




Book Review - Kitap İncelemesi

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**REFUGEE STATUS IN ISLAM: CONCEPTS OF PROTECTION IN  
ISLAMIC TRADITION AND INTERNATIONAL LAW**

**ARAFAT MADI SHOUKRI,  
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Refugee issues are not a modern phenomenon in human societies. For thousands of years, people have been forced to leave their homes or homelands for various reasons, seeking safety elsewhere. In the present era, wars, armed conflicts, and natural disasters have significantly increased the number of refugees, making asylum one of the most pressing global issues. Notably, most refugees worldwide are Muslims. However, Arab and Islamic countries face numerous challenges in addressing the refugee issue (p. 1).

This book aims to compare Islamic traditions with the 1951 Refugee Convention to highlight their similarities and differences. In pursuit of this goal, it seeks to clarify the stance of Islamic traditions on refugees and examine the fundamental principles and rules that define the concept of a refugee, along with the rights and responsibilities of both refugees and host countries. Adopting a historical approach, the book explores the concept of asylum across 15 centuries. It is worth noting that in Arab history, particularly during the pre-Islamic era (Jahiliyyah).

Refugee Status in Islam: Concepts of Protection in Islamic Tradition and International Law, this book is part of the International Library of Migration Studies series. is a publication based on the author's doctoral dissertation, completed in 2007 at the School of African and Oriental Studies (SOAS), University of London. Translated into Turkish by the Migration Studies Foundation in Ankara, Turkey, in September 2024.

The book is structured into four chapters. Chapter 1 exploring *jiwār* (protection) during the *Jāhiliyya* (pre-Islamic) period. Drawing on historical sources like poetry, biographies, and tribal genealogies, *jiwār* is defined as an agreement where one party *mustajīr* requests protection, and the other *mujīr* grants it (p.19). In pre-Islamic Arabia, *jiwār* was a vital social institution, obligating tribes to protect those seeking refuge, even at the risk of conflict or material loss. Seeking *jiwār* was neither shameful nor uncommon, driven by factors like environmental hardship, tribal persecution, or property disputes.

Though unwritten, *jiwār* agreements were binding, with both parties aware of their roles. Customary laws dictated these responsibilities, and violations damaged tribal honor and reputations. Tribes believed neglecting *jiwār* invited divine punishment and could spark inter-tribal wars. *Jiwār* symbolized honor and strength, often celebrated in Arabic poetry, which preserved tribal traditions and news. Fulfilling *jiwār* fully providing absolute protection demonstrated a tribe's power and integrity, reinforcing its social standing. Thus, *jiwār* was not merely a practical arrangement but a reflection of tribal values and prestige in pre-Islamic Arabia.

The period following *Jahiliyyah* marked the spread of Islam in Mecca, bringing significant transformations to social life, including the concept of neighborhoods. Chapter 2, therefore, explores the evolution of *jiwār* after the advent of Islam in Mecca and its development during the establishment of the Islamic state in Medina. During this period, *jiwār* continued in the same manner as it had during *Jāhiliyya*, retaining its core meaning of providing protection to those seeking protection and ensuring that they were not harmed under any circumstances. one of the most significant reasons Muslims sought *jiwār* from other tribes was the injustice and oppression they faced due to their belief in Islam, which contradicted the idolatrous ideology of *Jāhiliyya* society.

Among the key aspects emphasized in chapter 2, is the migration of Muslims to Abyssinia and the protection granted to them by the Abyssinian king, who refused to hand them over to the leaders of Quraysh when demanded (p.28).

The discussion of this incident demonstrates that the concept of *jiwār* retained its significance during *Jāhiliyya*. However, after the spread of Islam, it acquired a religious dimension, as Muslims began granting the right of *jiwār* to non-Muslims and vice versa.

