

Ethical Framework for the Right to Asylum (Al-Aman) in Islamic International Law As-Siyar

الإطار الأخلاقي لحق اللجوء (الأمان) في القانون الدولي الإسلامي (السِّيَر)

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الإطار الأخلاقي لحق اللجوء (الأمان) في القانون الدولي الإسلامي (السِّيَر)

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Abstract

The concept of granting asylum (aman) to the vulnerable and oppressed persons by the states acquires great importance in Islamic International law. Religion promotes peace and justice and Muslims are obliged to give aman (protection) to every asylum-seeker irrespective of the ethnic, cultural or religious differences. Along with the doctrine of granting asylum A rich ethical framework regarding the treatment with refugees is provide in islamic law provision that include sharing equal rights with the asylum seekers as those of the habitants of the host state, sharing basic necessities dealing them with principles of Ihsan, non-refoulement, and non-discrimination. Asylum seekers face a lot of contemporary challenges all over the world including Ethnic challenges language barriers, different creed, colors, nations .The integration of refugees into the host countries, belonging to different religions and ethnicity; cultural background, norms, values, customs and languages, have been difficult for them because it is strenuous to intermingle into the customs of another state. The movement of vulnerable Muslims draws a different picture than the ordinary refugees because of the Islamophobic tensions in the world, Muslims are lamentably considered as terrorist creating threats in the host western and European states. A rich framework comprising the solutions of the refugee and asylum crises in the current world is provided by the International Islamic Law for the benefit of humanity, it confirms duties and grants rights to the asylum seekers as well as to the host countries. The Ethical frameworks solve the contemporary formulation of policies securing the rights of asylum-seekers.

Keywords: Assluyum Rights, Intrernal Law, Ethical Framework, As Siyar, Humaitarian Laws

Introduction

Asylum (*al-aman*) occupies a central position in Islamic International Law (*as-siyar*) as one of the most significant humanitarian protections. The Qur'ān and Sunnah provide a clear framework that emphasizes the dignity, safety, and security of every human being, regardless of faith, ethnicity, or nationality. Historically, the granting of asylum in Islamic civilization was not only a legal obligation but also a moral and ethical duty rooted in the principles of justice (*'adl*), compassion (*rahmah*), and benevolence (*ihsan*). The Prophet Muhammad (PBUH) himself exemplified these values by ensuring protection to the oppressed and persecuted, thus establishing asylum as an integral component of Islamic governance and international relations.

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In contemporary times, the issue of asylum has become a pressing global concern. Political instability, armed conflicts, religious persecution, and environmental crises have forced millions to flee their homelands in search of safety. International law, through instruments such as the 1951 Refugee Convention, attempts to safeguard the rights of asylum-seekers. However, these frameworks often fall short in addressing the ethical dimensions of refugee protection. In contrast, Islamic International Law presents a holistic approach by combining legal rights with moral obligations, ensuring that refugees are treated with dignity, equality, and fairness.

This study explores the ethical framework for the right to asylum in *as-siyar*, highlighting its relevance to contemporary challenges. It argues that Islamic principles of non-refoulement, equality of treatment, and respect for human dignity can provide meaningful solutions to the global refugee crisis. By bridging traditional Islamic teachings with modern humanitarian needs, this research seeks to demonstrate how Islamic International Law offers not only legal mechanisms but also ethical guidance for the protection of asylum-seekers in today's world.

