



**SEEKING REFUGE:
FAITH-BASED APPROACHES
TO FORCED MIGRATION**

Poverty and Peacemaking II
March 3–4, 2017 at Princeton University

Refugees in the Law

Silas Allard, Emory University (Moderator)

Sharif Aly, Islamic Relief USA

Serges Demefack, American Friends Service Committee

Elizabeth Foydel, International Refugee Assistance Project

Sahand Keshavarz Rahbar, Princeton University (Student Rapporteur)

The “Refugees in the Law” roundtable consisted of nearly twenty participants, including three speakers—Sharif Aly (Islamic Relief USA), Serges Demefack (American Friends Service Committee), and Elizabeth Foydel (International Refugee Assistance Project)—with Silas Allard (Emory University) serving as the moderator. The roundtable opened with brief remarks from Allard, who provided an outline for the schedule of the roundtable, which would consist of brief introductions from all present in the room, followed by remarks from the speakers, and ending with a Q & A and open discussion with all the participants. Allard also provided a few goals in his capacity as moderator: namely, to generate conversation and understanding. To this end, he reminded participants that the designated speakers would frame the issues and concepts pertinent to the discussion of refugees and the law, but they would not act as a panel of experts providing a one-sided lecture. Consequently, the overarching purpose of this roundtable conversation was not to set some sort of teleological end goal, but to come up with good questions and generate a good conversation.

Elizabeth Foydel followed Allard with some remarks based on her work at the International Refugee Assistance Project, which provides legal aid to refugees from the initial stages of the process all the way to resettlement. She began with a historical overview, noting that the term “refugee” is itself a legal definition set down in the 1951 convention. Since then, it has evolved in some ways, but not in others, meaning that the legal definition has not adapted to all situations that one might see on-the-ground today. This definition is an important starting point not only because it clarifies what “refugee” might denote, but because it represents one concrete way in which refugees encounter the law: the definitional space of formal recognition. Legal definitions lead to legal barriers that can cause unexpected headaches for refugees and those who work on their behalf. Foydel stressed the intricacies of the extensive vetting process all refugees must undergo, observing that the process of resettlement to the United States typically takes eighteen to twenty-four months in the best cases. The various steps in the process are difficult for English speakers to wrap their minds around, let alone refugees who simultaneously bear the trauma of uncertainty and the need to care for their families. Foydel also remarked on one of the insidious consequences of executive orders that bar



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refugees for 120 days. Though 120 days might not seem like a long time for those who live in safety, it is a considerable length of time for refugees. Refugee clearances have a window of time in which they are valid, so if they are forced to wait too long, they have to undergo several steps of the process again, adding more difficulties and burdens to an already lengthy process.

Sharif Aly spoke next and defined the topic of his talk as an examination of how the law impacts the economic and social rights of refugees and the humanitarian services aiding them. He honed in on the situation in Jordan, which provides an interesting case for the operation of the law in the context of forced migration. Jordan has a population of 6.5 million people, of which twenty percent are refugees (predominantly Syrian, Iraqi, and Palestinian). Around one-quarter to one-fifth of the aid provided by his organization goes to the Jordanian government. Jordan has suffered economically and the structure of the country is incapable of handling such a surge of inward migration. In Jordan, refugees are called “guests,” a term that has no denigrating connotation. The use of this term deliberately underscores the legal ambiguity of their status, showing observers how the absence of laws governing refugees can lead to some unjust consequences. Aly spoke also about the arduous process nonresidents must undergo in order to secure work permits in Jordan. In addition to its inherent difficulties, the process also requires employers to pay a certain amount, making it an even more unappealing prospect. As a result, it comes as no surprise that less than one percent of the Syrian refugees in Jordan have the right to work. Such a system leads to multiple undesirable consequences: the vast majority of refugees must rely on public support, many have to work informally, some have to leave the country, and some have to have their children join the labor force. In addition to these problems, there are unintended consequences that hurt the host community as well. Jordanian employers wish to maximize their profit margins, and they recognize that refugees do not need as high of a wage. As a result, all wages in the country have gone down as the price of labor has lowered. Finally, Aly transitioned into some brief remarks about the catastrophic results of political rhetoric regarding refugees. The impact of such rhetoric has amplified xenophobia and Islamophobia, leading to a stricter regulation of migration despite the absence of evidence to justify stricter measures. Aly concluded by offering a series of questions for everyone to contemplate: what is the reality of the refugee population’s presence on terrorism? Is there logically a link? How is the ethnonationalist populist movement occurring all over the world—including in the Middle East—affecting refugee populations?

Serges Demefack offered some context on the American Friends Service Committee, the Quaker organization, noting that the Society of Friends included some of the first Europeans in America who fought for the freedom of black slaves. Since Demefack’s work largely concerns detention, he wished to consider the laws in the United States that frame the oppressive carceral system. He noted the “immigration detention quota” set forth by Congress and interpreted by ICE as a mandate to 34,000 detention beds at any one time. The language was slipped into an



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appropriation bill. Thus, we can observe that there is a legally-coded financial incentive to keep people in prison. Demefack asked whether it was possible to protect people seeking refuge given the existence of these laws, which seem to presuppose the need for a certain amount of detained immigrants at any moment. He also mentioned the need to address local policies, providing examples of local New Jersey jails and detention facilities that have a certain number of beds that must be kept full.

