



Graffiti in Pakistan. Photo: CSW

## RELIGIOUS PERSECUTION AND REFUGEES

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### 1. WHO IS A REFUGEE?

According to the 1951 Refugee Convention, a refugee is someone who 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country'. Unlike economic migrants, refugees are forced to leave their countries in order to protect their lives as their own governments either fail to protect them, or in many cases, actively repress them and threaten their lives.

Internally Displaced Persons (IDPs) are people who have been forced to leave their homes but who have not crossed international borders. IDPs have usually fled their homes for similar reasons as refugees, but remain within the same state under the legal protection of their own government. Thus the government of their country is responsible for helping and protecting IDPs, and IDPs do not have a special status under international law.

Nearly 60 million people worldwide are currently displaced because of conflict, violence and persecution – the highest number since the Second World War. Violations of the right to freedom of religion or belief are one of the key reasons why people are forced to leave their countries of origin.

### 2. RELIGIOUS PERSECUTION AND ITS IMPACT ON FORCED MIGRATION

The right to freedom of religion or belief, enshrined in Article 18 of the 1966 International Covenant on Civil and Political Rights, is one of the most fundamental human rights, and includes the freedom to adopt and to change one's religion or belief, including the right not to believe, and the right to manifest one's religion or beliefs. Violations of freedom of religion or belief around

the world are on the rise.<sup>1</sup> In particular, the persecution of religious minorities is resulting in exceptionally high levels of population displacement, and is contributing to the worldwide refugee crisis. According to the UNHCR, globally one in 122 humans is now either a refugee, internally displaced, or seeking asylum.<sup>2</sup>

Religion is only one of many factors behind persecution, and issues of race, ethnicity, political opinion and gender often intersect with religious persecution. Religion-based asylum claims therefore often state other grounds as well. Religious persecution may take many different forms, including forced conversion, violence, imprisonment, abduction, torture, rape or forced marriage. Violations of freedom of religion or belief often take place in societies where wider human rights are violated, due to a combination of factors such as failure in good governance, absence of rule of law, corruption, economic disparity and authoritarian rule. Furthermore, it is important to acknowledge each country's historical context, and the impact of international policies and interventions such as colonialism in undermining the prerequisites for human rights development.

Religious persecution can be committed by state and non-state actors, and religious majority communities may experience religious persecution as well as religious minorities. Persecution can also occur between members of the same religion, for example when some members of a community do not conform to the doctrine propagated

1 Aid to the Church in Need (2014), *Religious Freedom in the World - 2014*, p.7 [http://religion-freedom-report.org.uk/wp-content/uploads/2014/10/executive\\_summary.pdf](http://religion-freedom-report.org.uk/wp-content/uploads/2014/10/executive_summary.pdf)

2 UNHCR, 'Worldwide displacement hits all-time high as war and persecution increase', 18 June 2015 [www.unhcr.org/558193896.html](http://www.unhcr.org/558193896.html)

by the leaders or the majority of the community. Women and girls may experience religious persecution differently and disproportionately, and can be targeted both because they are women and because of their religious beliefs.

Religious groups across the world experience various forms of discrimination; nevertheless, a claim for refugee protection can only be made when the discrimination and harassment amount to persecution.

The former Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, has highlighted that persecution is not necessarily dependent on the applicant's knowledge of religion.<sup>3</sup> This means that refugees can be at risk of persecution even if they do not have extensive understanding or knowledge of religion. When assessing religion-based refugee claims, it is also important to acknowledge that individuals may also convert to another religion after departing from their country of origin, which may also render them vulnerable to persecution if returned to that country.

The UNHCR's guidelines on religion-based refugee claims acknowledge that claims to refugee status based on religion can be among the most complex. Yet it is clear that people should not be expected to hide, change or renounce their religion in order to avoid persecution.

### **3. COUNTRIES' RESPONSES TO THE INCREASED NUMBER OF REFUGEES**

The 1951 Geneva Convention Relating to the Status of Refugees states that countries should not expel or return refugees to areas where their life or freedom is threatened on account of their race, religion, nationality, membership of a particular social group or political opinion. This principle of non-refoulement is generally considered part of customary international law, meaning that it is widely established state practice binding all countries, even those who have not ratified the 1951 Refugee Convention. However, various countries continue to violate this principle by returning refugees to countries where their life is threatened. For instance, China continues to repatriate North Korean refugees who are desperate to flee the ongoing atrocities and crimes against humanity taking place in their country. In May 2015 the governments of Thailand, Indonesia and Malaysia violated non-refoulement by refusing to accept Rohingya and Bangladeshi refugees stranded in boats on the Andaman Sea. Violations of non-refoulement also take place in western countries. For instance, European countries have returned Eritrean refugees escaping persecution by one of the most repressive governments in the world.

