

# Gulf Response to the Syrian Refugee Crisis

## *Facts, Debates and Fatwas*

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### **Abstract**

This article will focus on how the Gulf, state and society, reacted to the Syrian crisis and the role of religious leaders in Gulf area and beyond in addressing when a Muslim should opt for migration as a response to the deterioration of their living conditions and how should behave in the host society. After examining statistics that contradict the Gulf's official declarations concerning the number of Syrian refugees hosted by their countries, I will review briefly the debates in favor and against receiving Syrian refugees in the Gulf societies through conventional and social media. Finally, through the analysis of fatwas issued since 2011, I will argue that the landscape of religious scripts provides contradictory messages about migration, modes of migrant's incorporation and hospitality. Some of these messages call upon Muslims to receive refugees in distress while others are either silent or discouraging refugees to go to non-Muslim countries.

### **Keywords**

Gulf countries – Fatwas – Syrian refugees – migration policy – integration – hospitality

### **Introduction**

In migration studies there is a general lamentation of the eroding of “politics of compassion” and the development of what Hannah Arendt (1991) and Rony

Brauman<sup>1</sup> (1996) called “politics of pity” that she has replaced compassion, empathy and justice. Pity as a social convention occurs at a distance, while compassion takes place when the person not suffering is in front of the person who is suffering. This conception would be the best to depict the Gulf’s response to the refugee crisis (state and society donations in the Gulf comforted the conscience of Gulf citizens and statesmen with small number of hosted refugees). The adoption of such politics can be explained by different political, sociological, economic and cultural factors. This article will focus on how the Gulf, state and society, reacted to the Syrian crisis and the role of religious leaders in Gulf area and beyond in addressing when a Muslim should opt for migration as a response to the deterioration of their living conditions and how should behave in the host society.

I will first examine statistics that contradict the Gulf’s official declarations concerning the number of Syrian refugees hosted by their countries. Then I will review briefly the debates in favor and against receiving Syrian refugees in the Gulf societies through conventional and social media. Finally, through the analysis of fatwas (i.e. non-binding verdicts of Islamic jurisprudence) issued since 2011, I will argue that the landscape of religious scripts provides contradictory messages about migration, modes of migrant’s incorporation and hospitality. Some of these messages call upon Muslims to receive refugees in distress while others are either silent or discouraging refugees to go to non-Muslim countries. However, one should not overstate the influence of such religious scripts. Receiving or not receiving refugees is not a matter of culture, whether it is an Arab/Islamic one or a Western/Christian one, as some majority-Muslim and Western countries have received refugees while others from both cultural spheres have not. Many other factors should be taken into consideration to explain the behavior of states and societies.

This paper is based on three sets of methods: a desk review about the number of Syrian refugees received and the policy adopted by host countries especially in the Gulf and Europe where I will rely on the outstanding study of Françoise De Bel-Air (2015) as well as about state policies vis-à-vis refugees population; a content analysis of social media and newspapers in 2013–2015 about the position of different actors in the Gulf countries against hosting Syrian refugees; and finally a systematic review of 84 fatwas produced by 16 organizations (15 online fatwas websites and Egyptian Iftaa Institution [*dar al-Iftaa al Masriyya*]) about migration.

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<sup>1</sup> Founder and former chairman of ‘Médecins sans frontières’.

## I Lack of Hospitality in the Gulf Countries: Some Facts

In early 2015, Amnesty International provided a powerful figure showing that 95% of Syrian refugees were received by five countries: Turkey, Lebanon, Jordan, Egypt and Iraq. The UN estimates that 4.8 million Syrian refugees have been forced to flee to neighboring countries, (UNHCR 3, Sept. 2016) and A further 6.5 million of those in need in Syria are internally displaced. (OCHA 29.10.2015)<sup>2</sup> This percentage is changing slightly as the number of Syrians arriving in Europe seeking international protection continues to increase swiftly. According to UNHCR, the total Syrian Asylum Applications in Europe was 1,120,432 between April 2011 and September 2016, much higher than in 2014 (137,798 applicants). By mid-2016, a total of 63,170 resettlement places have been offered globally since the crisis in Syria began, which only represents only 1.7 percent of the total number of refugees in Lebanon, Jordan, Iraq, Egypt and Turkey. 378,684 people in the five host countries - or ten percent are in need of resettlement (permanent residence), according to UNHCR.<sup>3</sup>

For this article, I will focus on the Gulf countries. None of the six Gulf Cooperation Council states has signed the 1951 UN Convention on refugees which has governed international law on asylum since the end of World War Two. The convention defines the status of refugees and the duties and rights of governments. As we will see below that the Gulf States have not only refused to recognize “refugees” status for Syrians but they were seriously reluctant to shelter them with a migrant status.

### *Saudi Arabia*

The minimum<sup>4</sup> estimate of Syrian nationals who have arrived in Saudi Arabia since 2011 is 420,000 (De Bel-Air, 2015) (see Figure 1) consisting mainly of temporary foreign workers, and not 2.5 million as a government official announced.<sup>5</sup> Their number increase is not very different from those who migrate from Sudan for instance. (see Figure 2) While attending the World Humanitarian

2 <https://www.humancaresyria.org/news/item/syrian-crisis-horrific-numbers-keep-increasing>.

3 <http://speisa.com/modules/articles/index.php/item.1219/the-wealthy-saudi-arabia-and-the-other-gulf-states-receive-zero-syrian-refugees.html>.

4 Minimum is because it fails to incorporate Syrian refugees who came with no school-age children. (De Bel-Air, 2015: 8).

5 The Saudi Arabia the Foreign Ministry declared “Saudi Arabia has hosted around 2.5 million Syrians since the beginning of the crisis in that country in 2011”. See <http://www.arabnews.com/featured/news/805236>.

