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ASSYLM AND SANCUTY IN ISLAM  
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THE ROLE OF QUR'AN SCHOOLS IN DEVELOPMENT OF 
PRE-SCHOOL CHILDREN.  
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ASSYLU M AND SANCTUARY IN ISLAM *

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One of the most poignant ironies of the contemporary world scene is the fact that—despite the promulgation and solemn adoption by various fora of numerous conventions and declarations in which are enshrined some of the finest sentiments regarding the sanctity of human life and the importance of human rights—countless groups and individuals throughout the world continue to suffer myriad forms of humiliation and cruel death. The poignancy of the situation is further accentuated by the fact that the millions who are so maligned often include among their numbers many thousands of refugees who, having already been subjected to traumatic experiences which resulted in their forcible departure or deportation from their homes, are not infrequently denied asylum elsewhere and often made to suffer still more persecution and torment. ¹

Recent examples include not only the famous “boat people” of Vietnam who having been refused asylum in neighbouring countries were then preyed upon by pirates at sea,² but also refugees from the civil war in El Salvador where more than 30,000 individuals have reportedly disappeared or been killed since 1979. Nevertheless those who have survived and tried to take refuge in the neighbouring USA were firmly rejected and systematically deported—the fact that, under the UN Convention and Protocol relating to refugees, they did qualify for asylum, not withstanding.³

Fortunately, however, there are many countries of comparable wealth and ability to offer asylum which have been willing to come to the rescue: one example being Canada which then proceeded discreetly and without much advertisement to admit certain categories of the Salvadorian refugees who had been rejected by the US.⁴

It is interesting to note in this connection that while developed countries whose ability to offer asylum to refugees is almost by definition considerable—tend to offer rather limited opportunities for people who are in need of refugees and are also often highly selective in their intake of such persons, while many LDCs—including some of the Poorest in the world—are willing to admit large numbers which are by far greater both absolutely and relative to the resources at the disposal of the countries concerned. An outstanding example of the latter is

* This is a slightly revised version of a paper which was first presented at the International Seminar on Refugees which was convened in Khartoum, Sudan from 11 to 14 September 1982.

The paper was also presented and discussed at the Seminar on the protection of refugees in Arab countries which was organized by the UNHCR and the International Institute of Humanitarian law at San Remo, Italy, from 16 to 19 January 1984.
Somalia which, with a population of approximately 3.5 millions, has no less than 1.5 million refugees, a figure which is almost equal to half the country's own population. Likewise, the Sudan also one of the poorest 25 countries of the world maintains an asylum policy which has been described as “one of the most advanced and liberal.... in the world” and has, accordingly, given asylum to over half a million refugees mostly from Ethiopia, but also from Uganda, Zaire and Chad.

The fact that Somalia and the Sudan (Like many other countries with comparable records in the treatment of refugees) are predominantly Islamic-and since it is generally agreed that the dominant norms and values (or operative ideals) in any society play important roles in molding the pattern of behaviour of groups and individuals in that society-suggests that an examination of Islam's attitude towards questions of asylum and sanctuary would be well worth undertaking: not only only for its own intrinsic value as an eminently humane and sophisticated system of thought, but also as an aid to understanding peoples and governments in many parts of the world by comprehending the values and principles which, in varying degrees and consciously or un-consciously, inform their attitudes and behaviour in matters of vital importance for humanity at large.

Needless to say, however, a full examination of the issues involved is out of the question in the present context; only a brief outline of the subject is therefor attempted here in order merely to introduce the subject and provide some basis for discussion.

Before considering any of the particular aspects of islam that are directly related to questions of sanctuary and asylum however, it is necessary to take cognizance of two more general but basic points.

First among these is the fact that Islam, unlike, for example Christianity, is not a religion in the sense of being essentially a system of spiritual or moral values which govern relations between man and God. Rather, it is a way of life based on a comprehensive system of values and principles which - while deeply rooted in faith in God and hope for salvation in the hereafter-seeks to inform, guide and regulate all aspects of human existence and experience on earth: spiritual and mundane, personal and social, creative and otherwise. Social, political and economic questions and concerns therefore are of central importance in Islam. In these, as in all other fields of human endeavour, muslim conduct-be it personal, social or governmental is guided (to whatever degree there is conscions commitment to Islam) by certain basic principles which are characterized, among other things, by being, at one and the same time, specific enough to ensure continuity and consistency, and flexible enough to facilitate development and creative adaptation to changing circumstances.

The second point is that, consistently with the nature of Islam as a universal
mission which is addressed to mankind the world over, Islamic states have been in principle (though to a lesser and lesser extent in practice until the prevalence in our own day and age of western-type nationalism and nation states) universal rather than territorially based states. Thus founded on community of faith rather than on ethnic or national basis, citizenship within Islamic states vested in Muslims and non-Muslim persons who were permanently resident (i.e. Dhimmis) regardless of ethnic or local origin. And within Dar al-Islam (or pax Islamica) all citizens, together with non-resident aliens (Musta’ mins), be they traders, tourists or refugees, were guaranteed protection of life, property, honour and freedom of conscience.

If the protection of life, property, honour and freedom of conscience is, in Muslim law, extended to all categories of non-resident aliens (or Musta’amins), a particularly strong moral and legal commitment to the protection of refugees and their rights is enshrined in the corpus of Islamic doctrines and tradition.

For, according to these, individuals, groups and states may, in certain circumstances, go as far as taking up arms and fighting in order to honour their commitments to the protection of those who seek refuge or asylum.