Asylum in Islamic International Law

The concept of granting asylum (provision of protection) to the vulnerable and oppressed persons by the Islamic states acquires great significance in Islamic International law. Islam is a religion of peace and justice and thus Muslims are obliged to give aman (protection) to every asylum-seeker irrespective of his color, creed, religion or any ethnic discriminations because the motive of Islam is to obtain the basic objectives of Shari'ah. A rich ethical framework regarding the treatment with refugees is provide in Islamic provision that include sharing equal rights with the asylum seekers as those of the habitants of the host state, sharing basic necessities dealing them with Ihsan and non-refoulement. The basic conditions and cases of granting asylum, basic rights given to the protection seeker as provided to the habitants of host state, principles of asylum including principle of non-refoulement, principle of non-discrimination, humanitarian character of the right to asylum and principle of entry of asylum-seekers without permission and its types of Asylum; *religious asylum, territorial asylum and diplomatic asylum*. Islamic law provides us certain limitations regarding the process of granting asylum to vulnerable people but if they attain a criminal background and the purpose of fleeing is to get rid of persecution resulting from a criminal act than no asylum should be given under Islamic teachings. The Arabic word "*istijara*" (seeking protection), is used for seeking asylum and the word "*ijara*" is specifically used for granting protection to the asylum seeker; The term *istijara* literally means, "*Seeking to become someone's neighbor*", this term is metaphorically representing seeking someone's protection, the unanimously used term for protection by majority of the Islamic scholars and jurists is "Aman" that means safe conduct or sanctuary/safety or right to reside temporarily, this term is used for the purpose of prolonging the protection not only for asylum-seekers and refugees but also for foreign visitors, scholars, traders and diplomats, Quran does not limits this offer of asylum to only Muslims but it is open to all everyone who is deprived of basic rights or is treated unfairly he must be given asylum this concept is visualized by the verse "... if any one(one, even) of the idolaters seeks the protection, grant him protection(forthwith)..And then convey him to a place where he can feel safe..."¹ Professor Hamidullah summarize the explained writings of classical scholars and commentators on the Quran (mufasssirun) as al-

¹ Muddathir 'Abd al-Rahim, "Asylum: A Moral And Legal Right In Islam," *Refuge Survey Quarterly* 27:2 (2008):19,

Tabari, al-Qurtubi and al-Razi characterize the above given Quranic passage that; “if any human being asks for asylum, it can on no account be refused”.²

Quran emphasizes leaving a place where one is suffering severe violations of rights, deprivation of dignity, brutality and injustice. This movement is emphasized in Quran by quoting the importance of “spacious world” that is enough above to be settled down or protect one’s life and dignity and enjoins all human rights. It stresses to attain the five objectives of Shari’ah (Maqasad Al Shari’ah)³; if someone is facing persecution, having threat of life, property or is coerced to leave Islam or if he is having the fear of losing his progeny he should leave that place and seek asylum to other states. “Those who believed, and adopted exile...., as well as those who gave (them) asylum and aid,-these are (all) friends and protectors, one of another.”⁴ At another place it is said that;

*“Weak and oppressed were we in the earth of Allah spacious enough for you to move yourselves away (From evil)?”*⁵

The granting of asylum is not limited but it is open to all needy persons facing persecution, threat of life or any cruelty and inhumanity, without any prejudice. In Surah Taubah Allah SWT Says; “If one amongst the pagans ask thee for asylum, grant it to him, so that he may hear the word, of Allah; and then escort him to where he can be secure.”⁶ In the verse 36 of Surah An-Nissa it is made obligatory to treat the neighbors fairly, the word used for neighbors is al-jar and it is mentioned before the istijara (seeking protection) is used to become someone neighbor so in this context the rights of neighbors may be applied on AS; ⁷“...and do good-to parents, kinsfolk, orphans, those in need, neighbors who are near, neighbors who are strangers...”⁸ The teachings of Quran along with the personal example of Prophet and his companions illustrates the significance of seeking as well as granting asylum. One of the prominent example is the asylum given by the king of Abyssinia (modern Ethiopia); king Negus⁹ (Najashi) to Prophet and his followers in in 615 CE.

In 622AD, our beloved Prophet got asylum in Madinah fleeing from persecution in Makkah, this movement from a place of oppression to a place of safety symbolizes the concept of asylum and the amicable and cordial treatment of people of Madinah epitomizes the Islamic model of refugee protection.¹⁰ “There is no leader who closes his doors to the needy, the

² Muddathir ‘Abd al-Rahim, “Asylum: A Moral and Legal Right in Islam,” RSQ 27:2 (2008), 19.

³ Kamali, “Al-Maqasid Al-Shari’ah” (2015).

⁴ Al-Anfāl, 8:72.

⁵ Al-Nisā’, 4:97.

⁶ Al-Tawbah, 9:6.