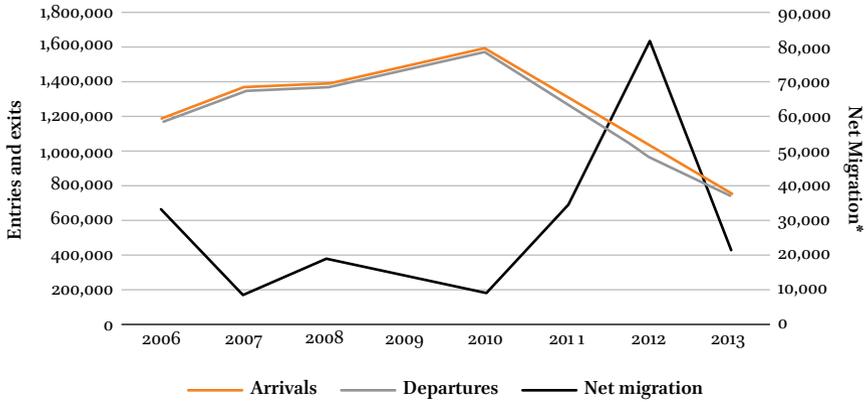


FIGURE 1 *Entries, exits and net migration of Syrian nationals to SA (2006-2013)*  
 SOURCE: CDSI, STATISTICAL YEARBOOKS, 2007-2014; REPRODUCED FROM (DE BEL-AIR 2015)

\* Net migration is the difference between the figures of entries and exists.

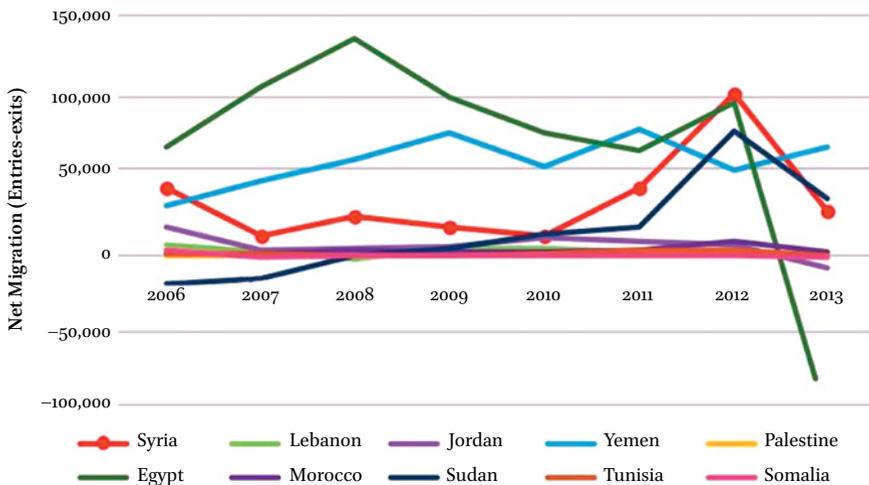


FIGURE 2 *Net migration to Saudi Arabia (Selected Arab countries 2006-2013)*  
 SOURCE: CITED BY (DE BEL-AIR 2015)

Summit held in Istanbul in March 24 2016, the Saudi Foreign Minister Al-Jubeir declared “There are no camps or tents for Syrian refugees in the Kingdom. Rather, they enjoy the same rights to health care, education and work”.<sup>6</sup>

6 <http://english.aawsat.com/2016/05/article55351409/al-jubeir-no-tents-syrian-refugees-saudi-arabia>. Royal order issued in 2012 allows Syrian children to study in Saudi schools. 100,000

However, the cost of visitor temporary residency of 1, 3 or 6 months residency cost around \$ 33.<sup>7</sup>

#### *UAE*

Contrary to Saudi policy, United Arab Emirates have deported Syrians during these years of the Syrian conflict. Prior to that, there were 142,000 Syrian nationals in the UAE. The government said “it has provided residency permits to more than 100,000 Syrians who have entered the country since 2011 and that more than 242,000 Syrian nationals currently live in the country.”<sup>8</sup> in September 2016, the Ministry of International Cooperation declared that UAE will host 15,000 Syrians during the upcoming five years.<sup>9</sup>

#### *Qatar*

According to the representatives of the Syrian embassy in Qatar, there are around 60,000 Syrian expats living in Qatar, from which around 19,000 with no residency permits but visitor visa who have come since 2011.<sup>10</sup>

As Qatar’s Supreme Education Council forbids students without residency permits from attending schools in Qatar, Syrian children on temporary visas cannot enroll there; the Syrian School in Doha is more lenient regarding the residency situation but cannot accommodate all applications.

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Syrian youngsters are attending local schools. All Syrians in the Kingdom are said to receive free medical treatment. They are also allowed to work in the private sector. In addition, The 2012 “Program of the Custodian of the Two Holy Shrines for the Syrian Students”: orders universities to incorporate up to 3,000 Syrian university students per year free of charge in SA universities.

7 Rohingya, Palestinian and Syrian residents were formally exempted from deportation if found contravening labour and residency regulations.

8 <http://www.opensourceinvestigations.com/syria/gulf-states-response-to-syrian-refugee-crisis-a-myth-debunked/> statement dated to September 2015.

9 <http://ar.popsugar.com/%D8%AD%D9%8F%D8%A8/%D8%A7%D9%84%D8%A5%D9%85%D8%A7%D8%B1%D8%A7%D8%AA-%D8%AA%D8%B3%D8%AA%D9%82%D8%A8%D9%84-%D9%84%D8%A7%D8%AC%D8%A6%D9%8A%D9%86-%D8%B3%D9%88%D8%B1%D9%8A%D9%8A%D9%86-42452497>.

10 <http://www.youm7.com/story/2015/9/15/%D8%A7%D8%A6%D8%AA%D9%84%D8%A7%D9%81-%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D8%B1%D8%B6%D8%A9-%D8%A7%D9%84%D8%B3%D9%88%D8%B1%D9%8A%D8%A9-%D8%B9%D8%AF%D8%AF-%D8%A7%D9%84%D8%B3%D9%88%D8%B1%D9%8A%D9%8A%D9%86-%D9%81%D9%89-%D9%82%D8%B7%D8%B1-%D9%8A%D9%82%D8%AF%D8%B1-%D8%A8%D9%80-60/2349181>.

TABLE 1 *Records of entries and exits of Syrian nationals at Kuwaiti borders (2010–2013)*

	2010	2011	2012	2013	Cumulative flows 2011–2013
Entries	307,949	269,013	227,429	199,456	1,003,847
Exits	307,316	268,346	218,241	191,830	985,733
Net migration	633	667	9,188	7,626	18,114

SOURCE: REPRODUCED FROM (DE BEL-AIR 2015)

### *Kuwait*

The stocks of resident population vary between 18,000 (based on entries and exits' flows) and 23,000 according to the records of foreign residents maintained by the Public Authority for Civil Information. (see Table 1)

The Kuwaiti government continued allowing Syrian nationals already residing in Kuwait to sponsor their Syrian children for entry visas and residence permits, but this accommodation became limited to girls under the age of 15 and boys under the age of 10. (De Bel-Air 2015)

### *Aid by the Gulf Countries*

While the six Gulf States received a small amount of Syrian refugees, they were relatively generous in helping host countries that receive Syrian refugees. They are in the Top 10 countries giving aid to Syrian refugees. Sources vary and some declarations show that by the end of 2015, they have given over \$2.3 billion.<sup>11</sup> To this sum, one should add also the donation from the Gulf societies.

