord between the two parties. The alliance provisioned equitable distribution of resources, inheritance between the groups, just partition of immovable property, impartial judicial hearing, equal access to social services, and political participation (Al-Mubarakpuri, 1996). The status of Al-Muhājirūn was codified in the Constitution of Medina with the following legislative clause: “They are one nation to the exclusion of other people” (Al-Mubarakpuri, 1996, p. 189). They were referred to as residents, meaning they had the same access to courts and enjoyed the same socio-economic privileges as Al-ʿAnṣār. They were provided with shelter immediately after their arrival without having to undergo the inconvenience of encampment. Moreover, Al-Muhājirūn had access to the wealth of their hosts after their demise. Al-Muhājirūn were allowed to inherit from Al-ʿAnṣār. The constitutional guarantees of allowance went beyond the bare minimum as Al-Muhājirūn were free to marry the wives of Al-ʿAnṣār (Al-Mubarakpuri, 1996).

Al-Muhājirūn were treated so favorably that Abu Hurairah asked the Prophet (peace be upon him) if the two groups could share the palm tree orchards. This request, however, was not fulfilled on the grounds that the newcomers’ sustained unrealistic expectations for the acquisition of assets could cause the dwellers of Medina to harbor resentment. Hence, the built resentment was likely to have hampered the attempts to maintain peaceful coexistence.

CONCLUSION

In conclusion, it can be said that the international community needs to perform better in terms of providing adequate shelter and services to refugees and displaced individuals. The current measures seem to directly conflict with the arrangements in the Convention. Other issues arise from its design which was tailored to the temporality of a different era. Enclosed in camps and temporary settlements, asylum seekers are not offered a solution

for their ontological, food, and health insecurity. Outside these facilities, they are likely to fall prey to the practices of human trafficking, organ trafficking, or labor exploitation. This reality cannot be completely overturned by resorting to examples from the past, but the moral principles which have governed the hijra should be used to procure relative rectitude in the conditions of those submerged in oppression.

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