It is crucial to share the burden of the global refugee crisis, as the increasing numbers of people fleeing persecution

require concerted global and regional solutions. The flow of refugees is not equally distributed between or within regions – the majority of the world's refugees (86%) are currently hosted by developing countries. According to a UNHCR report from 2014, Pakistan hosts the largest number of refugees at 1.6 million, mainly from Afghanistan.<sup>4</sup> Relative to the size of population, Lebanon and Jordan are the largest refugee recipients in the world. Approximately 25% of the population in Lebanon are Syrian refugees. In comparison, according to the British Red Cross, there are approximately 150,000 refugees in the UK, constituting less than 0.25% of the population.<sup>5</sup> In the UK, there were 25,771 asylum applications made in the year ending June 2015, with the largest number of applications coming from nationals of Eritrea (3,568), Pakistan (2,302) and Syria (2,204), although 59% of applicants had their initial grant refused.<sup>6</sup>

Regional responses to refugee flows remain weak and there are no comprehensive political agreements on how to respond to the needs of the growing number of refugees. For instance, at the EU level, there is no comprehensive political agreement on how to respond to the needs of the growing number of refugees in the long term. According to Eurostat, 141 countries' citizens sought asylum in the EU for the first time in the second quarter of 2015. Syrians and Afghanis were the top two citizenships of asylum seekers; respectively, they lodged around 44,000 and 27,000 applications.

EU Member States' attitudes and rhetoric vis-à-vis the surge of refugees and migrants arriving to Europe varies. While some ministers have encouraged Germans to welcome refugees into their homes, their messages have not always been well received; indeed, across Europe, there have been increasing reports of hate speech and discrimination ranging from graffiti in the Netherlands to anti-refugee demonstrations in Finland. In May 2015 the European Commission unveiled concrete proposals to create a new European Agenda on Migration. This Agenda aims to ensure Member States' 'fair and balanced participation' in receiving refugees, and replace and update principles established in the 2003 Dublin II Regulation regarding Member States' responsibility for asylum claims. The European Justice and Home Affairs Council that was convened on 22 September 2015 adopted a decision to help the 120,000 people who arrived on EU soil as of six months before this decision entered into force until two years after the decision entered into force, and who are in clear need of international protection. A temporary relocation mechanism has been established to move 66,000 people from frontline member states (15,600 from Italy and 50,400 from Greece). The remaining 54,000 people will be relocated from Italy and Greece in the same proportion one year after the decision entered into force.

3 OHCHR Rapporteur's Digest on Freedom of Religion or Belief, p.76 [www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf](http://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf)

4 UNHCR (2014), *Global Trends 2013: War's Human Cost*, p.14 [www.unhcr.org.uk/fileadmin/user\\_upload/pdf/Global\\_Trends\\_2013.pdf](http://www.unhcr.org.uk/fileadmin/user_upload/pdf/Global_Trends_2013.pdf)

5 British Red Cross, 'Refugee facts and figures' [www.redcross.org.uk/en/What-we-do/Refugee-support/Refugee-facts-and-figures](http://www.redcross.org.uk/en/What-we-do/Refugee-support/Refugee-facts-and-figures)

6 UK Home Office, National Statistics: Asylum [www.gov.uk/government/publications/immigration-statistics-april-to-june-2015/asylum](http://www.gov.uk/government/publications/immigration-statistics-april-to-june-2015/asylum)

Individuals will be distributed across Europe based on factors including country size and economic output, but the decision is subject to change should the situation on the ground require it. Member states participating in the mechanism will receive a lump sum of €6,000 for each relocated person. Denmark and the United Kingdom are not participating in this decision.

On 14 October the European Parliament's budget committee approved the immediate budgetary changes needed to accommodate the informal decisions that were taken by the European Council, and approved an extra €401.3 million in EU funding to manage the refugee crisis, as proposed by the EU Commission. These funds are available not only for the EU countries which have the most challenging refugee inflows, but also to non-EU countries hosting the most Syrian refugees and to the three EU agencies that have been practically engaged in refugee-related matters. One concern, however, is that there is a lack of long-term budgetary planning to deal with a challenge that is likely to remain for a long time.