As argued in the introduction, the fact that the Gulf is generous financially and reluctant to receive Syrian refugees reflect a "politics of pity," that has replaced compassion, empathy, or justice. Thus state and society donations in the Gulf comforted the conscience of Gulf citizens and statesmen, without pushing them toward politics of compassion.

## II Debates in the Gulf

Hospitality is always tinted with hostility, Jacques Derrida (2001) has argued, and fear. Sociological literature often argue that phenomena such as

<sup>11</sup> <http://www.opensourceinvestigations.com/syria/gulf-states-response-to-syrian-refugee-crisis-a-myth-debunked/>.

xenophobic and racism is generated by the presence of the Others, such as migrants and refugees. In addition to state regulation of prohibiting discrimination and hatred speech, the free debate in the public sphere is the very condition of dealing with such phenomena. The civil society and press may play (or may not) in this regard a major role in informing citizens and rationalizing the debates generated by the presence of the refugees and migrants.. Let us take as example, the such role in Germany. One group called the Center for Political Beauty held a large-scale “burial of refugee bodies” on the lawn of the Reichstag in Berlin, complete with shovels, dirt mounds, and small, white crosses. This group produces its own accounts of the Syrian refugees crisis in its actions, challenging dominant communicable models in which state officials and journalists are the primary subjects who can speak the truth. (Holmes and Castaneda 2016) Anthropologists and Syrian refugees have begun ethnographic experiments of verbal and musical dialogue, weekly socializing in a neighborhood café, dialogical courses in the department of anthropology involving Syrian refugees and university students, activism to push the university to admit Syrian refugees, and collaborative writing and publishing to participate in the war of position more actively together. In addition, many of the faculty and students volunteer regularly in housing, health care, registration, and other services for refugees. These efforts have complemented other forms of horizontal political solidarity that have emerged. (Idem) Needless to say the civil society can be uncivil as well. In the reaction of the presence of Muslim refugees, contemporary anti-Muslim movements were developed in Germany. Patriotic Europeans against the Islamicization of the Occident (PEGIDA), founded in Dresden in 2014. (Idem)

In Germany, dynamics of public opinion on hosting refugees have been volatile, from initial hostile outbursts of anti-refugee collective action, to a massive wave of solidarity and support for refugees, and what seems to be a strong bifurcation of opinions later on.<sup>12</sup> A survey (the Barometer of Public Opinion on Refugees in Germany) conducted in March 2016, shows that “more than half of all respondents still associate the influx of refugees with more risks than opportunities. Nonetheless, a clear majority (81 percent of respondents) are in favor of admitting refugees and those fleeing political persecution, in accordance with international law. At the same time, however, the majority are of the conviction that refugees should be sent back to their home country once their reason for leaving it no longer pertains. Only 28 percent of all respondents are in favor of allowing refugees who have already been living in

12 <https://www.wzb.eu/de/forschung/migration-und-diversitaet/migration-integration-transnationalisierung-o>.

Germany for some time to remain in the country even after the situation in their country of origin has improved.”<sup>13</sup>

In the Gulf countries, it is very difficult to trace the development of public opinion vis-à-vis refugees. The only voices we found are those of some religious associations and leaders, who have clear positions of receiving Syrian refugees such as the Saudi reformist Salman al-Oudeh. Al-Oudeh headed a very important initiative for Syrian refugees called ‘Awin (عاون) that established, among other projects, economic enterprises in the South of Turkey to let Syrian refugees work there. Other than religious figures, the Saudi journalist Ahmad Bin Rashed Bin Said and Khaled Muhawish requested Gulf countries to receive Syrian refugees. Generally speaking, there are very shy debates in the Gulf newspapers and TV stations and rare are the academic voices who play a role in rationalizing these debates.

There are many justifications for not receiving refugees in the Gulf. Fahd al-Shoulami, Chairman of the Gulf Forum for Peace and Security declared: “Kuwait and Gulf states are expensive [to live] and don’t suit refugee life, it suits [people who] work. Transportation in Kuwait is expensive too, while living in Lebanon or Turkey is cheaper, so money paid to refugees will go farther. In the end you can’t accept other people from a different environment, from a different place, with psychological problems, nervous system problems or trauma and put them into (our) societies.”<sup>14</sup> This kind of statements reflects indeed a general chauvinistic trend in the gulf not only against receiving refugees but also despising foreigners and even those who were got Gulf nationality. In November 2015, commenting on a proposal made by Professor Shafiq Al-Ghabra to unify all citizenship classifications under one article for all citizens, the Interior Ministry Assistant Undersecretary for Citizenship and Passports Affairs Major General Mazen Al-Jarrah expressed his strong disagreement: “With all due respect, Ghabra himself only got his citizenship ‘yesterday’ [ie. recently]. How come he wants to be treated like original Kuwaitis. Just relax doctor. The state has honored you with this citizenship.” To this Al-Jarrah added that getting US citizenship is not as worthy as that of Kuwait as, always according to him, “[i]t does not guarantee a decent job, housing and marriage loans. Remove those privileges and no one will demand Kuwaiti citizenship.”<sup>15</sup> I found it a pity that the scientific community in Kuwait does not protest such

13 [https://www.diw.de/documents/publikationen/73/diw\\_01.c.534664.de/diw\\_econ\\_bull\\_2016-21-1.pdf](https://www.diw.de/documents/publikationen/73/diw_01.c.534664.de/diw_econ_bull_2016-21-1.pdf).

14 <http://www.haaretz.com/middle-east-news/1.674759>.

15 <http://news.kuwaittimes.net/website/bedoons-to-get-comoros-citizenship-soon-jarrah/>.

racist declaration and defended one of its faculty in Kuwait University, Prof. Ghabra, who is the second generation Kuwaiti (as his father was nationalized in early 40s) and fought against the Iraqi invasion to Kuwait.