⁷ M. Shafi, Ma’ariful Qur’an, trans. Muhammad Shamim, rev. Maulana Muhammad Taqi ‘Usmani, vol. 2, p. 434.

⁸ Al-Nisā’, 4:36.

⁹ S Nazneen Agha, “The Ethics of Asylum in Early Muslim Society,” RSQ 27: 2 (2008): 30–40.

¹⁰ “HC’s Dialogue, 2012.

poor, and the destitute except that Allah Will close the door of heaven to his poverty, neediness, and destituteness”.¹¹

And the asylum granted by any Muslim is to be secured by all the other Muslims, and whoever betrays a Muslim in this respect will incur the same (Curse).¹²

The following hadith reflects the fundamental Islamic principles regarding equality, mutual support and the sanctity of life among believers. “The lives of the believers are equal in value, and they hasten to support the asylum granted by the least of them...”¹³

Having mercy and kindness is one of the basic duty of Muslims as said by Prophet “He is not one of us who does not have mercy upon our young, nor knows the honor of our elders.”¹⁴

1.1. Islamic Ethics towards asylum

In the light of prophetic teachings following are some ethical values government should carry on while establishing rights for the refugees ¹⁵

- i. **Seeking protection and leaving the place of oppression** Any person who is living in an oppressed territory or facing persecution is obliged to leave that place and seek protection of an Islamic society, Muslims are bounded to provide such people safety without ethnic ,religious ,nationality or identity differences.
- ii. **Giving Aman to the non-Muslims** Muslims are ethically bounded to provide aman (safeguard) to the non-Muslims asylum- seekers because humanity and justice acquires great importance in Islam, in this way non-Muslims are on great chance to be converted into Islam by experiencing its modernity and wideness but they are not forced to embrace Islam;
- iii. **Sharing Basic necessities** When Prophet along with the oppressed people of Makkah left Makkah and entered the peaceful territory of Madina than Ansar shared their homes, food, clothes, trade and properties etc.
- iv. **Equal rights as the habitants of the host states** Asylum seekers would be equally enjoy the benefits and rights as the native citizens of the host state like right to education, family ,food medical ,shelter ,work and free movement;

In Islam granting asylum to those who are suffering from injustice or violation of rights, is a moral obligation upon the state and is obligatory to give them protection. It may be religious, territorial or diplomatic.¹⁶ Khaled Ramadan Bashir quotes the definition of aman (asylum) by Khadduri in his book; *Islamic International Law: Historical foundations and Al-Shaybani'Siyar*; It defines in the article 6 of ACSR in the Arab Countries Adopted by the League of Arab States, 1994, that ‘**granting asylum is a peaceful and humanitarian act and shall not be deemed by any state as a hostile act against it**’ furthermore to mention the non refolement of AS it is said in article 9 ‘the country of asylum in cooperation with the

¹¹ Tirmidhi, the Chapters on Judgements from the Messenger of Allah, Ch. 6, 1332.

¹² Sahih al-Bukhari, Book of Jizyah and Mawaada'ah, Ch. 10, 3172.

¹³ An-Nasa'i, The Book of Oaths (qasamah), Retaliation and Blood Money, Ch. 13, 4745.

¹⁴ At-Tirmidhi, Chapters on Righteousness and Maintaining Good Relations with Relatives, Ch. 15, 1920.

¹⁵ Ibid. Agha, 30–40.

¹⁶ Khadija Elmadmad, “Asylum in Islam and in Modern Refugee Law, “*Refugee Survey Quarterly* 27:2 (2008): 51-63,

country of origin, shall make appropriate arrangements for the safe return of refugees willing to return home'.¹⁷

1.2. Conditions for granting asylum in Islamic Law of Siyar

Asylum is given after the attainment of the following conditions:

- I. **The person should be living in an Islamic territory;** This is the first and foremost condition for granting asylum, Islamic territory is specifically the place where Islamic Shari'ah is implemented and all its habitants Muslims as well as Non-Muslims enjoys the "Amman" protection there. The difference of opinions of Muslim jurists regarding Muslim territory is According to Imam Abu Hanifah is;
 - a) Where Shari'ah rulings are implemented;
 - b) It is neighboring to a Muslim land;
 - c) Its habitants Muslims and zimmi (non-Muslims) enjoy aman of Muslims;
- II. **All motives for asylum are equal in Islam** Islam does not restrict the granting of asylum to a specific group like only those who are fleeing from persecution but it allows everyone who wants to embrace Islam or simply wants protection from Muslims but only for valid reasons;
- III. **Unwillingness of asylum seekers to return to state of his nationality:** When a person leaves his country and enters into a IT for protection, it is determined by his decision not to avail himself back to his nationality's state facing the fear of his life or else, protection is given to such person by state as well as by individual person bringing off the concept of aman;
- IV. **The asylum should not be contradicted to Shari'ah rulings;** As discussed above the reason for giving asylum is to attain the objectives of Shari'ah, if the person demanding safety has done actions that are prohibited in Islamic rulings can never be given any protection in IS;

According to Hanafi Jurists some basic conditions are defines for those who can grant asylum and the categories are:¹⁸

- 1) Insane or immature individual is not liable to give asylum
- 2) Only adult, mature and sane person can grant aman to the AS.
- 3) Non-Muslims and dhimmis living in an IS cannot supply aman to anyone in the Islamic land because they are not trustworthy as Muslims and may be doubtful in their actions.
- 4) Muslims living in a non-Islamic lands (Dar ul kufr) would not be entitled to offer aman (protection) to others, according to four Sunni school of thought.

1.3. Principles governing the right to asylum The principles governing asylum are the rules of conduct applied to achieve the goals of providing asylum and are as follow¹⁹:

1.3.1. Principle of non-refoulement: The most significant principle that was first introduced by Islam is the non-returning of refugees to the place where they face degradation and fear of basic rights.

¹⁷ League of Arab States, "Arab Convention on Regulating Status of Refugees in the Arab Countries," *refworld*, 1994,

¹⁸ Dr. Mufti Muhammad Anas Rizwan, "The Solution for Asylum Crises around the World: International Law Needs Help from Islamic Law," *Research Journal Al-Meezan* 4: 2 (2022): 140.

¹⁹ El-Wafa, 53.

1.3.2. Principle of non-discrimination Basic human rights must be equally provided to all humanity independent of any differences in Islam and it is signified in the Quranic teachings, “*We have honored the sons of Adam...*”²⁰ it reflects the equality of all human beings at another place it is said “*He created you (all) from a single person...*”²¹

1.3.3. Principle of humanitarian character of the right to asylum Granting asylum to the needy and facing hardships regarding violation of basic human rights or brutality is an act of humanitarian character. It reflects services to humanity by creating an environment of peace, passion and tranquility. As the time passes situations according to circumstances are gradually changing so such principles are in need to be modified with the lapse of time realizing interests and fending off the harms expected to the AS.

1.3.4. Principle of entry of asylum seekers without permission²² There is a consensus of Muslim Jurists about not punishing the AS who enters the Muslim territory without the permission of the state he would not face any penalty regarding illegally crossing the borders of an IS. This view is based on the long-lasting traditions, customs and noble manners of Muslims and Arabs providing protection to the aman seeker.

1.4. Types of asylum in Islamic international law

There are three types of asylum in IIL; religious, territorial and diplomatic and are explained as following²³:

1.4.1. Religious Asylum

Religious asylum is divided into two forms under IL; The purpose of granting and seeking this type of asylum is specifically for the purpose of hearing the Quranic commandments and messages from Almighty God). The sanctuary and honor of the Holy Ka’ba is mentioned at various places of Holy Quran. It is said that; “Remember We made the House a place of assembly for men and a place of safety...” (2:125)

1.4.2. Territorial Asylum

It is the type of Asylum which is granted within the borders of IT (Darul Islam) where the sovereign state has exclusive control over its territory and Islamic land is particularly where Shariah rulings are applied. It has many forms but we are discussing the following once

1.4.2.1. Granting asylum by state authorities

The decision makers of the IS it may be the head of state i.e. Leader of government (decision made with strong emphasis of principle of Shura). In the reign of Caliph Umar ibn al-Khatab (R.A.) Zauraba ibn Barzag the governor of a Roman area (who was having the fear of unsafety) sought asylum with to Saad ibn abi-Waqqas a Muslim leader.