## 4. CASE STUDIES

### 4.1 ROHINGYAS ON THE ANDAMAN SEA: MUSLIM MINORITY FLEEING PERSECUTION IN BURMA

Burma's 1 million Rohingya Muslims are among the most persecuted people in the world. A Citizenship Law introduced in 1982 removed their citizenship, rendering them stateless. The law has undermined the realisation of the human rights of the Rohingyas, who continue to live without the right to move freely, to access basic services or to vote. Rohingyas are disproportionately represented in Internally Displaced Persons (IDP) camps, and the state has restricted humanitarian aid access to many areas, leaving them in dire hardship. As a consequence thousands of Rohingyas have fled the country by boat, risking their lives on the Andaman Sea. According to UN estimates, at least 130,000 have left by boat since 2012.

In May 2015 the international media reported that 8,000 Rohingya and Bangladeshi refugees were stranded on boats on the Andaman Sea, with no food or water. Some died and others were severely dehydrated and malnourished. Survivors were forced to drink their own urine to survive. Some were stranded at sea for months. They were reportedly subjected to ill-treatment, sexual violence and other abuses, and some Rohingyas committed suicide at sea. For days, the neighbouring countries, Malaysia, Thailand and Indonesia pushed Rohingya and Bangladeshi people back to the sea in severely overcrowded boats, which had in some cases already been abandoned by their crew. Eventually these countries offered to provide temporary shelter to some of the refugees, and the government of Burma rescued some but reiterated that only verified citizens would be allowed to stay – thereby excluding Rohingyas. Burma does not allow Rohingyas to return to the country from abroad, meaning that some have been forced to remain in indefinite detention in neighbouring countries.

## 4.2 ERITREAN REFUGEES AND ASYLUM SEEKERS

Eritrea's human rights record remains one of the most abysmal in the world. Tens of thousands of Eritreans are detained indefinitely without charge or trial in life threatening conditions, in a myriad of facilities where torture is common. The Chair of the Commission of Inquiry on Human Rights in Eritrea (COIE) has described the nation as 'a country where detention is an ordinary fact of life, experienced by an inordinate number of individuals – men and women, old and young, including children,'<sup>7</sup> of all faiths and none.

The Eritrean government violates human rights comprehensively, including the right to freedom of religion or belief. The Jehovah's Witness community was among the first to experience repression and continues to suffer, with at least 58 adherents currently detained, including several elderly people. Three male conscientious objectors have been in prison since 24 September 1994. In 2002 the government effectively outlawed all religious expressions except those occurring within the Orthodox, Evangelical Lutheran and Catholic denominations, and Sunni Islam. Around 1,000 Christians are detained indefinitely at any given time. Although some are released after pledging to renounce their faith, none have ever been formally charged or tried and all are held pending denials of faith. Most of those initially detained were from Evangelical Protestant denominations; however, an increasing number are Orthodox clergy and lay people who remain loyal to the legitimate Orthodox patriarch, who has been under house arrest since being illegally deposed in 2007.

In its report the COIE found that 'systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Some of these violations may constitute crimes against humanity',<sup>8</sup> including violations in the areas of extra-judicial killings, torture (including sexual torture), national service and forced labour. The COIE report was adopted by consensus, and in July 2015, the Human Rights Council renewed the mandate of the COIE, directing it to investigate specifically whether or not crimes against humanity are underway in Eritrea.

As a result of widespread human rights violations, the 'general climate of impunity' and the government's 'pervasive control systems',<sup>9</sup> Eritrea has become the largest refugee-producing country in the world on a

7 UN Office of the High Commissioner for Human Rights, 'Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council', 16 March 2015 [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15699&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15699&LangID=E)

8 Report of the Commission of Inquiry on human rights in Eritrea [www.ohchr.org/EN/HRBodies/HRC/ColEritrea/Pages/ReportColEritrea.aspx](http://www.ohchr.org/EN/HRBodies/HRC/ColEritrea/Pages/ReportColEritrea.aspx)

9 *ibid.*

per capita basis, generating more refugees than any other nation except Syria, an active war zone. Despite the government's shoot-to-kill border policy, the risk of being held hostage by Bedouin people traffickers, of experiencing sexual violence, of dying in deserts, of being kidnapped from refugee camps in Sudan or of being captured and beheaded by Daesh (Islamic State) militants in Libya, Eritreans flee by the thousands each month. According to the UNHCR at least 30,000 Eritreans crossed the Mediterranean between January and October 2014. Traffickers generally utilise unseaworthy vessels, and in the first half of 2015 around 2,000 asylum seekers and migrants drowned in the Mediterranean, including Eritreans.