The Gulfian civil society did little to counter the depiction of the hosting of the Syrian refugees as security or demography matters. The Gulf countries like any other authoritarian ones, the security apparatus has an upper hand and function without any accountability to political and judicial institutions. While the decision of according asylum in Europe is taken by two instances: bureaucratic and legal (Fassin 2013), in the Arab world it is often the security apparatus and the Army that manage refugees flux. Other arguments were about demography. Foreign nationals make up between 33 and 88 per cent of Gulf States' resident populations, and outnumber nationals in all but two of the countries. Some foreign nationalities may also outnumber other national groups (e.g. Indians in the UAE, Nepalis in Qatar) (De Bel-Air 2015)

I followed the social media and there are clear public calls for their governments to "do something". Many individual voices are found in favor of receiving refugees in the Gulf and others that do not. The Arabic hashtag #Welcoming\_Syria's\_refugees\_is\_a\_Gulf\_duty<sup>16</sup> was tweeted more than 33,000 times in the past week, according to the BBC. (Tharoor 2015) Many tweet not really about receiving Syrian refugees but rather to help states hosting Syrian refugees.

These are some cartoons and arguments that are frequently circulated in the social media, including disenchanting discussions of religious authorities. (see Appendix)

In the following section, I will trace the debates about migration and receiving refugees from an Islamic perspective, focusing mainly on the fatwas produced by different fatwa organizations. These fatwas have some influence on gulf policy but also on the attitude of those who follow them (being migrant/refugee/newcomer or local population), in Gulf or outside it. For the purpose of this article, boundaries between economic migration and refugeeness will indeed be blurred.

### III Fatwas: Debating Migration

Sami A. Aldeeb Abu-Sahlieh (1996) points out at a historical framework of migration in the early Islamic history by considering that, "Immigration marked the Muslim community since its beginning. Biographers of Muhammad

16 استضافة لاجئي سوريا واجب خليجي #

reported how he sent some of his followers to Abyssinia to protect them from the persecutions of the inhabitants of Mecca. [...] Similarly, in an effort to escape persecutions, Muhammad, accompanied by some of his followers, left his native city Mecca in September 622 and went to Yathrib, the city of his mother, later named Medina. That marks the beginning of the Islamic era, the era of Hegira, era of migration.” This tradition considered the migration and the mobility of social actors as the rule, or to talk like Liisa Malkki, ie. the “national order of thing”,<sup>17</sup> and not the fixation within the nation-state. This tradition continues after the time of the Prophet Mohamad, including the right to asylum. Louis Massignon wrote in 1952 comparing the importance of the right to asylum for Muslims compared to Christians. Gordon Oyer (2013: 89) commented on Massignon’s “The Respect for the Human Person in Islam and the Priority of the Right to Asylum over the Responsibility to Wage Justified Wars,” (Opera Minora 545, trans.) as following:

“[Massignon] describes the Islamic grounding of personhood within one’s personal testimony to a transcendent God, in contrast to Western notions of personhood that depend instead on social standing. He also emphasizes how through this standard Muslims grant personhood to Christians and Jews. [...] [T]his view of personhood to the Islamic concept of asylum [...] granted refuge to foreigners during war and to fugitives. Massignon felt this priority of asylum retained the vestige of a primitive sense of hospitality, which sees the ‘guest’ or ‘stranger’ as one sent by God. In contrast, Western hospitality has become at best a ‘commercial ploy’. The Christian West’s abuse of Islam’s primitive hospitality during their encounters reveals its own forgetfulness and contempt of the Bible.” (p. 89) Written in 1952, the essay criticizes post-war treatment of displaced Arab people. This Massignon’s sensitivity apparently came from the fact that he found refuge with a Bedouin family in the Iraqi desert and he felt hospitality while he was simply a foreigner.<sup>18</sup>

How is migration perceived by religious authorities?

With the development of internet and communication technologies, on-line fatwas have become a significantly important tool to ask questions related

17 Malkki argues against the conception of nation-states what many scholars take it for granted: “that the world should be composed of sovereign, spatially discontinuous units is a sometimes implicit, sometimes stated premise in much of the literature on nations and nationalism”. (Malkki 1992, 36).

18 Interview with the Algerian sociologist Abdel Kader Latreche (Beirut, January 2016).

to various topics in Islamic jurisprudence (*fiqh*). What makes online fatwas special is that people can choose their preferable scholars no matter how far is the distance that separates them. I have sufficiently evidence that these online fatwas are used beyond the context in which they are issued. They were used by different discussions I found in the social media. I used fifteen websites, in addition to Dar al-iftaa al-masriya (the official institution of fatwas in Egypt) that I have electronically all its fatwas since 1930. These are quite known and rather popular as I found many references to them in the social media discussion as well as in the interviews I conducted with many Muslims, mainly in Lebanon-including Syrian refugees- and France who are Fatwa users. Some of these websites are official national fatwas institutions (Egypt, Qatar, Saudi Arabia) and other are transnational (European Council for Fatwa and Research, The Fiqh of North America, Islam House and Islam Way) or some famous and/or independent sheikhs (Islam Today, Assembly of Muslim Jurists in America, Path of Salaf, Muahammad Salih, etc.). (see Table 2 in the appendix)

This section analyzes 83 online fatwas provide by these sources and related to migration to explore how Islamic scholars that respond to fatwas perceive it and how they deal with it.<sup>19</sup> Some of them are in Arabic or English and others are in multiple languages.