1.4.2.2. Granting asylum by individuals

There is no limitations of granting private aman by an ordinary person (a women or men) or by state authorities every one including the Sultan should respect it. This concept is contravene to the ancient Arab customs where when a dignitary or high rank person grant

²⁰ Al-Isrā’, 17:70.

²¹ Al-Zumar, 39:6.

²² Ibid. Rizwan, p.140.

²³ El-Wafa, 81-139.

aman to an AS than no one else a superior could grant him asylum. This view is based on the following tradition; It is narrated from Ibn ‘Abbas that Prophet (PBUH) said:

“The blood of every Muslim is equal, they are one hand against others. The asylum offered by the lowest of them in status applies to them (all), and the return is granted to the farthest of them.”²⁴ In Islamic International law it is permissible to grant asylum by individuals following are some examples in support of this view:

1.4.2.3. Asylum in the form of migration (Hijrah)

It is obligatory upon Muslims to migrate to another land of peace if they are facing persecutions and are depressed; many Quranic injunctions shows the importance of Hijrah;

*“Those who believed, and adopted exile, and fought for the Faith.....as well those who gave (them) asylum, these are all friends and protectors, one of another ...”*²⁵

1.4.2.4. Muslims seeking asylum in non-Islamic states

It is the most crucial and controversial topic that weather a Muslim can seek asylum in non-IS or not? From Quranic and Sunnah perspective it is not permitted to live among kafir; Hazrat A’isha (R.A.) narrated that The Messenger of Allah (PBUH) *“We do not seek the help of the polytheist.”*²⁶ According to the general rule it is not allowed to seek asylum in a non-IS but if

he is oppressed not found any IS for seeking protection and he is depressed facing persecution he can seek asylum in non-IS (Dar ul kufr) but if he found asylum in a Muslim country than he would not be not allowed to reside in Dar ul kufr because there is a fear of being restricted to carry out Religious obligations.

1.4.3. Diplomatic Asylum

Diplomatic asylum is associated with permanent diplomacy by the establishment of the embassies, provision of permanent premises and residencies in the present world, The roots of diplomatic asylum can be extracted from the following tradition when aba-Rafi a bondsman of Prophet (PBUH) was sent by Quraysh as a messenger but his heart was overtaken by Islam and he refused to go back, Prophet (PBUH) replied; *“I won’t retain a messenger...”*²⁷

1.4.4. Diplomatic intervention in case of territorial asylum

It occurs sometimes that a state may demand the return of a refugee from the host country and it usually happens in issues related to politics e.g. In 360 AH Ward fled a Byzantine rebel took asylum in Islamic Abbasid state and Byzantine demanded his return again and again at last the ruler of Islamic Abbasid State return him but after confirming his safety and security.

1.5. Limitations of granting asylum under Islamic international law

Asylum is restricted to those who are indulged in criminal activities as we know that the basis of providing asylum is to protect humanity and criminals motive is totally opposite to the motive of asylum for that purpose the offenders and the culprits are not provided any safety for saving the lives of other common persons. According to the Article 12 of CD on human rights it is prohibited to provide asylum to those whose reason for seeking protection is due to

²⁴ Ibn Mājah, the Chapters on Blood Money, Ch. 31, 2683.

²⁵ Quran 8:72

²⁶ Ibn Majah, The Book of Jihad, Ch. 27, 2832

²⁷ El-Wafa, 135.

some criminal activities.²⁸ Article 28 of ACHR also limits the provision of political asylum to a person facing persecution for an offense under ordinary law.²⁹

1.6. Challenges for Asylum-Seekers in International Law

as compare to the international conventions on refugee's rights are specified for those who get the status of refugees but Islamic law regulates the sanctuary of asylum-seekers even before containing the official status of being refugee that means granting protection before, during and after the application procedure of refugees. The humanitarian crises of 21 century forced millions of people from their countries in search of asylum, these rising issues have dragged attention of state governments, international organizations and groups of civil societies, among these diverse responses Islamic framework performed a vital role for protecting refugees significantly in those localities where religion is the essence of political and social life, the solutions are drawn from Qur'anic and Prophetic (PBUH) traditions, ethical and legal framework of Islamic Jurisprudence based on principles of equality, empathy and justice.³⁰

