

Sharia and Refugee Law in Islam: An Overview

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1. Oldest Refugee Welcome Song - Tala al Badru Alaina ...

The prophet Mohammed was a refugee  Madina and Ethiopia

Song sung by the people of Yathrib (Madina) in 622 A.D. when Prophet Mohammed migrated to Yathrib (Madina) from Mecca to escape the persecutions of the Meccans.

Tale'al-Bedru 'Aleynā - by Šejla Kadić, Bosnia

www.trt.net.tr



navikalbum

FETİM KONSERİ
SARAYBOZNAĞI S.M. KOROSU



2. What does 'Sharia' mean? What is Sharia Law?

- Arabic term for a clear path to water

"Then we put thee on the (right) Way of religion so follow thou that (Way), and follow not the desires of those who know not."

(Quran 45:18)

Sharia Law

- Islamic Legal System. Derived from two main sources:
 - Quran - contains God's words as revealed to the Prophet Mohammad.
 - Sunna - the example of how Mohammad lived his own life (practices) and teachings, known as hadith.
- relies on interpretation /consensus of Islamic scholars and jurists.
- applies only to those who submit to its jurisdiction, i.e. Muslims in an Islamic State. Does not apply to non-Muslims.

3. Quranic Justification for Protection

- 396 Quranic references to protection and assistance
 - 170 references refer to special needs of vulnerable people; 20 on Hijra and Aman (protection); 12 on giving sanctuary; 68 on alms giving and charity
 - ca 1,000 Hadith on oppression/ persecution/ supporting/ granting refuge/ charity/ peacemaking
- Examples:
 - “God’s Earth is vast - so migrate to seek refuge from oppression.” (Quran 9:6)
 - “Those who are firmly established in their homes, and firmly rooted in faith, show love for those who migrated towards them for refuge.....” (Quran 59:9)

4. Refugee Law in Sharia - Persons in need of protection

- Overarching principle: The earth belongs to God
 - To all human beings and creation
 - No concept of ownership of countries
- A Muslim has the right to live in any land where Sharia law is applied.
- A non-Muslim who wishes to live as a non-Muslim under Islamic law has the right to asylum

- Definition of a person in need of protection in Sharia Law:
 - Those who present themselves at the border seeking asylum
 - Those trapped under oppressive rule and unable to leave due to fear, intimidation or weakness (physical, financial, etc.)
 - Some Scholars argue that Muslim state should use all means to free them from oppression. (R2P)
- The giving of Amaan (Safety) to a refugee presupposes two key obligations: non-refoulment and resettlement support.
- Protection independent of beliefs (no forced conversion)
- Poverty of the host community not an excuse
- Individual may grant asylum. All Muslims are equal in granting Amaan - temporary asylum.

- **When Does Asylum Cease?**
 - Voluntarily by refugee - settled elsewhere or returned home voluntarily
 - Assurance of safety from state of origin
 - Conversion to Islam (automatic citizenship)
 - Acceptance of Islamic jurisdiction (Zimmi/Jizya) - citizenship granted
 - In case of serious crime - escorted to place of safety

5. Sharia Law and Practice: A Dichotomy?

2 examples: The States' practices – Civil Society practice

5.1 The States' practice

- Modern Statutory Instruments in Muslim Countries

- Universal Islamic Declaration of Human Rights 1981
- Cairo Declaration on Human Rights in Islam 1990
- Arab Convention Regulating Status of Refugees in the Arab Countries 1994
- Arab Charter on Human Rights 2004

But:

- 13 million refugees of concern - people in need of protection globally i.e. Refugees, IDPs, Asylum Seekers, Stateless Persons (June 2015, UNHCR).

- Majority are Muslims.
- 5.1 million registered refugees in 60 camps in Middle East (Palestinians, UNRWA)
- Muslim forced migrants/refugees mainly from Afghanistan, Iraq, Syria, Libya, Pakistan, Lebanon, Palestine

Organization of Islamic Conference (OIC) – 57 members

ca 60% of refugees globally are Muslims

Next slide:

