

Illegal Migration in Sri Lanka: Challenges, Consequences, and Insights from Islamic Jurisprudence

¹Seeni Mohamed Mohamed Nafees, ²Iqbal Saujan, ³Zain Fazley Zainul Firas

^{1,2,3}Department of Islamic Studies, South Eastern University of Sri Lanka

Correspondence: smmnafees@seu.ac.lk

Abstract

Migration has occurred continuously throughout human history and is influenced by social, religious, economic and political factors. The process of migration can be divided into legal and illegal forms. Entering the territory of a state without valid authorization constitutes a criminal offence punishable under national and international law. Nevertheless, this particular topic continues to spark debates among classical and modern Islamic jurists in the context of Islamic law. In this context, the study was conducted from the perspective of Islamic jurisprudence through legal analysis to identify illegal migration and its consequences. The primary data for this study was obtained from the Quran and Sunnah, and some data was derived directly from the religious decisions and opinions of Islamic scholars. The main factor that led to illegal migration was the severe economic crisis faced by Sri Lanka, especially in the wake of COVID-19. Illegal migration predominantly originates from eastern and northern Sri Lanka to destinations including India, France, and Australia, causing significant economic and national security issues for the Sri Lankan government. As for Islamic jurisprudence, in His Holy Quran 67:15, 22:46, 62:10, 47:10, the Almighty encourages travel on earth but does not support its use as a threat to the country's government or sovereignty of his people. In addition, Islamic legal scholars cite Quranic verse 24:27 to address the issue of entering the territory of a country without its authorization, which is classified as *Makruh Tabrimi* (strongly discouraged and condemned) or, in some scholarly interpretations, as *Haram* (prohibited and illegal). Conversely, jurists such as *Imam Shafi*, *Imam Ahmad ibn Hanbal* and *Abu Hanifa* agree that a person must perform *hijra* (emigration) when the country's circumstances are not conducive to fulfilling his obligatory duties. In countries where Muslims are a minority, such as Sri Lanka, it is a Muslim's duty to abide by the laws of a country and respect the customary law based on the *Siyāsa sharʿiyya*. In Islamic jurisprudence, illegal migration is fundamentally seen as an infringement on a sovereign nation's territorial boundaries and is discouraged as it disrupts the peaceful coexistence of its citizens.

Keywords: illegal migrations, islamic jurisprudence, Sri Lanka, Siyāsa sharʿiyya, muslim minority