AL-SHAJARAH

JOURNAL OF ISLAMIC THOUGHT AND CIVILIZATION
OF
THE INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA (IIUM)

SPECIAL ISSUE:
MIGRATION AND REFUGEE STUDIES

2018

AL-SHAJARAH

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RETHINKING UNHCR AND OIC RESPONSE TO FORCED MIGRATION[1]

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Abstract

Climate change, population trends, and uneven socioeconomic development have produced a world with unprecedented numbers of people migrating in search of a better life, being forced to leave their homes and countries of origin. As of the end of 2017, the UNHCR estimated that there are 68.5 million refugees worldwide, the highest number ever, which is generally increasing due to the influx of large numbers of people from conflict areas. The international community has never witnessed such a wide scale disaster and demographic challenge as forced migration. The UNHCR and the OIC are among the key organizations that have endeavored to protect forced migrants. However, their response is generally viewed to be inadequate and ineffective, suffering from some gaps, and being confined to conventional humanitarian models that do not address the root causes of the problem. Hence, this paper reflects on the UNHCR and the OIC forced migration governance, response, and protection systems. It also recommends sustainable responses to forced migration issues.

Introduction

Human mobility on the individual and group levels are an intrinsic part of human experience and history. Humans have always migrated from one place to another searching for subsistence and safety, and this comprises the essential form of life for many indigenous communities. However, historical evidence shows that many great migrations in human history have been involuntarily, caused by the expulsion of some peoples by others from their areas of origin. There are always pushing and pulling factors that cause forced migration. Pushing factors include war, violent conflicts, political and social exclusion, organized crime, terrorism, natural disasters, and famine. Pulling factors comprise the obverse of these, such as peace, toleration and equality, the rule of law, and the prospect of socioeconomic development.

Most refugees believe that Western countries provide safe refuge, a stable situation, democracy, fundamental freedoms, respect for human rights, better living conditions and opportunities. With this belief, millions of persons venture to cross international borders, risking their lives in an attempt to seek protection. The UNHCR's figures show that the numbers of forcibly displaced persons and refugees in the world today are the highest ever recorded. As of the end of 2017, there were some 71.4 million people of concern to the UNHCR worldwide, with nearly 31 people displaced every minute of the day. The most egregious cases include the large numbers of refugees fleeing conflict and violence in Afghanistan, Iraq, Syria, and Yemen. In view of the ever increasing numbers of internally displaced persons (IDPs) and refugees, the international community is questioned and blamed for its unsustainable response and for not making the world a safe place for millions of human beings.

The United Nations High Commissioner for Refugees (UNHCR) and Organization of Islamic Cooperation (OIC) are among the leading international organizations that have made remarkable efforts to protect forcibly displaced people. However, their response was viewed as inadequate, ineffective, and confined to the conventional humanitarian model. Moreover, tackling the root causes of the problem and providing 'durable' solutions, which the UNHCR has attempted to achieve for almost 70 years, most often remains an

unattainable goal. The attempt to circumscribe and investigate the different responses of the international community to forced migration situations falls outside the aim and scope of this research. Therefore, the aim here is to critically review the UNHCR and OIC current governance, approaches and protection system concerning forced migration issues and ultimately explore possible recommendations for sustainable responses.

Rethinking the UNHCR's Response

The following discussion is a critical reflection on the UNHCR's response to forced migration. It particularly focuses on analyzing the factors that hinder UNHCR from a full realization of its mandate and cripple its capabilities to sustainably respond to forced migration situations and needs.

The UNHCR was created in 1950 and it has been recognized and commended for its hard work in supervising the refugee regime and assisting refugees around the world.[2] 148 states have acceded to the 1951 Convention and its 1967 Protocol.[3] The UNHCR is the largest refugee agency in the world, as of 31 May 2018, it employs 11,517 staff members of whom around 87% are field-based operating in 128 countries.[4] There was a sharp increase in the UNHCR's people of concern from 63.9 million in 2015, and 67.7 million in 2016, to 71.4 million in 2017, with one person forcibly displaced in every two seconds. The ratio of the UNHCR staff members to people of concern is approximately 1:6172. This very low ratio increases the burden of the organization to attend to the needs of the persons of concern, particularly in conflict and war zones where logistical support and resource utilization is further undermined.

The UNHCR's Statute clearly indicates that the organization is strictly non-political. However, there is some confusion as to what 'non-political' actually means and how the UNHCR can undertake its mandate of protection of refugees and supervision of the 1951

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[2] UNHCR, "UNHCR History", accessed October 25, 2017, http://www. unhcr.org/history.

[3] UNHCR, *Global Report 2017,* 4 accessed July 19, 2018, http://www. unhcr.org.

[4] UNHCR, *Global Report 2017,* 4 accessed July 19, 2018, http://www. unhcr.org; "Figures at Glance", accessed July 19, 2018, www.unhcr. org/figures-at-a-glance.

Convention without being engaged in politics. Forsythe noted that Article 2 states that the organization has to be a strictly non-political agency in order to fulfill its humanitarian role, which transcends political considerations; however, he observed that protection is not value-free, because it urges a type of public policy that benefits individuals regardless of nationality or other social distinctions. Forsythe argued that, as far as Article 8 authorizes UNHCR to "supervise" the refugee Convention, some political activities are required, albeit these should be fundamentally different from pure advocacy groups like Human Rights Watch and Amnesty International. However, the work of the UNHCR requires cooperation from states, and it can only engage in persuasion based on the norms of its mandate and its reputation for action faithful to its mandate, which is chiefly delineated by international refugee law and creative diplomacy. Forsythe concluded that the overall mandate requires the UNHCR to be a political agency in the sense of trying to influence public authorities to protect refugee-like situations, and avoiding this reality would be to abandon the *raison d'etre* of the agency. The agency therefore has to exert influence, persuasion and negotiations, lobbying and advocating for persons of concern, but otherwise it is non-partisan.[5] Loescher pointed out that in many circumstances, the UNHCR has to play a political role to eliminate the political and institutional constraints to the functioning of the global refugee regime, which obstruct the fulfillment of its mandate, and it must practically facilitate cooperation between donor states in the global North and host states in the global South.[6] However, some observers noted that on occasions the UNHCR leadership has been too publicly and candidly aligned with key donor governments and their governmental organizations.[7]

The fundamental mandate of the UNHCR is to supervise the 1951 Refugee Convention, and coordinate with member-states and the

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[5] David Forsythe, *UNHCR's Mandate: The Politics of Being Non-political* (USA: University of Nebraska-Lincoln, 2001), 1–2, 11–16.