Historically speaking this attitude goes back to the pre-Islamic Arabian tradition of Istijara (i.e. seeking Jiwar literally neighbourliness: a metaphorical expression denoting a request for protection) and Ijara (i.e. the granting or extending of such protection to one who seeks or requests it). While numerous other pre-Islamic Arabian traditions were uncompromisingly condemned and rejected by Islam because they were contrary to its teachings and spirit, the ancient tradition of Ijara and Istijara (which was consistent with the teaching of Quran) was strongly endorsed by Islam and became fully integrated in its laws and ethics. Thus the Quran which, for Muslims, is literally the word of God and the Primary source of all laws and ethical values directs that:

"... If any (one, even) of those who ascribe divinity to aught beside God seeks they protection, grant him protection, so that he might (be able to) hear the word of God (from thee); and then convey him to a place where he can feel safe."

This injunction, especially when read in the context of the chapter in which it occurs, clearly means (and has been understood by successive generations of Muslim scholars and jurists to mean) that protection should be extended by Muslims to all who request it, even if they happened to be unbelieving enemy subjects who had, until then, been engaged in waging war against Muslims.

In Hamidulla’s succinct phrase, it simply means that if any human being asks for asylum and protection, it can on no account be refused.' Hence the only policy vis-avis refugees which could be pursued by a Muslim state or community with the tenets of Islam (however, poor or disadvantaged the said country or community may be) would be an ‘open door’ policy such as has recently been
followed (and is still being implemented) by, for example, Somalia and the Sudan.

The Quranic passage directs, furthermore, that protection once sought-and granted—should be extended until the persons concerned have been safely escorted to a place where they would feel safe and secure.

This, obviously, excludes as totally unacceptable any policy or suggestion which would have the effect of forcing refugees back to the country or countries which they had come from, or on the high seas where they might perish or be preyed upon by pirates.

An interesting and unusual feature of traditional Islamic laws concerning Musta’minn (i.e. non-resident aliens) in general—be they traders, refugees or tourists—is that Amann (i.e. sanctuary, safe conduct or the right to temporary residence in Dar al-Islam) could traditionally be conferred or granted not only by the state and its official representatives, but also be any member of the community including—according to some schools of theought-discerning children. Whether it would be feasible or desirable to extend such practices in present day circumstances may be a subject for consideration, whatever the outcome of such deliberations, however the very fact that laws and practices did exist (and they were all based upon and sanctified by Prophetic precedents which were then followed by successive generations of Muslim jurists and rulers throughout the world) testifies further to the breadth and unparalleled generosity of Islamic laws and values affecting refugees and other categories of Musta’aminun.

Regardless of the manner or procedure by which residence or asylum was obtained, refugees, alongside other Musta’aminun, whatever their faith, origin or background, are entitled in Islamic law, to the same basic right as those enjoyed by permanently resident citizens whether Muslims or Dhimiss (that is non-Muslim citizens). For the basic rule unanimously accepted and repeatedly stated in every compendium of Muslim international law is that:

i.e. in sufferings of this world Muslims and non-Muslims are equal and alike.

Regarding freedom of conscience in particular, the Quran had from the very beginning categorically stated that “There shall be no coercion in matters of faith”.

And on the strength of this categorical prohibition of coercion as Muhammad Asad has correctly stated “all Islamic jurists (Fuqaha’), without ant exception, hold that forcible conversion is under all circumstances null and void, and that any attempt at coercing a non-believer to accept the faith of Islam is a grievous sin.

By the same token, it is needless to say, refugees, alongside other Mustaminun and permanently resident citizens, are expected to abide by the laws of the land
until such time when they will have decided either to settle permanently in Dar al-Islam or be escorted to another place where -in accordance with the Quranic injunction-they can feel safe and secure.¹⁶

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In the light of the above outline, it will be clear that Islamic laws and values pertaining to asylum and the treatment of refugees in general are characterized by such human compassion and practical concern for the interest and welfare of refugees as have rarely, if ever been paralleled or surpassed elsewhere. It is not surprising therefore that states and communities whose policies and attitudes are directly or indirectly inspired by the values and principles in question should - despite their poverty and other limitations - be in the forefront among the nations of the world in the offering of asylum to and the treatment of, refugees.
Notes and References

(1) This was written some four weeks before the savage massacre of Palestinian refugees at Sabr and Chatila in Israeli-Occupied Lebanon between 14th and 16th September 1982.


(6) Christian Science Monitor, 15 Dec., 1980. (By the end of 1985 the figure had risen to well over a million).


Regarding freedom of conscience, the Quraan had from the beginning laid down that 'There shall be no coercion in matters of faith'. And as Asad has commented: 'On the strength of (this) categorical prohibition of coercion in anything that pertains to faith or religion, all Islamic jurists, without exception, hold that forcible conversion is under all circumstances null & void - a verdict which disposes of the wide spread fallacy that Islam places before the unbelievers the alternatives of "Conversion or the Sword".


(9) Asad's above-mentioned translation and commentary on the Quraan (Attawbah. chap. 9.6. 256.)

(10) See Muhammad Ibn Ahmed Al Sarkhsy. Sharhu Kitab al Siyar al-Kabir Li Muhammad Ibn al-Hassan al Shaybani (Ed by Salhuddin al Muajjip, Cairo, 1958, Vol 11, Pp. 453. See also al Qurtubi:
Al-Jam'i Li-Ahkaal al-Quraan, Vol 8, Pp 75-77 (beirut; 1965) and al-Tabari: Kitab Ikhtilaf al Fugahaa (Selections edited by Yousif Schencht) Cairo, 1933, sections 26 and 27.

(11) Hamidullah, p. 73


(14) Quraan 2.256

(15) Asad, Op Cit, p. 57-58.

(16) Quraan 9.6.