No. of Refugees given Amaan (safety) by Muslim states



OIC Refugee Intake 2015

| OIC Member | Refugees/IDP Incountry | OIC Member | Refugees/IDP Incountry |
|-------------|------------------------|--------------|------------------------|
| Afghanistan | 3,935,141 | Lebanon | 1,172,388 |
| Morocco | 4,360 | Jordan | 684,795 |
| Libya | 471,721 | Iran | 979,441 |
| Bahrain | 355 | Egypt | 256,384 |
| Brunei | 20,524 | Saudi Arabia | 70,304 |
| Qatar | 1,433 | Malaysia | 271,973 |
| Sudan | 2,767,909 | Pakistan | 3,439,965 |
| Iraq | 4,311,660 | UAE | 802 |
| Yemen | 1,540,539 | Kuwait | 94,633 |
| Syria | 7,946,500 | Oman | 390 |
| Turkey | 1,985,269 | Israel | 45,197 |

* Population of concern to UNHCR June 2015

Tents potentially available for 3 million refugees in Mina (Saudi Arabia)



Airconditioned Tents in Mina, Saudi Arabia



First Conclusions

- Sharia law - expansive protection network for refugees
 - forerunner to many international refugee law provisions
- No fully sharia-compliant country exists today
- Weak application of Sharia law in Islamic law countries
- Sharia wider - e.g:
 - individuals can grant temporary refuge /amaan)
 - Individuals Amaan respected by the state
 - Refugee rights – work, social welfare, medical, education, business, etc
 - Also movement within and to any other Islamic State
 - refugee not required to prove persecution

- “... more than any other historical source, Islamic law and tradition underpin the modern-day legal framework on which UNHCR bases its global activities on behalf of the tens of millions of people forced from their homes around the world.”
 - (UNHCR High Commissioner Antonio Guterres - foreword to “The Right to Asylum between Islamic Sharia and International Refugee Law: A Comparative Study.”)

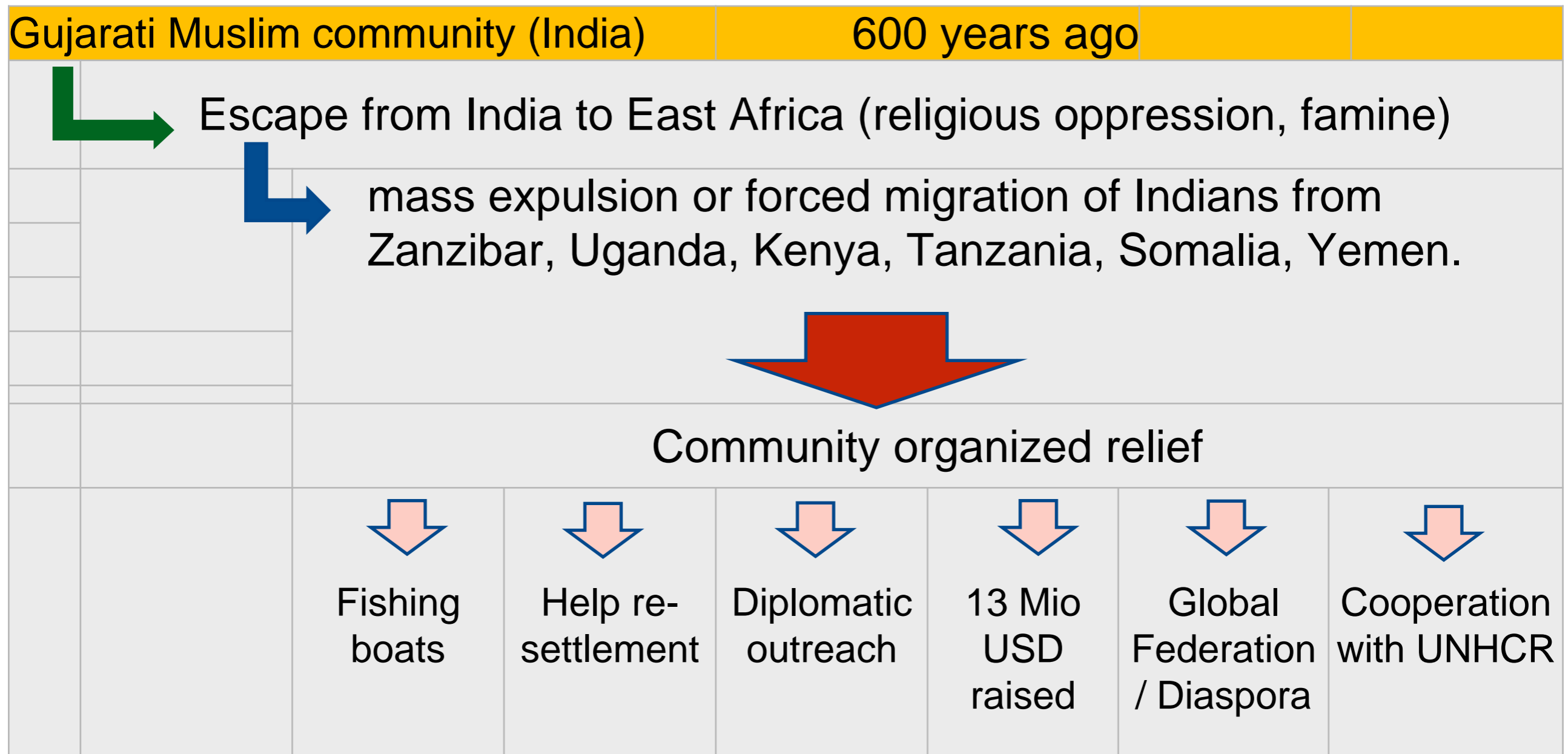
- Modern political realities challenging for full implementation of Sharia law :
 - nations and borders,
 - economic rivalries,
 - political dictatorships
 - religious fundamentalism by states and groups,
 - radicalisation and proxy wars,
 - weak civil societies.
- Lack of unity of purpose between Islamic nations and peoples