[6] Gil Loescher, "UNHCR and Forced Migration," in *The Oxford Handbook of Refugee & Forced Migration Studies,* eds. Elena Fiddian-Qasmiyeh et al. (UK: Oxford University Press, 2014), 217–219.

[7] Forsythe, "UNHCR's Mandate", 29–30.

international community at large to cultivate cooperation towards providing protection to persons under its concern.[8] However, not all states who acceded to the 1951 Convention are committed and their "compliance with the Refugee Convention and Protocol has been begrudgingly half-hearted, and tepid at best".[9] The context of the 1951 Convention, and the establishment of the UN in general, was predicated on dealing with the legacy of displacement due to the Second World War, which while vast and terrible in scope was essentially a one-off historical event. Subsequent experience has shown that mass displacement is rather an integral feature of modern geopolitical and socioeconomic life, requiring long-term solutions and permanent institutions offering a variety of solutions for refugee issues.

Consequently, there are many who question the fundamentals of the UNHCR's theoretical framework. In general, most scholars have observed that the UNHCR's definition of 'refugee' and 'protection' are problematic, and that this contributes to the inefficiency and inadequacy of its response. For instance, the 1951 Convention's definition was viewed as "too arbitrary or narrow to provide a plausible normative account of who is owed asylum",[10] while Kerwin highlighted the narrow understanding of the refugee and asylum standards proffered by the agency.[11] Moreover, Christensen and Harild criticized the notion of protection because it is primarily viewed as a humanitarian model rather than a development model.[12] Long went even farther and stressed that "the

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[8] UNHCR, 1951 Convention and Protocol Relating to the Status of Refugees (Geneva: UNHCR, 2010), 1–34.

[9] Donald Kerwin, "The US Refugee Protection System on the 35th Anniversary of the Refugee Act of 1980", *Journal on Migration and Human Security* 3, no.2 (2015): 5.

[10] Mathew J. Gibney, "Political Theory, Ethics and Forced Migration," in *The Oxford Handbook of Refugee & Forced Migration Studies,* eds. Elena Fiddian-Qasmiyeh et al. (UK: Oxford University Press, 2014), 49.

[11] Kerwin, "The US Refugee Protection System", 6.

[12] Asger Christensen and Niels Harild, "Forced Displacement- the Development Challenge", *Conflict, Crime & Violence,* Issue Note, (2009): 16–17.

international refugee regime was designed not just to protect refugees, but to solve refugee crises".[13]

The UNHCR has made some efforts to attend to these conceptual issues, in its Comprehensive Refugee Response Framework (CRRF), epitomized in the New York Declaration for Refugee and Migrants, adopted by all 193 Member-States of the UN General Assembly on 19 September 2016.[14] The adoption of this Declaration was viewed as a pivotal moment because it has refined the international protection regime and paved the way for achieving a more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees. However, while comprehensive, its main objectives are not necessarily exhaustive. For example, there are no preventive measures or strategies to work outside the UNHCR's conventional methods, namely repatriation and resettlement. Moreover, the CRRF is obviously inapplicable to some cases like the Palestinian refugees, because any sustainable solutions to their problem would be predicated on the immediate end of the Israeli occupation of Palestine.

Additionally, the UNHCR has adopted a new protection community-based approach, which involves fostering the participation of refugees and IDPs in decisions that affect their lives. However, it requires engaging international financial institutions, such as the World Bank, and enhancing and/or expanding partnerships with NGOs. Further endeavors to respond to the protracted refugee crises have included engineering a shift beyond existing humanitarian models towards a comprehensive people-centered refugee response model.[15] This reflects a fundamental recalibration of the way refugee issues are viewed, and acknowledgement that the current system is incapable of handling migrant flows. Paradoxically, "there are more refugees than at any time since World War II and it is quite clear that there is a crisis of the global refugee system for handling these

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[13] Katy Long, "Rethinking 'Durable' Solutions," in *The Oxford Handbook of Refugee & Forced Migration Studies,* eds. Elena Fiddian-Qasmiyeh et al. (UK: Oxford University Press, 2014), 475.

[14] United Nations, "The New York Declaration for Refugees and Migrants" accessed October 15, 2017, http://undocs.org/a/res/71/1.

[15] UNHCR, Global Report 2017, 8–10.

flows".[16] Loescher situates this within the context of the political failure of the international community to effectively respond to a number of intra-state conflicts and refugee crises, such as the collapse of Somalia, the break-up of the former Yugoslavia, and the Rwandan Genocide.[17]

The UNHCR annual budget rose to $7.963 billion in 2017 due to the remarkable growth in the organization's size, work, and expenses.[18] The most recent figures from the UNHCR show that 87% of the budget had been sourced from governments and the EU, 10% from private donors, and 3% from other sources including the UN itself. The donors earmarked approximately 85% of the voluntary budget contributions. The UNHCR spent 79% of the budget on refugees, 15% on IDPs, 5% on returnees' reintegration, and 1% on stateless persons.[19] Although the UNHCR welcomes donations of any kind, earmarked funds affect its independence, restrict its freedom to manage and use the funds sustainably and fairly, and limit its ability to attend to the entire massive needs of the ever increasing number of persons of concern. Some scholars criticized the practice of earmarking funds and explained its negative consequences.[20]

Similarly, Loescher pointed out that the influences of states have increased through their ability to specify how, where and on what basis their contributions might be used by the UNHCR, and the unpredictability of funding and responding to the interests of a small number of donor states have placed the UNHCR in a precarious political position.[21] Despite these difficulties, the UNHCR has nevertheless organized a number of high-level pledging meetings, conferences, and fund-raising activities such as the London-Syria Conference, held in London in 2016, at which donors pledged more than $6 billion for Syrians.[22] In 2017, the private sector provided over

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[16] Alan Gamlen, "An Inborn Restlessness: Migration and Exile in a Turbulent World," *Migration Studies* 3, no.3 (2015): 308.