In spite of the fact that muftis refer to the same corpus, ie. the holy Qur'an and Hadith, they tremendously vary in their interpretation of social issues such as migration. The Koran mentions in twenty-seven verses the term *higrah* (migration) and its derivatives mainly in the meaning of "to abandon" or "to leave an unjust situation or oppressive place": "The believer must flee from the injustice" (74:5). So this term is used very often to designate the fact of fleeing from a country governed by the infidels in order to join the Muslim community. (Abu-Sahlieh 1996)

Fatwas related to migration evoke often the Qur'anic three verses: "Verily, as for those whom the angels take (in death) while they are wronging themselves (as they stayed among the disbelievers even though emigration was obligatory for them), they (angels) say (to them): 'In what (condition) were you?' They reply: 'We were weak and oppressed on the earth.' They (angels) say: 'Was not the earth of Allaah spacious enough for you to emigrate therein?' Such men will find their abode in Hell—what an evil destination!. Except the weak ones among men, women and children who cannot devise a plan, nor are they able

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19 I thank Onsi Hanafi who has contributed to the analysis of many fatwas included in this article.

to direct their way. These are they whom Allaah is likely to forgive them, and Allaah is Ever Oft-Pardoning, Oft-Forgiving" [al-Nisa' 4:97-99]

These three verses urge each Muslim living in a country in which a Muslim cannot exercise his religious duties to leave it and join the Muslim community, unless he is unable. Other verses express the same sense (4:100; 9:20). The purpose of this migration was to protect them from persecution, and to strengthen the new community. Therefore the holy Qur'an uses together the terms: *those who believe, and those who emigrate and strive in the way of Allah* (2:218; 8:72, 74 and 75; 8:20; 16:110).

Also there are many hadiths in which fatwas are based on, among them the following one: "I consider myself rid of any Muslim who sojourns among the polytheists." (Authentic hadith from Bukhari and Ibn Hazm).

Many fatwas refer to below Quranic verses and hadith and distinguish three cases of a Muslim willing to migrate or already residing in the West or what they call non-Muslim countries:

- 1- If s/he has a valuable reason to stay and can practice his/her religion openly and maintain his/her faith and religiosity, then he/she is allowed to stay wherever he/she is, but it is commendable to migrate to a Muslim country.
- 2- If s/he is there in order to carry the message of Islam (do da'wah) and help the Muslim community, then it is not only permissible for him/her to stay, but it is also commendable.
- 3- If s/he cannot practice his/her religion and s/he fears affliction for his/her religion, then s/he should leave the country and migrate to a Muslim one, unless s/he is not able to migrate for physical or financial reasons.

In the first case, the 'valuable reason' has been described in most fatwas as migrating for work, seeking knowledge or getting medical treatment. As for 'practicing religion openly', few fatwas specified what they mean by it. For example, Shaykh Muhammad ibn Ibraaheem Aal al-Shaykh, mufti of the Saudi Arabia, explains that "Practicing the religion openly does not only refer to praying and minor issues of religion and avoiding prohibited act such as usury (*riba*), adultery (*zina*) and so on. Rather, practicing the religion openly means proclaiming monotheism (*Tawheed*) and disavowing the ways of the polytheists (*mushrikeen*), such as associating others with Allaah in worship and other kinds of disbelief (*kufir*) and misguidance" (Fatwa no 1/77). One can notice the use of vocabulary such as *mushrikeen* and *kufir*.

Moreover, some of these fatwas are concerned with family problems resulting from one member who wants to migrate to a non-Muslim country while the mother/father or the wife/husband does not accept. Needless to say many fatwas clearly discriminate between man and women and make the impossible to women to migrate or even travel alone.<sup>20</sup>

The migration issue is also related to the issue of citizenship. Fatwas on the permissibility of getting the nationality of a Western or non-Muslim country were found in the website of the Assembly of Muslims Jurists of America (AMJA) and in Islam Way. In both institution, the response was that obtaining citizenship is only permissible under conditions of exigent need as it could let the Muslim to endorse sayings and acts that contradict Islamic creed and to give allegiance to the disbelievers. For the Saudi official Fatwa institution (the Permanent Committee of Ifataa), it is strictly prohibited of obtaining nationality in non-Muslim countries.<sup>21</sup> This way of framing geography in terms of Muslim vs. Non-Muslim Lands has invited many believers to ask perverse questions to muftis. For instance one of them ask Way of Islam: "I am currently in a Land of disbelief for the purpose of study .. for a year, is it permissible to travel within this land with my wife for the purpose of entertainment and visit?"<sup>22</sup>

In addition to citizenship, an important notion that governs the rulings of migration in Islam is the status of the host states (whether those where migrants currently reside in or willing to migrate to) and its relation with the Muslim or Islamic state. A fatwa in IslamWeb (Ministry of Awqaf and Islamic Affairs in Qatar) explains that "The lands of Allaah are of two types: Muslim land (*Dar al-Islam*) and non-Muslim land (*Dar al-Kufr*). In the latter, either there are some reasons for fighting between Muslims and non-Muslims, in which case it is called Land of war (*Dar Harb*), or that there are some reasons for peace, like reconciliation and covenant between Muslims and non-Muslims, in which case it is called land of peace (*Dar al-Amaan*). Therefore, it becomes clear that Dar al-Amaan is in reality a land of non-Muslims and it is not a separate third category. In regards to what a Muslim can do in Dar al-Amaan, he should respect the laws of that country, which does not

20 <http://fatwa.islamweb.net/fatwa/index.php?page=fatwaadvancedsearch&Word=%D3%DD%D1+%C7%E1%E3%D1%C3%C9&Option=All&R1=0&R2=0>.

21 <http://fatawa.alukah.net/content/877>.

22 <http://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=Fatwald&Id=317107>. <http://majles.alukah.net/> وفي مواقع أخرى نجد أسئلة حول "جواز التهنئة للنصارى بيلاد المسيح". انظر الى

contradict Sharia rulings. Moreover, he should be a good example and he should portray the good traits of Islam through his dealing with the nationals of the country. However, if a Muslim fears affliction in his religion, he is obliged to migrate to a Muslim country where he would feel safe..." (Translation by the source)<sup>23</sup>

Another fatwa from Islam Web is: "In general, the conditions in the Land of Islam are incomparable to the conditions in the non-Muslim land (i.e. there is a great difference). The example that you have mentioned about your friends is nothing more than a single incident; the corruption and the temptations of the desires in the non-Muslim countries on the other hand are prevalent and common, besides there being laws that provide absolute freedom. Even if you are spared, your children may not be so in the future, so you should be careful. Therefore, if a Muslim does not have a necessity or need to travel to those countries, then it is better for him to live among his family and relatives where he can be dutiful to his parents, if they are alive, have good relations with his relatives, be in a country where he can hear the Athaan (call for the prayer) five times a day, and observe the laws of his religion without trouble." (Translation by the source)<sup>24</sup>

Abu-Sahlieh (1996) sheds light in his article on a special case of Muslims whose territory became Land of War (*Dar Harb*). He explains: "In the tenth century, the Christian reconquest and counterattack began, obliging (sometimes temporarily, sometimes definitively) the Muslims to withdraw from conquered former Christian territories. This was the case in Sicily and on the Iberian Peninsula. Maliki jurists faced the question whether Muslims could stay in these countries which became *dar harb* or whether they should emigrate to Muslim territories. This dilemma faced by the Muslim populations was resolved by their voluntary or forced departure." A fatwa in the website of Shaykh Bin Baz deals also with the same question. Bin Baz advised Muslims of

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23 Islam Web presents itself as following it "adopts balanced and moderate views, devoid of bias and extremism", yet some fatwas are really problematic as the one related to the Islamic position regarding statues: "According to the teachings of Islam, the statues should be destroyed and raised tombs should be leveled with the ground. If the sphinx or pyramids or any other statues contain tombs these are two reasons to destroy the same. First, because they are raised tombs and secondly because they are statues. Allah knows best" See <http://fatwa.islamweb.net/emainpage/index.php?page=showfatwa&Option=FatwaId&Id=84193>.