1.The political challenges to Assylum Seekers

The international issue regarding geopolitics the suggested solutions to overcome political tensions for the assimilation of AS and the refuges in the HS are:³¹

- a) Understanding the basic causes of political problems: The factors influencing the geopolitics must be known and identified in order to find targeted and long term solutions.
- b) Formulation of peace policies: peace policies should be developed and signed by all states and policy makers must introduce the limitations to be bounded by those policies, it should be worked on global level to harmonize the world political issues.
- c) Negotiation and conversations: in case of conflicts communication and open dialogues are required among the interested parties to find out the way of peace.
- d) Formation of international organizations: formation of organizations on international level will be help full to manage the rising conflicts related to geopolitics. The attention of world organizations working on international relations and developmental programs is needed to solve the contemporary political issues.
- e) Diplomatic engagement: it would help to promote cooperation on regional level and would oversight the problems internationally.

The above steps would allow the peaceful residency of asylum seeking groups in the host countries without being challenged by geopolitical tensions.

2. The economic challenges to Assylum Seekers

Majority of the UC and DS fail to offer protection to the AS due to their economic crises and financial burdens, they give up to manage refugee expenses of health, education, employment, residential needs and other social necessities but Islam provides us the solution

²⁸ Islamic Texts Society, *Human Rights in Islam* (Cambridge: Islamic Texts Society, 1990),

²⁹ HCHR "Arab Charter on Human Rights" (Cairo, 2004).

³⁰ Samreen Tahir, Kiren Nishat, and Kiren Khurshid, "Islamic Responses to Global Refugee Crises," *International Journal of the Universe and Humanity in Islamic vision and Perspective* 1:2 (2024): 56.

³¹ Ibid. Jahn, "World Political Challenges," (2015).

to this problem in the form of promoting charity, zakat, social welfare programs, avoidance of extravagant natural resources, and equitable distribution of resources.³²

Applying these principles would influence the economy of the country in a positive way leading them towards the protection and security of the AS and refugees.

3. Recycle the Natural resources to overcome economic challenges

Islam encounters the economic challenges by the believe that all the natural resources are from Almighty Allah He is the Creator and Provider of everything, He is the Razzaq and we should rely on Him in matter of fear of failing to provide sustenance to the coming AS due to bad economy. The basis of this reliance is quoted in several places in Holy Quran;

All treasures of the heavens and the earth belongs to Allah (Surah Munafiqun: 7), Allah SWT Has flourished and expanded the earth that men walk in its spacious space (Surah Nuh: 19-20), Allah SWT sends the rain down (Surah Luqman: 10), Allah send from sky with which He produces pairs of many types of vegetation (Surah Taha: 53).

The economic challenges faced by developing and UC should be encounter by forming an integrated approach introducing “refuge economy” giving rise to the allocation of resources to economically stable the lives of refugees. AS should be empowered by focusing on refugees’ abilities and skills to assist them to be self-reliant, this would rise the economic prosperity in the host countries. Furthermore, the receiving states of AS should provide work opportunities to let them integrated into the country’s’ economy successfully. The partner ships of private companies of the asylum countries with UNHCR can creates small businesses of livestock, farming and others etc. to enhance the infrastructure including roads, buildings, public places, roads etc., fulfill the human basic needs, creates jobs, introduce unique working ways and create new markets.

4. Religious challenges to International Humanterian Laws

Following steps should be taken to resolve the religious challenges faced by asylum-seekers and refugees:

- a) The conflicts raised by the difference of religions can be solved by the profound and in depth understanding of religions.
- b) There must be initiated an international scheme where people are being learnt how to respect other religions
- c) The hate factor should be reducing in different religious communities by the public awareness of being tolerant to other’s religions.
- d) To promote religious liberty one should have tolerant behavior to other religious entities.