[17] Loescher, "UNHCR and Forced Migration", 219.

[18] UNHCR, Global Report 2016, 2017.

[19] Ibid. 2017, 32–57.

[20] Forsythe, *UNHCR's Mandate*, 3.

[21] Loescher, "UNHCR and Forced Migration", 221.

[22] UNHCR, "Donors Pledged more than US$6 billion for Syrians", accessed November 21, 2017, http://www.unhcr.org/news/latest/2016/2/56b3902cb.

$400 million, private individuals donated $276 million, UNHCR's National Partners have raised $213 million, and UNHCR received nearly $33 million in-kind contributions.[23]

To proceed in the rethinking process, it is worth investigating the protection system and identifying the major gaps that have contributed to some of the inadequacies and inefficiencies in the UNHCR's response. Considering that the biggest gap in existing governance is the obvious divergence between the ideal and reality, which continues to exist, there are other important gaps that effect the protection system can be summarized in the following points:

- The non-applicability of international refugee instruments due to states not acceding to them, or maintaining reservations.[24]
- There are significant discrepancies in the ways in which states interpret and implement their obligations under the 1951 Convention and the 1967 Protocol. Approaches vary depending on the definition of refugee and whether it is confined to the 1951 Convention or widened to include other references. The definition has a direct impact on refugee recognition rates among refugee-receiving countries.[25]
- The international response to displacement lacks early planning and inadequate resources to support a transition from humanitarian to development interventions that promote durable solutions for refugee like situations. The scope for funding durable solutions for displacement is seriously influenced by the conditions of political economy.[26]
- Prevention of asylum-seekers and refugees from reaching territories fundamentally interferes with CRRF mechanisms, and reduces the efficiency of refugee response, in addition to exacerbating the condition of refugees themselves. Such obstructions can be sanctioned by states or be due to vigilante mobs etc., or armed forces or militant groups preventing and

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[23] UNHCR, Global Report 2017, 39–45.

[24] Volker Turk and Rebecca Dowd, "Protection Gaps," in *The Oxford Handbook of Refugee & Forced Migration Studies,* eds. Elena Fiddian-Qasmiyeh et al. (UK: Oxford University Press, 2014), 279.

[25] Ibid., 280–281.

[26] Christensen and Harild, "Forced Displacement", 17.

obstructing migrant flows. At the state level, this includes implementing measures to deter the arrival of asylum seekers such as tightening entry controls and border closures; creating restrictive visa requirements; offshore border controls and interception at sea; mandatory detention on immigration grounds; and even in some instances push backs and *refoulement.*[27]

- Many states now require refugees to remain in isolated and insecure refugee camps for protracted periods or leave them stranded in sprawling urban areas with virtually no assistance and no livelihood, such as the Calais Jungle.[28]

A critical review of the UNHCR's protection response to forced migration requires an analysis of the conventional methods particularly repatriation and resettlement.

Repatriation: This simply means a return to the country of origin. However as a key migration term, it refers to "the personal right of a refugee, prisoner-of-war or civil detainee to return to his or her country of nationality under specific conditions lay down in various international instruments".[29] The UNHCR uses the term "voluntary repatriation" and considers it a solution for refugees who have made the decision to return home. In collaboration with the country of origin and international community, the UNHCR strives to facilitate their choice. It has succeeded in helping hundreds of thousands of people to return home to countries like Angola and Somalia.[30] UNHCR data shows that in 2016, there were 552,230 returned refugees, including 500,200 assisted by the UNHCR. The UNHCR spent $262 million or 4% of its 2016 budget on reintegration of returned refugees. During 2017, over 4.2 million IDPs and more than 667,000 refugees returned to their areas or countries of origin.[31]

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[27] Turk and Dowd, "Protection Gaps", 281–282.

[28] Loescher, "UNHCR and Forced Migration", 220.

[29] International Organization for Migration, "Key Migration Terms", accessed October 6, 2017, https://www.iom.int/key-migration-terms.

[30] UNHCR, "UNHCR Solutions", accessed October 25, 2017, http:www.unhcr.org/ solutions.

[31] UNHCR, Global Report 2016, 17–29; Global Report 2017, 58–59.

It is important to challenge the viability of repatriation in first place, because some scholars believe that "it is often neither possible due to conflict and instability, nor desirable especially for younger and second generation refugees who may often not know the 'home' to which they are returning".[32] However, other scholars maintain that repatriation is often presented as the most desirable means of ending refugee crises. The problem arises of under what conditions return might be considered just, appropriate, or even obligatory. This is an important consideration, because refugees have typically escaped a position of acute vulnerability and there could be a potential risk for their rights to be violated once again upon return. Furthermore, the process must involve reckoning with the relationship between the refugees and their country of asylum; respect for the dignity and autonomy of refugees as agents; and attention to the terms on which refugees will be integrated in the country they originally fled.[33]

If there are elements of coercion or influence (e.g. by the threat of violence, financial inducements or misleading information) in the refugee repatriation, such expulsion is not considered voluntary. Indeed, expulsion is a serious violation of the Refugee Convention and Protocol and International Law. Under the 1951 Convention and the 1967 Protocol, states cannot "expel or return" a refugee to territory where his life and freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion.[34] In terms of the practical implications of repatriation, one scholar observed that "repatriation must be structured so that it does not contribute to further instability in the community of origin. Voluntary repatriation may be more successful when the rights to work, housing, health, family reunification and education have been honored in the host nation".[35]