CSW remains concerned that despite compelling evidence that large-scale human rights violations are underway in Eritrea, some European countries are choosing to view Eritreans as economic migrants, and to return them to their country of origin. Even more concerning are indications that some European nations openly attribute the unprecedented exodus to unemployment, insisting in the face of evidence to the contrary that there has been an improvement in the human rights climate and accepting government assurances that returnees have nothing to fear. In an erroneous policy aimed at stemming the flow of refugees, the European Union may supply development aid to this repressive and unaccountable regime, ostensibly to assist in generating jobs and thereby stemming the tide of refugees. Without addressing the real root cause of the refugee crisis and ensuring an end to repression, this exodus will continue. Moreover, even if development aid is not given to the government directly, the foreign currency generated once it is exchanged for local currency at the National Bank will provide an economic lifeline to a government which is desperate for funds to rebuild and restore demoralised armed forces, depleted by neglect and desertion.

#### **4.3 VIOLATIONS OF NON-REFOULEMENT FOR VIETNAMESE REFUGEES**

There are currently believed to be at least 100 ethnic minority Montagnards seeking asylum in Cambodia. Some Montagnards practise forms of Christianity banned by the Vietnamese government, and those seeking asylum in Cambodia are claiming religious and other persecution. In March 2015 the Cambodian authorities recognised 13 Montagnards as refugees, but since then the processing and recognition of Vietnamese asylum seekers has stalled again. Some asylum seekers are reported to have returned voluntarily, but in these cases, due to tight security, it is difficult to confirm whether or not the decision to return to Vietnam was made freely and without coercion.

Many of the asylum seekers are believed to be Christians. In Vietnam, ethnic minority Christians face severe restrictions on their right to freedom of religion or belief, and economic hardships exacerbated by discrimination

against Christians in the distribution of government assistance. While the government provides blankets, money, food and housing for impoverished ethnic minorities, Christians are denied such assistance solely because of their religion. Furthermore, demonstrations by Montagnards for their religious freedom and land rights have been met with violent crackdowns by police.

CSW cannot independently verify these reports but remains extremely concerned about the deportation of Vietnamese ethnic minority Christians from Cambodia. In interviews with Montagnards in Vietnam and Thailand, CSW has heard consistent reports of religious freedom violations and rampant discrimination against impoverished Christian families. In addition, returned asylum seekers have been 'disappeared', or arrested and detained incommunicado in Vietnam, suggesting that individuals currently seeking asylum in Cambodia face a high possibility of further persecution and ill-treatment by the Vietnamese authorities if they are forcibly returned to the country.

#### **4.4 MINORITIES FLEEING RELIGIOUS PERSECUTION IN PAKISTAN**

The number of asylum cases originating from Pakistan has risen enormously since 2010,<sup>10</sup> and Pakistan ranked as the sixth highest source country of asylum seekers in the industrialised world in 2014.<sup>11</sup> One reason for the rise in the number of asylum seekers is the fact that religious minorities in Pakistan have a well-founded fear of being persecuted for their beliefs. This is supported by the 2015 report by the US Commission on International Religious Freedom, which stated that 'Pakistan represents one of the worst situations in the world for religious freedom...'<sup>12</sup> The situation for religious minorities is so dire that in 2014 the Supreme Court ruled *suo moto* that President Nawaz Sharif's government should set up a framework to protect religious minorities, including the formation of a National Council for minorities' rights and a taskforce to develop a strategy of religious tolerance. Despite this ruling, the government has not been able to provide adequate safeguards for vulnerable minority groups such as Shi'a Muslims, Christians, Ahmadi Muslims and Hindus.