FURTHER DISCUSSIONS

- Nationalism, borders and classical Sharia law: What options for application by Islamic countries?
 - War and Peace: Waging War, creating Muslim refugees?
 - Addressing the root causes for war
 - Responsibility To Protect (R2P): Protecting Muslim victims from Muslim rulers?
- Media, War and Refugees
- New Challenges in host countries: fundamentalism, right wing populism, and refugee integration
- Role of civil society in supporting refugees

5.2 Response of Non-State Actors in situations of mass migration

The Khoja Shia Muslim Community in East Africa





Pakistan

Karachi

Gujarat

Bombay

Nagarpur

Mandvi

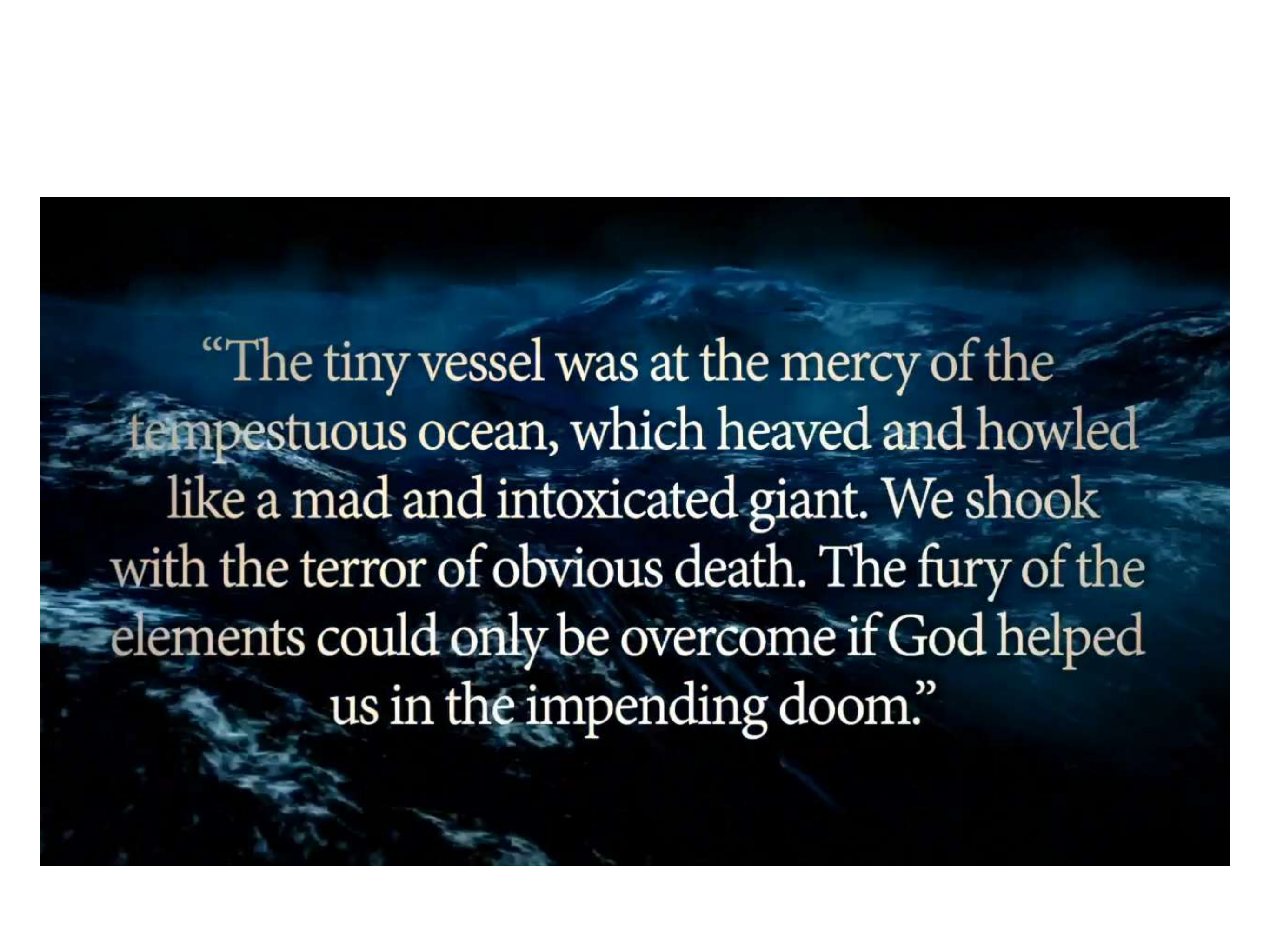
Bhuj

Ahmedabad

Porbandar

Bhavnagar

Mahuva



“The tiny vessel was at the mercy of the tempestuous ocean, which heaved and howled like a mad and intoxicated giant. We shook with the terror of obvious death. The fury of the elements could only be overcome if God helped us in the impending doom.”

Zanzibar Revolution 1964: Expulsion of Arabs and Asians

Standard

1: 57622 (City Office 26421)

Reporters 26421

Petition against forced marriages to the U.N.

Barrows

the forced marriage of
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millions of people, have
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why not the politicians?

ird World will condemn
against humanity? Why
every violates the human
to defend?

e politicians who are so

Please allow me to express appreciation of your dauntless defence and precise appraisal of the situation of the defenceless minority in Zanzibar. I have no doubt you will continue to champion the cause of the victims, the afflicted or the helpless.

The letter by "Miss Distress" is not only touching — it makes one's soul groan. Many appeals, petitions and resolutions have failed to produce any response from the Governments concerned, the O.A.U. or the U.N.