Christensen and Harild emphasized on the need for a mechanism for the returnees to get back their rights, houses, and

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[32] Long, "Rethinking 'Durable' Solutions", 476.
[33] Gibney, "Political Theory", 56–57.
[34] UNHCR, 1951 Convention and Protocol, art. 32–33.
[35] Donald Kerwin, "Creating a More Responsive and Seamless Refugee Protection System: The Scope, Promise and Limitations of US Temporary Protection Programs," *Journal on Migration and Human Security* 2, no.1 (2014): 129.

properties taken by others, including governments. The reestablishments of livelihood, access to services such as health, education, water and security, which are frequently inadequate, obstructed or absent, are also crucial. Moreover, governments are accountable at the local and international level, because local governance and rule of law, particularly in refugee receiving or producing countries are often weak; the government capacity is limited, legitimacy damaged, and social capital at the community level spoiled.[36] Repatriation has much to do with the situation, politics and policies in the country of origin, which is perhaps what urged Forsythe to point out that it "could be seen by governments as political interference in the domestic affairs of states".[37]

Therefore, a sustainable repatriation requires respect of refugee rights and freedoms; zero elements of coercion; a mechanism to guarantee getting back the houses and properties taken from them; easy access to public facilities; and convenient opportunity and support for settlement.

Resettlement: It means "the relocation and integration of people into another geographical area and environment usually in a third country".[38] The UNHCR perceives resettlement to a third country as a solution for those who cannot return, either because of continued conflict, wars or persecution. During 2016, UNHCR made 162,500 resettlement submissions, and some 125,600 refugees departed for resettlement. In 2017, the UNHCR submitted 75,200 refugees but according to government statistics, 102,800 refugees were admitted for resettlement during the year, with or without UNHCR's assistance.[39] This means that in 2016, only around 77% benefited from resettlement programs, and in 2017 the number of resettlement submissions dropped by 54% from 2016 due to the decline in resettlement quotas. The reports also show that the UNHCR protected and assisted 36.6 million IDPs in 2016, and some 40.0 million IDPs, nearly 15 million refugees and asylum-seekers, and

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[36] Christensen and Harild, "Forced Displacement", 14–21.

[37] Forsythe, *UNHCR's Mandate*, 34.

[38] IOM, "Key Migration Terms".

[39] UNHCR, Global Report 2017, 3.

over 3.8 million stateless persons in 2017.[40] The fluctuation in resettlement figures leads to important questions that need answers, including:

- Why is the resettlement rate inadequate and how can it be increased?
- What is the fate of the refugees who are not resettled (approximately one third) and the large numbers of IDPs in inaccessible areas who are not assisted?
- Can resettlement be a useful temporary program and substitute to refugee status?

Christensen and Harild commented that repatriation and resettlement of IDPs and refugees does not necessarily mean that they find durable solutions to the situation of displacement from a development perspective, thus the real question is when displacement ends, because initially ending displacement is a process rather than a onetime event.[41] At this point, it is important to consider illustrative examples indicating the scale of the real refugee situations. Data from the UNHCR reveals that developing countries host 85% of the world's refugees under the UNHCR mandate.[42] Table 1 displays important details on the largest refugee camps in the world.

Table 1: The World's Largest Refugee Camps[43]

Camp	Year of Establishment	Population	Occupants
Dadaab – Kenya	1991	239,545 (30/9/2017)	Somalis and South Sudanese
Kakuma – Kenya	1992	184.550	South Sudanese and Somalis
Zaatari – Jordan	2012	77,781 (2015)	Syrians

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[40] UNHCR, Global Report 2016, 16–17; Global Report 2017, 58–59.

[41] Christensen and Harild, "Forced Displacement", 13.

[42] UNHCR, Global Report 2017.

[43] UNHCR, "Inside the World's 10 Largest Refugee Camps", accessed October 25, 2017, https://storymaps.esri.com/stories/2016/refugee-camps/; Refugee Council USA, "The 7 Largest Refugee Camps in the World" accessed November 25, 2017, https://www.refugeecouncilusa.org/the- 7-largest-refugee-camps-in-the-world/.

Yida – South Sudan	2012	70,331 (2015)	Sudanese
Katumba – Tanzania	1972	66,416 (2015)	Burundi
Pugnido – Ethiopia	1993	63,262	South Sudanese
Panian – Pakistan	2008	62,164	Afghanis
Mishamo –Tanzania	2014	62,264	Burundi

The above-mentioned camps are those recognized by the UNHCR, and it should be noted that there are many unrecognized refugee camps in many countries, particularly in Africa and Asia. The UNHCR-recognized camps have all been established as temporary facilities to host refugees and asylum-seekers, and provide them with shelter and food. These camps are most often overcrowded, with the numbers of occupants far exceeding camp capacity. There is a growing concern that most – if not all – of these camps have no adequate basis for life, including: a lack of clean water supply; insufficient medication; shortage of healthy food; no formal education; no job opportunities; and most importantly no fundamental freedoms like freedom of movement, speech, exposure to the outside world, education and access to public facilities.

Additionally, the resettlement process of the refugees residing in these camps to third countries is far beyond reasonable, and only a miniscule amount of the hundreds of thousands of inmates manage to meet the strict criteria necessary for successful resettlement. The resettlement criteria in Dadaab Camp in Kenya for instance are almost inapplicable to the majority of the camp's population, thus only 1% per year of the refugee population is resettled. Moreover, reports and studies show that many occupants of these camps suffer from severe mental, psychological, and physical illnesses, leaving them on the verge of losing their lives, identity, fundamental freedoms, and dignity as human beings. In reality, many of these camps have become small, permanent villages of oppressed people rather than temporary facilities for refugees and asylum-seekers, with prison-like inmates serving indefinite life sentences. [44]

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[44] UNHCR Kenya, accessed October 30, 2017, http://www.unhcr.org/ke/; Eva

Rethinking the OIC's Response

The Organization of Islamic Cooperation (OIC) formerly known as 'Organization of Islamic Conference' was established in 1969. It consists of 57 Member States spread over four continents and it is the second largest organization after the UN. The current Secretary General of the OIC is Dr. Yousef bin Ahmad Al-Othaimeen, whose term is for five years. The OIC acts as the collective voice of the Muslim world and it has permanent delegations to the UN and the European Union.[45] There are two strong grounds to consider investigating the OIC response to forced migration.