If people teach their children that Muslims are terrorist or Hindus are extremist or Christians being non-Muslims should be hated than how can we expect a peaceful environment in the world, this animosity would bring destruction and loss of human lives which acquired a status of sacredness in Islam. Islam teaches us not to abuse the gods of disbelievers; (*Believers*), *do not say bad words against the idols*³³ if we spread hate we will ultimately receive hate so we should learn how to respect each other irrespective of the differences of religious beliefs, we

³² Hassan Ibrahim, “Islamic Responses for environmental resource Conservation,” *LinkedIn*, 2023.

³³ Al-An ‘ām, 6:108.

must be tolerant to each other.³⁴ Following are some steps to be taken for the solutions of religious conflicts:³⁵

- a. Disregarding the violence by political and religious leaders
- b. Open debates and communication
- c. Need of Global citizenship
- d. Continuation of peace policies

After taking the above discussed steps it is duty upon the leaders to keep this environment of global citizenship secure and to make policies for further implementations of the strategies that obliges the people not to criticize any person on the basis of religious differences.

In this way the AS and the refugees would be at safe place without being criticized on the basis of religious differences.

5. Access of Asylum-seekers to health care programs

Refugees usually fail to access health care in the hosting countries due to delay in their documentation and legal process it is suggested by UNHCR to remove legal stipulation and let them approach health care centers. Authorities of health department and decision makers by modified legislation should introduce free consultations to medical staff because some non-governmental health centers usually don't treat refugee patients due to the fear of non-payment, hospitals and clinics should be built specifically for asylum-seeking community for avoiding the local over crowded hospitals, further more availability of medicines and provision of significant knowledge about hygiene and self-care should be confirmed in refugee camps. Refugee communities reach in the host countries without their medical history and it causes problem to doctors to identify the diseases so for this issue *International Organization for Migrants* should develop a system to exchange the medical records of refugees from their country of origin.³⁶

Under the teachings of Islamic Shari'ah every religion should be respected and no community other than the religion of Islam should be criticized or deprived of basic human rights, as mentioned in Quran; *there should be no compulsion in religion (2:256)*, it is ordered, *not to argue with the people of scriptures except a best way (29:46)*, *Do not Abuse their Gods (6:108)*, it is prohibited for one community to make fun of other community (see Quran 49:11) here is not mentioned "not make fun of Muslim community" instead it may be any community other than Muslim

Addressing Islamophobia tensions need political authorities, governments, religious scholars, civil society members and more importantly media coverage groups to promote tolerance, debates among different religious groups and interfaith literacy it will help to clearly represent the true picture of Islam, further more respecting and listening to the point of view of each other would foster a peaceful environment where equal rights will be provided to all refugees facing islamophobia and other religious problems in the host countries.³⁷

³⁴ Amna Shaukat, "Religious conflicts around the globe and a solution," *Modern Diplomacy: All views, All voices*, October 15, 2020.

³⁵ Simone Haruko Smith, "A Simple Solution to Religious Conflict," 2022.

³⁶ Antonio Chiarenza, Marie Dauvrin, Valentina Chiesa, Sonia Baatout4 and Hans Verrept, "Supporting access to health care for refugees and migrants in European countries under particular migratory pressure," *BMC health services Research* 19:513(2019):7-8.

³⁷ Chiarenza et al., *BMC Health Services Research*, 19:513 (2019):3-4.

1.7. Implementation of Maqasid Al-Shari'ah (Objectives of Islamic Law) for sustainable International Law for Assylum

Islamic law provides a rich framework comprising the solutions of the refugee and asylum crises in the current world for the benefit of humanity, it specifies duties and grants rights to the asylum seekers as well as to the host countries. After Prophet's (PBUH) movement towards Madinah he (PBUH) established a charter (Madinah charter/pact of Madinah) governing the relations between Muslims and other religion's followers living in Madinah. Islamic Law gives us an exclusive foundation for the purpose of solving the refuge problems and Islamic guidelines are enough for dealing with the global refuge challenges at this time, Islam provides us several laws regarding the protection of asylum-seekers: Aman and Dhima to solve the regional crises like the settlement of the refugees in the host states. Furthermore, Islam teachings emphasizes on the concept of Hikmah (wisdom) which is helpful in every stage and every ground of life, it helps to think intellectually by utilizing all of the sense granted by almighty Allah in a correct manner to achieve the specified goals and establish a firm position competing with the contemporary world. The Muslim leaders are required to think intellectually to improve the economic system for achieving their targeted goals to be shifted from underdeveloped to developed countries. Maqasid Al-Shari'ah acquires great significance for the sustainable economy in the contemporary era, it can be applied by the way of promoting trade, financing, resources allocation and distribution. In the sectors dealing with financing, principles of justice and honesty, avoiding the haram ways of earning like usury, corruption, bribery and fraud can lead to a sustainable and growing economic system. Islamic banking is required to introduce schemes free of the prohibited ways of earning and to promote the projects working for the benefit of the community programs to engage the youth in the development of economy.