The May 2012 UNHCR Eligibility Guidelines state that 'The Christian minority in Pakistan is subject to recurrent discrimination and harassment, as well as acts of religiously motivated violence, at the hands of militant groups and fundamentalist elements...In many instances, the authorities are reportedly unable or unwilling to protect the lives and properties of Christians, or to bring the perpetrators of such violence to justice.' Equally, Ahmadis are at risk of mistreatment or harm within Pakistan due to 'anti-Ahmadi' laws that restrict the way they are able to practise their faith. The situation is exacerbated by the fact that they would not be able to apply to the authorities for protection. The Eligibility Guidelines report that, 'Little or no protection

10 Dawn, 'Destination: Asylum abroad', 16 May 2015 [www.dawn.com/news/1182298](http://www.dawn.com/news/1182298)

11 UNHCR, *Asylum Trends 2014* [www.unhcr.org/551128679.html](http://www.unhcr.org/551128679.html)

12 USCIRF, *Annual Report 2015*, p.109 [www.uscifr.gov/sites/default/files/USCIRF%20Annual%20Report%202015%20\(2\).pdf](http://www.uscifr.gov/sites/default/files/USCIRF%20Annual%20Report%202015%20(2).pdf)

is reportedly afforded by the State authorities. It appears that crimes and acts of violence against Ahmadis are not consistently investigated, allegedly due to intimidation tactics and pressure from Islamic fundamentalist groups, and perpetrators of such crimes are reportedly rarely brought to justice.<sup>13</sup>

Asylum seekers who flee to Sri Lanka are turned away,<sup>14</sup> often through court orders,<sup>15</sup> contrary to agreed international standards on the treatment of asylum seekers.<sup>16</sup> Nevertheless, the crackdown on asylum seekers continues,<sup>17</sup> and the outlook for Pakistani asylum seekers who flee religious persecution is worrying<sup>18</sup> given the current global trend in handling these cases.

13 UNHCR, 'UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan', 14 May 2012 [www.refworld.org/docid/4fb0ec662.html](http://www.refworld.org/docid/4fb0ec662.html)

14 Al Jazeera, 'Pakistan's silent partition', 27 January 2015 <http://america.aljazeera.com/articles/2015/1/27/pakistani-ahmadis-seek-asylum-in-sri-lanka.html>

15 Reuters, 'Sri Lanka court gives green light to deport Pakistani asylum seekers', 1 September 2014 <http://uk.reuters.com/article/2014/09/01/uk-sri-lanka-refugees-pakistan-idUKKBN0GW2LG20140901>

16 Reuters, 'U.N. says Sri Lanka illegally returning Pakistani asylum seekers', 2 August 2014 [www.reuters.com/article/2014/08/02/us-sri-lanka-refugees-idUSKBN0G20JX20140802](http://www.reuters.com/article/2014/08/02/us-sri-lanka-refugees-idUSKBN0G20JX20140802)

17 The Farrukh Saif Foundation, 'Crack down against Pakistani Asylum seekers in Bangkok-Thailand', 11 March 2015 <http://farrukhsaif.com/crack-down-against-pakistani-asylum-seekers-in-bangkok-thailand/>

18 Tribune, 'Highest number of asylum applications submitted from Pakistan in 2014: report', 26 March 2015 <http://tribune.com.pk/story/859473/highest-number-of-asylum-applications-submitted-from-pakistan-in-2014-report/>

## 5. RECOMMENDATIONS

Human rights, safety and the dignity of refugees should be the basis on which countries form their refugee policies. Treating refugees with humanity and dignity is a fundamental principle that should be applied without distinction based on religion, ethnicity or other factors.

### To the international community:

- Strengthen regional and global responses to the refugee crisis, both as individual countries as well as in coalitions of countries such as the European Union and the Association of Southeast Asian Nations. Countries should show solidarity and commit to take all necessary measures to find humane and just solutions to the refugee crisis, and to provide adequate relief and humanitarian assistance to refugees;
- Continue to commit funds, time and efforts to address push factors such as violations of the right to freedom of religion or belief. Tackling the root causes of forced migration requires strengthening human rights and democratic development in the countries of origin;
- Ensure that the principle of non-refoulement is respected, and that countries do not expel or return refugees to areas where their life or freedom is threatened on account of their race, religion, nationality, membership of a particular social group or political opinion. In cases of people fleeing conflicts by boats such as those on the Mediterranean and Andaman Seas, countries must allow the boats to land and give sanctuary to the people fleeing persecution;
- Coordinate efforts with third countries to increase the effectiveness of counter-smuggling and trafficking measures;
- Ensure that refugees are protected against racism, xenophobia and religious intolerance. The media also has a responsibility to refrain from spreading negative stereotypes about refugees and asylum seekers;
- Work together to ensure that countries take responsibility for the flow of refugees fleeing persecution. European countries should take swift joint action to ensure the fair and balanced participation of all Member States.