First, some of the OIC Member States, such as Palestine, Syria, Iraq, Sudan, Yemen and Afghanistan are among the most prolific countries producing forced migrants. Furthermore, eight out of the top ten largest refugee and asylum-seeker hosting countries are in the OIC; it can be seen from Table 2 that the bulk of the world's refugees are hosted by OIC Member States. Paradoxically, 21 of which are in the UN list of 47 Least Developed Countries (LDCs) which include three of the top 10 refugee-hosting countries, namely Uganda, Bangladesh and Sudan.

Table 2: Top 10 Refugee-Hosting Countries (up to the end of 2017)[46]

No.	Country	Approximate Number of Refugees
1	Turkey	3.5 million
2	Pakistan	1.4 million
3	Uganda	1.4 million
4	Lebanon	998.900
5	Iran	979.400

Orner. "Why Australia's Detention Centres on Nauru and Manus Island are Still Open." *Aljazeera.com,* August 17, 2017, accessed October 14, 2017, http://aljazeera.com; Human Rights Watch, "Human Rights Watch Report 2016", accessed October 19, 2017, https://www.hrw.org.

[45] United Nations Committee for Development Policy, "List of Least Developed Countries as of June 2017", accessed November 7, 2017, https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/publication/ldc_list.pdf.

[46] UNHCR, Global Report 2017.

6	Germany	970,000
7	Bangladesh	932.200
8	Sudan	906.600
9	Ethiopia	889,400
10	Jordan	691,000

Second, the OIC is best positioned to play a vital role in forced migration issues, at least in the Muslim World, because of its mandate to strengthen brotherhood and solidarity, and defend human rights and human dignity among its Member States and people.[47] Despite, its core values and principles being rooted in the Islamic traditions, the OIC Charter never mentions any means to protect and safeguard these recognized principles and rights. Besides, "the right to seek asylum is not guaranteed if the request is motivated by an act which the Shariah regards as a crime; the right to free movement is respected within the context of Islamic law".[48]

Since its launch, the OIC has extended some humanitarian assistance to IDPs and refugees. The OIC has assisted the Palestine refugees, whose total numbers exceed 8 million, including 5.4 million under the mandate of the UNRWA. Assistance has also been extended to Bosnian displaced people and refugees, and more than 10 million Syrian refugees. In 2003 the OIC rebuilt a first batch of 111 housing units, and in 2004 it reconstructed a second batch of 117 homes in Rudo eastern Bosnia, and returned them to their owners.[49] The OIC has also collaborated with UNHCR to provide protection and humanitarian assistance for IDPs and refugees in many other countries.

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[47] OIC, "OIC Charter", accessed October 25, 2017, http://www.oic.oci.org, chap. 1, art. 1/1, 11, 14, 16.

[48] Victor Luis Gutierrez Castillo, "The Organization of Islamic Cooperation in Contemporary International Society," *Revista Electronica de Estudios Internationales (REEI)* No.27 (2014): 13.

[49] Reliefweb. "OIC Fund for the Urgent Return of Refugees and Displaced Persons in Bosnia and Herzegovina Rebuilds and Returns 117 Homes to Owners," last modified October 4, 2004, accessed November 10, 2017. https://reliefweb. int/report/bosnia-and-herzegovina/oic-fund-urgent-return-refugees-and-displaced-per sons-bosnia-and

The Ashgabat Declaration on Refugees in the Muslim World was the outcome of the OIC Conference held in Ashgabat, Turkmenistan on 11-12 May 2012. The Declaration called for sustained and profound engagement of the international community to address the root causes of refugee situations, pleading for sustainable solutions to the problems of refugees, particularly safe return and sustainable reintegration in their country of origin.[50]

In the ongoing Rohingya crisis, the organization has repeatedly sought permission from the Myanmar authorities to open a permanent office to channel humanitarian assistance to the Rohingyas, however the Myanmar government has rejected the request, claiming that the Rohingyas represent a security threat and noting that Myanmar is not an OIC Member State.[51] Nevertheless, the OIC made some efforts on the international political level to exert some pressure on the Myanmar's authorities to stop their campaign against the Rohingya minority. In December 2017, the OIC put forward a resolution entitled "Situation of Human Rights in Myanmar" to the 76th plenary meeting of the UN General Assembly. The resolution requested that UN Secretary-General appoint a special envoy to Myanmar and called on the Government of Myanmar to end the military operations against the Rohingya minority, allow full access for the delivery of humanitarian assistance, ensure the sustainable return of all IDPs and refugees in safely and dignity, and grant full citizenship rights to Rohingia Muslims in Rakhine State.

Despite opposition from Russia, China, and some regional countries, the resolution was adopted by 122 votes to 10, with 24 abstentions.[52] In January 2018, the OIC delegated the Independent Permanent Human Rights Commission (IPHRC) for a fact-finding mission to Bangladesh to meet Rohingya refugees to get first-hand

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[50] OIC, "Ashgabat Declaration of the International Ministerial Conference of the Organization of Islamic Cooperation on Refugees in the Muslim World", accessed October 25, 2017, http://www.oic.oci.org/external_web/refugees/2012/en/docs/ASHGABAT%20DEC LARATION%20en.pdf, para. 6, 10–11, 16–17.