24 See <http://library.islamweb.com/emainpage/articles/88494/index.php?page=showfatwa&Option=FatwaId&Id=293716>. Text was translated from Arabic by the website but I amended some confusing syntaxes.

this case to stay in the country in order to preserve the religion by spreading Islam and enjoying the good and forbidding the evil. However, if they cannot practice their religion and fear for themselves, they should leave if they are able to.

As the Syrian refugee crisis is ongoing and is becoming a major problem worldwide, the *Nassim al-Sham* (pro-Syrian regime) issued a fatwa prohibiting the migration of Syrian regarding the exodus of Syrians to non-Muslim countries and their naturalization. The fatwa begins by stating the general rule for migration, as in other fatwas, and then deals with more detail the case of Syrian refugees. It lists a number of negative points regarding migrating to the West: first, endangering the migrants as the illegal migration conditions are unsafe; second, generating a shortage in human resources in Syria; finally, Syria as nation needs its youth to construct the country. This is why the fatwa tend to prohibit the migration unless it is very necessary. What it is interesting another institution called League of Syrian Ulama uses almost the first two arguments and add to them the fact that migration will reduce the number of Sunnis in Syria which will help the Syrian regime to realize its demographical plan. As for getting the nationality of non-Muslim countries, the *Islamic Ulamaa of Sham* fatwa has a negative position using the same aforementioned argument.

In contrast to this fatwa, Sheikh Yusuf Al-Qaradawi,<sup>25</sup> a prominent Egyptian sheikh in Qatar and the chairman of International Union for Muslim Scholars, provides a very innovative fatwa about “The Custody of Refugee Children in Europe” to the following question: “Some Imams in Germany raised a question about the Islamic rule regarding Muslim families taking under their custody Syrian refugee children; boys and girls, who have or almost have reached the age of puberty, delivered by sea to Europe. They feel that there is a level of hardship as these children will live at home as family members and the prohibited *Khulwah* [A situation where male and a female, who do not have a relationship that impedes their marriage, are on their own in a place where they cannot be seen] is likely to occur. In addition, there are other situations, where people have religious concern. Are there Islamic regulations for such a situation?” His answer was as following:

Self-evident is the fact that refugees are utterly released from blame for migrating from their land when they have no other option to protect their lives against almost a certain death caused by destructive missiles, devastating shells and explosive barrels. They are protecting themselves

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25 <http://iumsonline.org/ar/fatawy/h1003/>.

and their children against imminent danger. However, they should take the safest and most manageable roads otherwise they will face what they endeavored to flee from i.e. death.

Since many Syrians and others migrated as refugees to non-Muslim lands, Muslims in Europe have duty incumbent by virtues of brotherhood and sisterhood in humanity and take in their custody under age refugees, let them live with their children and take care of them as they take care of their children as an endeavor to protect their distinctiveness.

It is not accepted to be slow when issuing this rule, let alone refraining from issuing a rule pertinent to the matter of concern due to the likelihood of *Khulwah* or the uncovering of some of what is to be concealed. These partial rules are to be observed as much as possible in normal circumstances. In addition, they are not definitive but likely to happen and cannot be an obstacle in the way of fulfilling this serious duty i.e. taking the underage refugees under one's custody.

It is noteworthy that the Islamic rules are classified into various categories. One cannot neglect a rule of a higher category just to fulfill a rule of a lower category. Here we have two rules; one is of a lower category and is likely to happen and the other is not only of a higher category but also is definitive that it is classified as a necessity...

This is a good example of *fiqh al-waqa* (jurisprudence that reflects the reality) that is dear for long to Qaradawi. It is worthy to note as well the important contribution of the International Islamic Fiqh Academy<sup>26</sup> in *fiqh al-waqa* concerning the minority rights, stating that the non-Muslims are citizens that have the same rights and duties as the Muslims and they enjoy having special laws concerning their personal laws.<sup>27</sup>

Another fatwa that contrasts with the classical fatwas comes from Egyptian Dar al-Ifataa which is in close relationship with al-Azhar. In a fatwa of Sheikh Ali Jomah about the migration, he stands strongly against the extremist interpretation of Ibn Taymeya about people of Mardine. Ibn Taymeya requested indeed from Muslims to migrate from areas whose governor is not Muslim. (Ibn Taymeya fatwas, vol. 39. P 201–205). However, we will see with the European Council for Fatwa and Research (ECFR) that there is a paradigm shift with this council that deserves a throughout look.

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26 This Academy is created in 1981 as an initiative of the Organization of the Islamic Conference. It is an international body of Muslim experts on subjects of both religious and secular knowledge. <http://www.iifa-aifi.org/>.

27 <http://www.iifa-aifi.org/3986.html>.

*European Council for Fatwa and Research (ECFR)*

A new model of fiqh was established by institutions such as the Fiqh Council of North America (FCNA)<sup>28</sup> and the ECER. The former issued two important statements: on Being Faithful Muslims and Loyal Americans (adopted in its General Body Meeting on September 24–25, 2011), and on The Relationship Between Muslim and non-Muslim<sup>29</sup> (elaborated by a member of the Executive committee of this council, Dr. Jamal Badawi). These two statements reveal new fiqh of minority and give new model of what is being Muslim and citizen in non-Muslim societies. Of course there are other articulate statement comes from institutions in the region such as Marrakesh Declaration on the Rights of Religious Minorities in Predominantly Muslim Majority Communities (Jan. 2016), organized by the Forum for Promoting Peace in Muslim Societies (Abu Dhabi). However, I will focus in this section in the contribution of the ECFR.