At the conclusion of the speakers' portion of the roundtable, Allard provides some further thoughts. He echoed the thoughts of a Christian scholar who stated that an international legal regime for asylum is necessary because what refugees require, as individuals who have lost a state, is a new. The redress for harm is a new state that will protect them in new ways. Ideally, under such a system, refugee status would provide refugees provisional status as members of a new state. Other scholars have argued that such systems make refugees exceptions, because the standard is citizenship, and thus refugees are always peripheral and distinguishable from that normal standard. Allard linked this thought to the plenary remarks provided by Reverend Seth Kaper-Dale (Reformed Church of Highland Park): refugee status should not be a status of exception, but of privilege, one that affords refugees with extra protections.

During the open discussion portion of the roundtable, a question was brought up regarding the connection between the current crisis and past actions leading up to the crisis. Should there be, from a legal perspective, an effort to link past atrocities with their current consequences, as has been argued in the case of reparations? In other words, should a nation be compelled to provide aid for its past efforts in destabilizing the region? An interesting conversation followed in which participants noted the absence of an enforcement apparatus for international law, which remains the only codified tool through which such compulsion could be brought about. The question arose of whether the citizens of distinct nations, rather than the nations themselves, are the enforcers of international law, and whether it is more politically effective to focus on private efforts rather than to pressure the government to feel accountable, since such measures might be politically ineffective in the end. Elizabeth Foydel noted that arguments relating to reparations in the context of the refugee crisis do come up in professional contexts in her experience. She related how many of the people she needs to talk to for her work do not really care about international obligations. It might be useful to occasionally bring up history, but context is key in such situations. Another participant with experience in the U.S. Department of State noted the justifications the government could make for its contributions (or lack thereof) to provide aid. She noted that one of the rationales made for the low number of refugees in the United States is that the United States is supporting resettlement globally. Such arguments often invoke the idea that the goal of resettlement is not to make refugees move across the ocean, though this leaves open the question of refugees seeking asylum in the western hemisphere. Furthermore, the United States certainly does provide a lot of



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funding for international aid efforts, but this funding does not solve problems endemic to the crisis, like the twenty-one year average wait time for refugees living in camps all over the world.

Another conversation followed about the murky rights and legal protections afforded to individuals who are in the queue at immigration and who are detained. Foydel observed that the definitions associated with such protections are being contested now, with the current administration replacing the word “person” with “citizen” on many webpages. This serves as one example of a widespread effort by many prominent people to make arguments advocating that certain protections apply only to citizens. In this country, you have the right to bring a lawyer for asylum proceedings, but not the right to have one provided for you by the state. You are also not allowed a lawyer when you’re in secondary detention at the airport. As a result, it can be difficult for a detained individual to access a lawyer or for a lawyer to access detained individuals, at least until these individuals are moved to an actual detention center. Ancillary questions, such as whether the immigration officials are entitled to search your cell phone or bags, are being contested, but the decisions are largely unfavorable to refugees. Demefack stressed the dubiousness of most laws in America, observing that this is what makes the legal profession so important. He also underscored the need to build coalitions across interest groups and to constantly engage in order to challenge unjust laws or practices effectively. Allard noted that there are a lot of opportunities to push the line of the law in favor of refugees in immigration contexts. For instance, he provided the example of certain social security cases in which successful arguments have been made in favor of due process as the ability to be heard, a standard that could be translated to cases involving refugees.

Towards the end, the conversation transitioned into a discussion of achievable recommendations that could be made in order to provide a legal framework for global refugee resettlement. One participant mentioned the problem of the average length of war increasing to span decades, creating contexts that perpetuate conflict rather than providing scenarios in which peace and prosperity can flourish. He provided the case of the World Bank partnering with other organizations to create an “employment park” that will provide work for both refugees and nonrefugees, the idea being economic prosperity for all. Aly emphasized the need to focus on diplomacy in order to reduce tensions. Allard noted the inherent difficulty of making any changes that make refuge and asylum more accessible, since countries do not want to promote the existence of refugees. He provided three ideas: rethinking the third safe country agreement, expanding the nexus requirement (expanding the definition of a refugee beyond only the considerations of race, religion, nationality, political opinion, or membership in a particular social group), and resetting the burden of persuasion (refugees have the full burden of persuading that they are in danger, and any doubt on their reliability undermines their case; people fleeing in fear should not have the full brunt of the burden of persuasion). Demefack concluded this part of the conversation by recommending that we critically consider business agreements between countries, since these sometimes include immigration



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agreements. For instance, France might make a business arrangement with Senegal that would require Senegal to police reliably its borders to prevent emigration.

The conversation concluded with a brief discussion on how to reach out to others with whom we have differences and not lose hope about the possibility of effectively advocating for refugees. Aly noted that interfaith work has been found to be very successful, and emphasized the importance of panel discussions at universities and churches to educate citizens on refugee resettlement. The group noted the importance of fostering more opportunities for getting to know one another, ensuring that we are all willing to do the groundwork to go to our neighbors and to bring our communities together.