[51] OIC, www.oic-oci.org/home/

[52] United Nations General Assembly-UNGA. "Resolution 72/248- Situation of Human Rights in Myanmar", accessed July 25, 2018, http://www.un.org/en/ga/ search/view_doc.asp?symbol=A/RES/72/248.

information on their conditions. The OIC-IPHRC also requested the Myanmar authorities to undertake a fact-finding visit to the Rakhine region to ascertain the human rights condition on the ground but its request was rejected. The delegation found that persecution of the Rohingya minority in Myanmar represents one of the worst examples of ethnic cleansing and crimes against humanity. These findings were adopted by the 45th session of the OIC Council of Foreign Ministers meeting which was held in Bangladesh on May 5-6, 2018 and included in the Dhaka Declaration. Thus, for the first time since the beginning of the Rohingya crisis in late August 2017, the OIC condemned the brutal attacks by Myanmar's security forces against the Rohingya minority and labeled it as 'ethnic cleansing' that has resulted in over one million Rohingyas being forcibly displaced to Bangladesh, in addition to the burning of their houses and places of worship.

The OIC formed an ad-hoc ministerial committee chaired by Gambia to address accountability issues for the violation of human rights against the Rohingyas and supported the full implementation of recommendations made in 2017 by an advisory commission on Rakhine state headed by former UN Secretary General Kofi Annan.[53] This political pressure succeeded to some extent, as the Myanmar government expressed its readiness to facilitate the voluntary, safe, and dignified return of Rohingyas from the Cox's Bazar camp in Bangladesh to Rakhine State.[54] Despite the success of OIC in pushing the Myanmar government to change its stand from total rejection of the return of Rohingyas to Myanmar to accepting the provisional return of some refugees, it is clear that the OIC was slow to respond the Rohingya crisis, as the organization took nearly one year to qualify the Myanmar security forces' acts against the Rohingya minority as 'ethnic cleansing', despite this being readily acknowledged by most international observers and organizations and other states. Moreover, the issue of granting citizenship to the

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[53] OIC, "The Dhaka Declaration", accessed July 24, 2018, https://www. oic-oci.org/docdown/?docID=1907&refID=1078

[54] "Myanmar Rebuts OIC Dhaka Declaration." *The Independent,* last modified May 11*,* 2018, accessed July 24, 2018, http://www.theindependentbd.com/home/ printnews/149365

Rohingyas has not been emphasized profoundly, yet this is at the root of the persecution of this ethnic group within Myanmar.

A final illustrative example is the role of OIC in Yemen crisis, which has been labeled "the world's most acute humanitarian crisis".[55] As of July 16, 2018, there were more than 22.2 million (75% of the total Yemeni population) needing humanitarian assistance and protection, more than 2 million IDPs and over 280,000 refugee.[56] Due to the deteriorating humanitarian situation in Yemen, the OIC built a field hospital in the Marzak camp for IDPs, set up an office in Sanaa to monitor the humanitarian situation, and convened a conference to support Yemen.[57] However, since the beginning of the crisis in 2011, the OIC has issued 17 press releases; only one of them is firmly related to the Yemeni refugee and IDPs problems, and the rest were either mere condemnation of the Houthi militias' attacks on Saudi Arabia or commending the Saudi government for supporting the legitimate government of Yemen.[58]

Paradoxically, the Saudi-led coalition in Yemen has been blacklisted in the 2018 annual report of the UN Secretary General on Children and Armed Conflict and included in the List of Shame for causing 670 child causalities among them 370 killed, in addition to 19 attacks on schools, 5 attacks on hospitals, and 15 incidents of denial of humanitarian access, including restrictions on movement, violence against humanitarian personnel, assets and facilities, and interference in the delivery of humanitarian assistance.[59] The OIC has been criticized for not doing much to resolve the conflict in Yemen and exerting some pressure on the Saudi-led Coalition to stop its military

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[55] UNHCR, Global Report 2017, 128.

[56] United Nations Office for the Coordination of Humanitarian Affairs- UNOCHA. "Yemen Humanitarian Update", July 10-16, 2018. Accessed July 25, 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/ 20180719_Humanitarian_Update_Draft_3.pdf; UNHCR, Global Report 2017.

[57] OIC, "Summary of ICHAD Activities", accessed July 25, 2018, https://www. oic-oci.org/upload/pages/departments/ichad/humanitarian_assesments_2015.pdf.

[58]OIC, "Yemen Press Releases", accessed July 25, 2018, https://www.oic-oci.org/ case/?c_name=Yemen&lan=en.

[59] United Nations General Assembly, Security Council- UNGASC. "Annual Report of the Secretary-General on children and armed conflict", accessed July 25, 2018, https://childrenandarmedconflict.un.org/document/children-and-armed-conflict-repor t-of-the-secretary-general/.

campaigns, which are the main cause of killing, humanitarian disaster and forced migration in Yemen.

The OIC could have acted with greater justice and more effectively as supporting the restoring of the legitimate government in Yemen caused horrendous human and infrastructure loses if it was not in thrall to Saudi Arabia, which has suzerainty over other GCC members and extensive influence on states throughout the Middle East and North Africa (i.e. OIC Member States). Clearly there are conflicting political and strategic agendas of the parties involved in the conflict in Yemen, but ordinary people are paying a heavy price by being killed, forcibly displaced, and living in the worst of conditions. In this case, the role of the OIC did not go much beyond offering sympathy to forced migrants, and providing some humanitarian assistance to them. Unlike the UNHCR, the OIC has no direct mandate to protect refugees and support them with safe shelter and subsistence. However, it is understood from the spirit of the principles and core values of the organization that such help will be offered by the OIC because this has been its practice for the past 49 years.

Although the establishment of the Humanitarian Department in 2008 came a bit late, the OIC could continue to increase its efforts towards finding sustainable solutions for forced migrants. It can play a fundamental role in greatly reducing refugee numbers if it practices the teachings and principles contained in its Charter. For instance, in the Rohingya crisis, Al-Ahsan's comments are valid, as the OIC could create moral pressure on the US, Russia, and China to resolve the crisis and raise relevant questions as to why the government of Myanmar and world powers should take the OIC seriously when the OIC is not able to practice what it claims to stand for.[60] Moreover, as discussed above, the OIC role in the Yemen crisis was negligible, as it failed to make any substantive effort to help reduce the conflict, stop the military campaign, or even provide sufficient humanitarian aid and protection for IDPs and refugees.