In its Final Statement of its 25th Ordinary Session (Istanbul, 6–10 October 2015) under the title “*The Fiqh of Coexistence: the Text and Context*”, ECFR addresses Muslims in Europe stressing coexistence and positive integration and highlighting their duties towards the Syrian refugee brethren in terms of sponsoring their families and children. ECFR perceives that the requirements of coexistence are founded on ten principles that can be summarized as following:

- 1- Acceptance of one human origin: Allah created all people from one origin. Acceptance of one human origin requires acceptance of equality of dignity and humanity.
- 2- Respect for human dignity and human rights: All people are equal in this regard. Hence, aggression against them, likewise depriving them of their rights and affronting their dignity, cannot be accepted, a principle confirmed by the Qur’an. Human’s right of dignity is guaranteed to all people alive as well as dead.

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28 The Fiqh Council of North America traces its origins back to the Religious Affairs Committee of the then Muslim Students Association of the United States and Canada in the early 1960s. This Religious Affairs Committee evolved into the Fiqh Committee of the Islamic Society of North America (ISNA) after the founding of ISNA in 1980. As the needs of the Muslim community and the complexity of the issues they faced grew, the Fiqh Council was transformed into the Fiqh Council of North America in 1986. <http://www.fiqhcouncil.org/>.

29 <http://www.fiqhcouncil.org/node/24>.

- 3- Abiding by justice, equity and morality and shunning oppression and adhering to what leads to cohesiveness of the various communities of society.
- 4- Fulfilling treaties and conventions since it builds trust among all parties and contributes to stability and securing rights: It is a Qur'anic command.
- 5- Positive cooperation to achieve true citizenship, shielding society against dangers and protecting environment, as they give clear indications of the eagerness of coexistence and application of the law of cause and effect.
- 6- Acceptance of pluralism and freedom of belief and worship, included in the scope of the right of disagreement, as it contributes to the safety and security of the various communities regarding their choices.
- 7- Adopting dialogue as the means of communication and reaching solutions: It creates ideal atmosphere for agreeing on truth.
- 8- Exerting efforts in every field leading to reconciliation, social harmony, good communication and reciprocal mercy and shunning violence since they help achieve good and social objectives.
- 9- Respecting holy values and refraining from mockery and other negative practices: The prophet Muhammad, peace be upon him, used to, even in war circumstances, command leaders of Muslim army to show respect to holy values and places of worship.
- 10- Rejecting and criminalizing according to law everything leading to violence, radicalism and terrorism expressed in words or actions. Allah forbids killing and oppression.

ECFR continues, "Muslims and non-Muslims deserve equal sympathy. One of the foundations of coexistence is equal expression of sympathy and support to Muslims and non-Muslims, when suffering natural afflictions, e.g. earth quakes and flood, donation of organs and blood and helping and rescuing refugees. Discrimination between Muslims and non-Muslims in such circumstances contradicts fundamental Islamic values indicated in the Qur'an."

As you see from the above ECFR promulgation, there is a new terminology being used in this statement and new conception of the relationship between migrants and host societies that we will discuss in the conclusion.

#### **IV Conclusion**

From comparing these different examples of fatwas and promulgations, based on a subjective interpretation, I will establish three categories of the fatwas:

The first category of fatwas that issues by what I call **the textualists**. These muftis frame geography within the dichotomy of Land of Islam and Land of Disbelief (*Kufr*) and argue that mobility of people should be oriented toward land where they exercise their religious rights and duties. These fatwas often overlook the economic motivations behind migration and consider the migration of Muslims towards Europe and America as an unwanted phenomenon that should be present only in case of dire need.<sup>30</sup> These Ulama advocate in very careful relationship with the majority population and sometimes against the basic concept of integration as defined by migration studies. This school is characterized by its a-historical leaning and its disregard to historical context in the time of the ulamas issued their fatwas. It, may be, provides evidence and inspired Bernard Lewis (2001)'s a-historicism.

The second category of fatwas is issued by ulama that I will call **the politically cautious realists**. They keen on establishing good conditions for migrants in the host societies and especially in the Non-Muslim majority countries but one feels that there are many unspoken issues. No fatwas are about the sponsorship (*Kafala*) system, nor about the necessity of receiving Syrian refugees, etc. except rare statements (al-Azhari ulamas [in the time of President Mursi], Salman al-Odeh and Yusuf Qaradawi). Some muftis such as Sheikh `Abd al-Wahhâb al-Turayrî (from Islam Today) distinguish between public policy and sacred law, arguing that many of the Saudi legislations (such as Women driving car) are simply nothing to do with religion and only state issues them to prevent the means to evil or harm (*sadd al-dharâ'i*). However, he does not criticize the Saudi authorities of treating one as second-class citizens. One should note that most of the fatwas of these organizations are based in a collective effort and not an individual mufti thought.

The third category of fatwas comes from organizations such as the European Council for Fatwa and Research (ECFR), FCNA and sometimes from Al-Azhar (in very eclectic way). I will call them **the humanist Ulama**. With these councils, one can witness a paradigm shift, moving from the famous dichotomy *Land of Islam vs. Land of Disbelief* frame into *humanity* frame and talks about coexistence and acknowledges the complexity of living in states governed by the rule of law while some of these laws enter into tension with some interpretation of the Islamic fiqh. ECFR calls for the necessity of both parties to transcend their inflexible moral and religious ideologies and to extend

30 Even this camp is very broad. Some articles in *Dabiq* (ISIS newsletters) pointed out that those who leave the Caliphate are traitors (ISIS).

hands to reach others: the majority should allow diversity and accommodate cultural differences but also the minority should be creative in handling the contradictions between national laws and religious beliefs. This reflection is very well thought since early 2000s with the work of Abdel-Sattar Abu-Ghoda and Taha Jaber Ilwani but above all the seminal work of Abdulla Juday (2008). By evoking the concept of positive integration, ECFR and before them Tarik Ramadan (2005) insist in the necessity of converting the Muslim ethnic capital (to talk like Bourdieu) into social capital by setting a higher rate of ethnic capital in a way to ensure a structural foundation for the coexistence. Tariq Ramadan (2009) argues that what he calls "Western Muslims" should contribute positively in developing and making from their society a better one, instead of thinking of the duality of 'us' and 'them'. Hence, in this discourse, Muslims residing in the West do not form a special case that should be fully changed but rather a reality that should be dealt with positively and proactively. In his chapter called "The sense of belonging and the 'Post-Integration' approach", Ramadan explains that "it is important to develop positive, official policies focusing on contributions and sharing rather than on a so-called integration whose meaning has become unclear now that the vast majority of citizens speak the country's language, respect laws, and, precisely, demand their rights to equal treatment." This kind of message we found among many European scholars from Muslim origin who have developed some thoughts about the positive contribution and co-existence of the Muslim minority in Europe. (see for instance Al-Khaznawi 2016)