There is no doubt that the situation in Zanzibar is of extreme gravity and the Revolutionary Government of Sheikh Karume has unleashed tyranny, humiliation and dishonour on the minorities in Zanzibar, the like of which is incompatible with the enlightenment of this civilisation.

Who knows how long these minorities, comprising Asians, Iranians and Arabs, have endured barbaric brutalities? And how

Here is a further selection of Letters to the Editor on the violation of human rights through forced marriages in Zanzibar.

Protests are being received from all over East Africa on this burning issue. Apologies are offered to all those readers who must be disappointed because their letters have to be omitted for lack of space.

—★—

to see the stuff this organisation is made of.

This ineffectual symbol of human justice, peace and equality leaves much to be desired. I sincerely hope it will not be necessary to present the case before the U.N. but, should it become incumbent, I would need more information, which in conjunction with my solicitors will have to be speedily compiled.

Those who have such information may communicate with me in confidence to P.O. Box 4179, Nairobi — by registered mail with

Uganda Idi Amin's Expulsion 1972



Somalia 1991



Lessons Learnt

1. Civil Society organization critical esp. in situations where State not helpful. Also as First Responders.
2. Civil Society takes moral and religious responsibility more seriously than the State.
3. Civil Society can go where international organizations or state agencies will not risk.
4. Funding critical issue - international recognition necessary to give impetus to CSO efforts.
5. Expansion of international law to include civil society involvement and recognition of religious organizations in managing refugee crises.

Mutti Flüchtlinge & her people: 'Willkommen an Bord Liebe Flüchtlinge'



Tala al Badru Alaina ...
A new rendition, a new welcome, a new home!
Canadian School Choir



Vielen Dank für Ihr Interesse

thank you for your Interest