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[60] Abdullah Al-Ahsan. "The Rohingya Crisis and the Role of the OIC." *Aljazeera.com,* last modifief February 18, 2017, accessed November 15, 2017, http://www.aljazeera.com/indepth/opinion/2017/02/rohingya-crisis-role-oic-170217102801957.html.

The primordial and strategic role that the OIC can play in this regard is to tackle the root causes of the refugee exodus, which are the devastating war, conflicts and tensions within or in between OIC Member States. The OIC has the mandate to resolve conflicts, consolidate freedoms and democracy among its member states and enhance peace and respect for human rights.[61]

The OIC experience in conflict resolution has not been particularly notable to date. Indeed, since its establishment, the OIC has only succeeded in resolving two conflicts, namely the conflict between Jordan and the Palestinian Liberation Organization (PLO) in 1970, and the Pakistan-Bangladesh conflict in 1971. The success in these two cases was only possible when one of the contending parties defeated the other, and also because of individual, charismatic leaders.[62] The organization has failed to resolve many serious cases, such as the Iraq-Iran War in the 1980s; the Gulf War (1990-1991); and the post-Arab Spring conflicts in Syria, Libya, and Yemen. The OIC has also witnessed the blockade imposed on Qatar by the Saudi-led group (UAE, Bahrain, and Egypt) since 5 June 2017, and failed to honor its duty in conflict resolution in this instance. In all cases, there is a clear violation of the OIC Charter and prime objectives of brotherhood, solidarity and cooperation and mutual respect between Member States.

This has resulted in the exacerbation of severe humanitarian crises, displacement problems, and refugee movement across the Muslim World that ought to have been addressed by the OIC. Given that it claims its objectives are rooted in the Islamic tradition, particularly the teachings of the Qur'an, and the *Sunna* of the Prophet Muhammad (PBUH), as well as in the legacy and spirit of the UN, the OIC has been unable to resolve many serious conflicts. This could be attributed to the existing gap between theory and practice, because not all objectives, principles and ideals can be realized. Moreover, it seems that the OIC is more sensitive to the issue of respect of 'state sovereignty' and observing the principle of 'non-interference' in state affairs. Thus, the issues here are strictly

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[61] OIC, "OIC Charter", chap. I, art. 1/1, 3–4, 6, 14, 16, 19; art. 2/3–5, 7.
[62]Abdullah Al-Ahsan, "Conflict among Muslim Nations: Role of the OIC in Conflict Resolution," *Intellectual Discourse* 12, no. 2 (2004): 139–150.

about the OIC's approach to the principle of justice vis-à-vis the principle of non-interference. The main question and answer of this situation is whether the principle of non-interference into internal affairs of a country should supersede the principle of justice to avoid wars, conflicts, and disputes.

Recommendations for Sustainable Response

The significance of a sustainable approach to protect refugees, asylum-seekers and IDPs is widely recognized. For instance, the UNHCR and OIC use various terms to express the need for a sustainable approach, mechanism and solutions, including 'sustainable', 'durable', 'comprehensive', 'dignified', and 'effective'. The following subsections present some recommendations on what the UNHCR and OIC could do to make their responses to forced migration sustainable.

Recommendations for the UNHCR

The UNHCR is recognized as 'the Refugee Agency', yet despite the huge amount of work it does to carry out its mandate, it can implement more effective governance, strategy, and action plans towards a sustainable response to forced migration as delineated below.

- Reviewing the definition of key terms, particularly 'refugee' and 'protection', to be more inclusive of modern refugee-like situations and realities.
- The UNHCR needs a review and reorientation of its operations all over the world, including with regard to the most effective use of its current staff, the development of a strategic plan, and budgeting to recruit more staff.
- The response system has to be restructured and reoriented. For instance, Long (2014) deeply criticized the UNHCR's response system, which faced serious challenges and eventually failed. He opined that its approach was quite superficial, focusing on the physical symptoms of displacement rather than root causes, which are essentially

related to political exclusion in his point of view.[63] Other scholars like Loescher have called for the UNHCR to become more focused on strategic roles, such as advocacy, coordination, and facilitation, and have pointed out that this requires the challenges of governance and transparency to be addressed and the ability to secure funding.[64]

- The UNHCR needs to develop a long-term vision for a smart partnership with the international community with regard to protecting forced migrants, to strengthen collaboration with other stakeholders, and changing the perception that refugee protection is the sole responsibility of the UNHCR.[65]

- It is very important for the UNHCR Member States to standardize their interpretation of the refugee and migration key terms, fulfill their international obligations towards refugees, and fill in the legislation and operational gaps.

- Despite the UNHCR being a non-political agency, it needs to engage in politics, not in the classical way, but to advance its mandate for the protection of people under its auspices, and supervising the 1951 Convention without being aligned to any state or group.

- The organization needs to use creative diplomacy (CD) in the following directions to boost its contribution to sustainable solutions for people under its mandate.

  a) The first mission of the UNHCR's CD should be inter-agency collaboration and lobbying within and outside the UN, such as with the office of the High Commissioner for Human Rights, UN Peace-building Commission, and the World Bank. It also needs to influence intergovernmental bodies of specific public pressures on certain public authorities and expand its international links by establishing greater coherence across the range of existing international institutions, working on stronger complementarity with other institutions, pursuing regional

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[63] Long, "Rethinking 'Durable' Solutions", 475–482.

[64] Loescher, "UNHCR and Forced Migration", 225.