The provision of rights in Islam is not confined to Muslims but provided to all humanity. All humans are created from Adam the father of all humanity as said in Quran "*single soul*"³⁸ is used, Similarly Prophetic tradition forms the basis of non-discriminatory behavior among people.

It is based on the principle of justice (42:15, 16:90) that Islamic law stipulates the regulations for the security of vulnerable groups including women and child refugees who are at risk, even if they are non-Muslim. Following the establishment of brotherhood between *Muhajir* and *Ansar* by Prophet (PBUH) it was said that; "*The rights of migrants are the same as those of their hosts,*"

There should be an over reaching program referring to the application of an institutional policy to recognize the discriminatory barriers for asylum-seekers. Refugee communities targeted by racism should be invited to take part in world conferences and put in front their cases. Internationally keeping in view the discriminatory challenges faced by AS it is suggested that; Governments and agencies should adopt a human rights strategy to the multilayered discriminations of gender and racism among refugees providing all human rights in spite of their official status in the host countries.

International organizations working on human rights like UDHR or other conventions are required to introduce new policies for the interest of eliminating every type of discrimination based on sexism, religion, cultural background, language and nationality differences and gender based discrimination. States by suing the legal instruments and protective tools should

³⁸ Al-Nisa', 4:1.

work on the protection of ethnic minorities groups of AS. There is a need of establishing new organizations like International Labor Organizations (ILO) on the account of increasing population of displaced persons due to rising conflicts and wars among different countries, to implement the principle of non-discrimination.

Conclusion

It is concluded that IS have to revive the implications of IIL in the contemporary world to resolve the prevailing challenges of AS and refugees. International law needs guidance from IL to promote the peace, equality and non-discriminatory behavior towards the PS. Furthermore, it is suggested that Islamic and non-Islamic world should work on one platform and formulate such policies by the taking the collaborative and cooperative measures and build a middle way to get rid of Islamophobia and other religious challenges faced by Muslim migrants. the concept of asylum, asylum rights, conditions, and the principles of asylum under the rules of IIL (As-Siyar). It further examined the ethics of asylum including kind behavior, provision of equal rights as provided to the habitants of HS, non-refoulement, and non-discrimination towards the PS. The limitations of giving aman to the AS are discussed in this chapter which limits granting asylum to those who possess criminal background and fleeing from persecution due to commission of a crime.

Recommendations and Suggestions

* **Integration of Ethical Principles in Policy Frameworks**

Policymakers should incorporate Islamic ethical principles—such as justice (*‘adl*), compassion (*rahmah*), and benevolence (*ihsan*)—into national and international asylum policies to ensure protection and dignity for asylum-seekers.

* **Promotion of Non-Refoulement Principle**

States must strictly uphold the principle of non-refoulement, as emphasized in Islamic international law, to protect refugees and asylum-seekers from being returned to places where their lives or freedoms are at risk.

* **Equal Rights and Social Inclusion**

Host countries should provide refugees with equal access to basic needs such as healthcare, education, and employment, enabling their smooth integration into society while respecting their cultural and religious identity.

* **Awareness and Capacity Building**

Governments, NGOs, and religious institutions should conduct training programs to educate communities about the Islamic ethical obligation of offering protection (*aman*), thereby reducing Islamophobia and discrimination against Muslim refugees.

* **Collaboration between Islamic and International Law**

A cooperative framework should be developed where Islamic International Law (*as-siyar*) and modern humanitarian law work together to resolve refugee crises more effectively and to strengthen global humanitarian standards.



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