Many questions could be raised, opening the door to further studies on fatwas related to migration: to what extent are these fatwas influential for Muslims all around the world, especially in time of a refugee crisis like the Syrian case? How many Muslims do really rely on fatwas related to issues (like migration) that have great importance for them and may even change their life? What are the consequences of following these fatwas on the personal and society scales?

In this article, I would like to make some extrapolation beyond the fatwas and the Gulf migration policy. I argued that one should admit that the cognitive dissonance between social actors and their religious leaders is so salient that many of the former are not listening to latter's fatwas even if the former still consider themselves religious. In the case of the Syrian refugees, those who sought migration in Western countries have believed *de facto* in humanity, exactly as those who hosted them in Germany and Sweden. We witness thus a paradigm shift from looking to geography as Muslim land vs Non-Muslim land into land of those who believe in humanity vs land of those who do not.

The humanism and cosmopolitanism yet is never pure: it is always combined with nationalism and religious feeling. Criminalization and humanitarianization do not simply function as alternative policies but as complementary. (Fassin 2013) The logic of benevolence is often motivated by reasons that go beyond humanism (such as economic benefits from cheap labor). However, there is a German exceptionalism with the new young German generation who learns from the dark nationalistic past that enable Angela Merkel to host a significant number of the Syrian refugees.

The basic tenet of humanism is not alienated from religious terminology: the roots of humanism cannot be traced only from ancient China, classical Greece and Rome, through the Renaissance and the Enlightenment, to the scientific revolution of the modern world, but also to Islamic tradition since the x Century, as Mohamed Arkoun reminds us. Whenever you have a democratic state that is endowed with multiculturalism and a vibrant civil society, the negotiation between humanistic, nationalist, ethnic and religious values is possible. Nationalism and religion are indeed very important in human life, yet their excess can be chauvinistic, reactionary, regressive, and divisive. Thus, it is more plausible to reach the sense of humanity if a country is endowed with a Habermasian public sphere where social actors discuss freely such values beyond their close circles of their religious or national communities. It is interesting to note that the Land that have more violence incidents against the refugees is in Saxony, in former Eastern Germany, whose public sphere for long was less vibrant.

To echo what we discussed it in the introduction, the Humanism and cosmopolitanism will enable the politics of compassion and trigger face-to-face contact. Otherwise, its lack will enable only politics of pity for the victims. As Paul Farmer (2010: 496) pointed out: "The road from unstable emotions to hard entitlements -rights- is one we must travel if we are to transform human values into meaningful and effective programs that serve precisely those who need our empathy and solidarity most". This exercise of compassion vs pity is not related to any culture whether Arab/Islamic culture or the Western/Christian culture. Some countries belong to the former culture have received Syrian refugees (Tukey, Lebanon, Jordan) and others not (The Gulf countries); equally some countries belonging to the latter culture (Germany and Sweden) did and others did not (France, UK). Other factors to explain the adoption of different politics should include and to be subject of further research in the future, such as nature of economic system (whether liberal, neo-liberal, welfare, etc.) and the role of state to hinder exploitation and racism.

Appendix



SOURCE: SOCIAL MEDIA



SOURCE: SOCIAL MEDIA

مع أن السعودية فتحت منذ سنوات مخيمات للأشقاء اللاجئين السوريين في الأردن و لبنان. و مع فداحة مأساة هروبهم بحراً إلى أوروبا والأصوات المنصّفة المستغربة عدم توجُّههم للسعودية والعرب الأقرب، يظل السؤال وجيهاً لماذا تَحْمَلُهُم مخاطر أوروبا التي أظهرت دولها بمظهرٍ رحماءٍ الإنسانية عكسنا. ٩. الإجابة في تصوُّري أنه قرار سياسي له بُعد عميقٌ تجاه حلِّ كارثة سوريا. فلو فتحت السعودية وشقيقاتها البابَ لحَقَّقَتْ للأسد والغرب والشرق مُرادَهُم بالتمادي في التهجير بوسائل القتل القائمة.

بينما غَضُّها النظر عن هجرةٍ مُوجِعةٍ للغرب يحقق تلقائياً ضغطاً هائلاً على أوروبا التي تُعْتَبَر الهجرات خطراً مباشراً على كياناتها تمنعه بالغالبي والنفيس. مما يعني اضطرارها لممارسة ضغوطات حقيقية على بشار وأعوانه لحلِّ المأساة برُمَّتها لأن نيرانها وصلتها.

بهذا "المنظور السياسي" لا "الإنساني" يكون موقفُ دولنا حكيماً لصالح السوريين..مع أنه حتى "إنسانياً" لو خُيِّرَ لاجنون بين أوروبا والعرب لاختار معظمهم أوروبا.

SOURCE: SOCIAL MEDIA

TABLE 2 sources used for fatwas

Website	Fatwas on migration
Dar al-iftaa al-masriya (Egypt)	7
European Council for Fatwa and Research	1
IslamWeb (Ministry of Awqaf and Islamic Affairs, Qatar)	24
Islam Today (Sheikh Salman al-Awda and Sheikh `Ali A. al-Jumu`ah)	7
Islam House	4
Islam way	4
Mohamed Rateb Nabulsi	4
Ask Imam	1
Islam Question And Answer (Sheikh Muahammad Salih)	7
Assembly of Muslim Jurists in America	3
Islamic Ulamaa of Sham	1
Sheikh Abdul Azizi Bin Baz	2

TABLE 2 *sources used for fatwas (cont.)*

Website	Fatwas on migration
Path of Salaf (37 Shaikhs)	7
General Council of Research, Science and Fatwas (Saudi Arabia)	5
Sheikh Saleh al-Fouzan	6
The Fiqh of North America	2
Total	85

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