[65] United Nations. "The New York Declaration for Refugees and Migrants", accessed October 15, 2017, http://undocs.org/a/res/71/1

migration and development agreements, and building institutions.[66]

b) CD will also have to be used to convince the remaining 45 states of the UN's 193 members to accede to the 1951 Convention and its 1967 Protocol and think of effective mechanisms to attract and monitor their full commitment.

c) The UNHCR needs to use its greatest CD to strengthen multilateral cooperation, especially with EU countries, to try to stop the campaign against refugees, and to accept and integrate more significant numbers of refugees in local communities.

d) It is essential that the UNHCR uses CD to convince refugee-receiving states, particularly in Europe, to adopt 'fairly open' border policies as a realistic resolution between completely open or firmly closed borders and convince them that "the governance of refugee protection represents a global public good. The benefits – in terms of security and human rights – accrue to all states".[67]

e) It is important that the UNHCR uses CD in regional approaches, as different refugee groups may require different solutions tailored for their own particular needs.[68]

f) The UNHCR needs to practice its CD to convince or influence its donors to adopt a zero earmarked funding policy to secure more flexibility with funds, and ultimately change the culture of fund earmarking practice.

g) With CD, the UNHCR can play a vital role in changing negative perceptions and xenophobia against refugees. Refugees, like any other human beings, have dignity and rights. They contribute substantially to the country's economy, social and cultural life. For instance, over the last

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[66] Loescher, "UNHCR and Forced Migration", 223; Forsythe, *UNHCR's Mandate*, 19; Kerwin, "Creating a More Responsive and Seamless Refugee Protection System", 143; Alexander Betts, "Global Migration Governance- The Emergence of a New Debate," *Global Economic Governance Programme*, November 2010, 4, accessed July 19 2018, https://www.imi.ox.ac.uk/files/news/global-migration-governance_paper_2010.pdf

[67] Betts, "Global Migration Governance", 3.

[68] Christensen and Harild, "Forced Displacement", 15.

35 years, the US has resettled over 3.5 million refugees and asylum-seekers. With their hard work and vivid enthusiasm, these refugees have contributed to the US economy, social harmony and culture, despite the fact that America has not completely resolved racism and inequality in opportunities and wages between immigrants and non-immigrants.[69]

h) The UNHCR's CD could also influence or create changes in state and regional refugee laws and policies, such as introducing new nonimmigrant "protection visas that would be available to persons at substantial risk of persecution, danger or harm in their home or host countries".[70]

i) It is quite urgent that the UNHCR uses its upmost CD to negotiate and solve the problem of hundreds of thousands of refugees in protracted situations who have been living in conditions far below international standards for decades, in camps that were initially planned to be temporary shelters. In relation to this, there are also thousands of forced migrants in the protracted limbo of transition status at international borders to be addressed.

Recommendations for the OIC

The OIC has the potential to respond in a more efficient and active manner to the needs of forced migrants. The following recommendations might help the OIC to do that:

- Undergo a legal reform and institutional strengthening to include protection of forced migrants in its mandate.
- Expedite the decision making process, increase the speed of intervention, improve response mechanisms and ensure efficiency of humanitarian assistance.
- Review the concepts and principles, and workout a clear balance between 'sovereignty', 'noninterference' and 'justice',

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[69] Kerwin, "The US Refugee Protection System"*, 1; Zeki Saritoprak, "The Qur'anic Perspective on Immigrants: Prophet Muhammad's Migration and Its Implications in Our Modern Society," *The Journal of Scriptural Reasoning* 10, no. 1 (2011): 5–6.

[70] Kerwin, "The US Refugee Protection System", 143.

design a strategy and action plan to bring into practice all the principles, values, ideals contained in its Charter.

- Put more effort into acting as an organization of the collective voice of Muslims and not just a body promoting and using the response of its Member States.
- Move on from the humanitarian assistance model to a development model.
- Empower member states to create and/or consolidate required structures of protection and collaborative efforts within all member states and the international community on forced migration issues.
- Enhance socio-economic and cultural cooperation among member states and employ creative diplomacy to resolve all the conflicts in between the member states and prevent future conflicts.
- Coordinate the efforts of the member states in fighting terrorism, suicide attacks and violent groups to enhance the chances of protection for refugees and displaced people as well as humanitarian support workers.
- Develop a compelling long-term vision for a collective approach and multilateral relations for forced migration governance issues and strengthen existing collaborative efforts, particularly with the UNHCR, EU, and African Union.

Conclusion

This research has addressed a range of issues in the context of rethinking the UNHCR and OIC response to forced migration. It highlighted that the status quo of IDPs, refugees, and asylum-seekers is deeply worrying, and in many cases catastrophic. The devastating condition of forced migrants is generally attributed to violent conflicts, and political and socio-economic exclusion. International organizations, particularly the UN and OIC and their agencies, could do more to prevent or stop conflicts and wars, thus preventing refugee crises at their source. However, the veto power granted to the five permanent UN Security Council members usually hinders any progress in that direction (due to the great power geopolitical games

of the US and Russia), thus causing more people to flee their countries of origin in search of protection and safe refuge.

The UNHCR, OIC and other international organizations could achieve better results within a paradigm shift to address some legislation and operational gaps; inadequacies and inefficiencies in certain policies and responses are overcome; a structural reform in governance and strategic direction; and cooperation within and outside organizations. With the assistance and support of the UN and the international community, the UNHCR and OIC would be in a better position to lead global efforts for the betterment of forced migrants.

To create a renewed purpose and lead change toward better conditions and sustainable solutions, the UNHCR and OIC need, among other things, structural reform and creative diplomacy. This process would work in various fronts starting from the governance structure, theoretical framework, and policy, international and regional approaches, passing through the UN agencies, the existing and potential member states, and international organizations such as the World Bank. Such CD has to increase the membership of states and get them and other international organizations to fulfill their global responsibilities, which entails some politically astute policy initiatives such as making funds 100% un-earmarked.

It is also imperative for all stakeholders to make serious efforts to immediately resolve the protracted refugee situations in the camps that have been established for temporary shelter and have subsequently become semi-permanent villages with unsustainable living conditions. The sustainable response towards forced migration is deeply rooted in core values universally affirmed by the international community, including justice, dignity, ethics and effectiveness. Its success, however, depends heavily on the political will and primarily on the commitment of UNHCR and OIC in addition to the UN, the EU and the AU.

AL-SHAJARAH

Special Issue

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