After the establishment of the Islamic state, the need arose to legitimize *jiwār* and establish rules and regulations governing it. Consequently, new concepts of neighborliness emerged, which are explored in Chapter 3. Among the most prominent concepts discussed are: *Muhājir*, *Mustā'min*, and *dhimmīs*. These terms are applied to individuals seeking protection, and they are distinguished based on several criteria, including the reason for seeking safety, duration of residence, religion, and state of origin whether it is classified as *Dār al-Ḥarb* or *Dār al-Islām*. According to Islamic tradition during that period, *mustā'min* is defined as a non-Muslim individual who enters the Islamic state seeking protection, with their residence being temporary and ending once the reason for seeking protection ceases. On the other hand, *Dhimmīs* is a non-Muslim individual who resides permanently within the territories of the Islamic state, enjoying the rights of citizenship while being obligated to fulfill certain duties, the most notable of which is the payment of *jizya* (a tax levied on non-Muslims). Meanwhile, *Muhājir* is defined as a Muslim individual who migrates from a non-Muslim territory to reside in *Dār al-Islām*. The author of the book points out that, after reviewing these three terms, the concept of *mustā'min* closely resembles the modern concept of a refugee (p.85).

After discussing the concept of *jiwār* during *Jāhiliyya* and the period following the establishment of the Islamic state, the author highlights its similarities to contemporary issues of refugee protection. Consequently, Chapter 4 examines the Geneva Convention and the 1967 Protocol, comparing their provisions with Islamic traditions.

In Islamic tradition, the term *musta'min* closely aligns with the concept of a refugee. Both frameworks agree that refugees are individuals fleeing their homeland for safety, though Islamic tradition broadens the criteria beyond the Convention's focus on persecution. Shared principles include non-discrimination, property rights, freedom of movement, and religious freedom. Islamic law guarantees non-Muslims the right to practice their faith without hindrance, exempting them from obligations conflicting with their beliefs. Similarly, the Convention ensures religious freedom without discrimination. While differences exist in the scope of asylum criteria, both systems demonstrate significant alignment in their humanitarian values, particularly in protecting refugees' rights and dignity.

However, while the Geneva Convention and Islamic tradition have much in common, there are some differences, particularly regarding crimes and punishments. For example, in Islamic tradition, the contract of the *jiwār* can be terminated if the refugee commits a major crime, such as murder (there are different opinions among Islamic scholars on this issue). In contrast, the 1951 Convention does not provide for the revocation of refugee status in the event of a crime.

When evaluating the strengths and weaknesses of this study, the author first references UN Secretary-General António Guterres' remark that "the majority of refugees worldwide are Muslim" (p. 1) and points out that only 35 out of 57 member states of the Organization of Islamic Cooperation have ratified both the 1951 Geneva Convention and its 1967 Protocol (p. 2). While these points underscore the study's contemporary relevance, the analysis could have been strengthened by incorporating a comparison between the Islamic tradition of *jiwār* and the legal frameworks for refugees in Muslim-majority countries beyond just contrasting *jiwār* with the Geneva Convention.

The study provides a thorough theoretical and historical examination of *jiwār* but overlooks important contemporary applications. Notably absent are practical examples demonstrating how modern Islamic nations implement *jiwār* concepts in their refugee policies. Furthermore, the analysis fails to address the significant challenges Muslim countries encounter when applying *jiwār* principles, including political constraints and economic pressures that complicate protection obligations.

Despite these shortcomings, the study makes groundbreaking contributions. One of its most significant strengths lies in its focus on the issue of refugees, a topic of immense local and global importance. The study is groundbreaking in its exploration of refugee-related concepts within Islamic tradition and their alignment with, and divergence from, the Geneva Convention. It is the first to provide a detailed analysis of terms such as *Muhājir*, *Musta'min*, *Dhimmi*, and *Mustajir*, which are central to the concept of seeking protection, while also examining the distinctions between them. Additionally, the study offers a comprehensive account of how pre-Islamic and post-Islamic Arab societies addressed these issues and how the concept of asylum is reflected in Qur'anic texts. Furthermore, it elucidates how Muslims dealt with *jiwār* in two distinct contexts: first, when they were oppressed and in need of protection, and second, when they established an Islamic state in Medina and became the ones granting *jiwār* to non-Muslims.