

OIC-IPHRC 14th SESSION OUTCOME DOCUMENT OF THEMATIC DEBATE ON
‘Promoting and protecting the rights of refugees and migrants;
An Islamic and international human rights obligation’

Jeddah 06 December 2018: During its 14th Regular Session, the OIC Independent Permanent Human Rights Commission (IPHRC) held a thematic debate on the subject of ***‘Promoting and protecting the rights of refugees and migrants; An Islamic and international human rights obligation.*** IPHRC Chairperson Dr. Rashid Balushi and Amb. Samir Bakr, on behalf of the OIC Secretary General, inaugurated the debate. Representatives of Islamic Fiqh Academy, United Nations High Commissioner for Refugees (UNHCR) International Organization for Migration (IOM) and OIC General Secretariat participated as key panelists. A large number of Member States also participated actively and contributed to the discussion.

The Commission welcomed the steps taken and resolve expressed by all OIC Member States during the debate, to protect and promote the rights of refugees and migrants through continued collaboration with relevant regional and international partners in accordance with their obligations under respective international and regional human rights instruments. Based on the comprehensive discussion, the Commission:

Guided by the enduring principles and values that underlie the divine guidance given in the Holy Quran, noble Islamic teachings and traditions of *‘Mawakhat’*, and other relevant OIC, regional and international human rights and humanitarian instruments dealing with the rights of migrants and refugees.

Reaffirmed that Islam secures the rights of refugees and migrants based on divine injunctions and spirit of compassion and solidarity. According to Islamic precepts, forced migration can become a necessity for anyone in times of trouble or when one’s life and beliefs are in danger. It provides a framework for the protection of rights such as the rights to dignity, justice, equality, shelter, healthcare, family reunification and freedom from slavery. Also, the concepts of *Aman*; guaranteed protection to those seeking refuge providing them relief under the concept of *“Ighathat Al Malahuf”*, and the principle of *non-refoulement*, which is the basis of international refugee law, have strong basis in Islamic traditions.

Highlighted the hosting of Prophet Muhammad (PBUH) and his companions in Madinah and the magnanimity shown by the Ansar of Madinah, set a shining example of *‘Mawakhat-e-Madinah’*, *‘Brotherhood between the migrants and residents of Madinah’*. It is this noble spirit, which continues to inspire Muslims across the world to welcome millions of brothers and sisters in distressed situations.

Recalled that the *UN 2030 Sustainable Development Goals* and *Global Compact for Safe, Orderly and Regular Migration* recognize the role of well-managed migration towards sustainable development of nations. Further appreciated that both cover all dimensions of international migration in a comprehensive manner to provide a credible starting point for the countries to reassess their national migration policies to combat child and forced labour, human trafficking, exploitation and abuse. To this end, welcomed the upcoming Intergovernmental Conference to adopt the *Global Compact for Safe, Orderly and Regular Migration*, in Morocco on 10-11 December 2018 and hoped that its adoption will pave the way for sustained cooperation among the Member States to deal with complex issues of migration in a structured manner.

Underscored that migration is a source of innovation, diversity, prosperity and sustainable development of societies. In today’s globalized world, safe and orderly migration is a beneficial tool to address labor market needs of many industrialized/developed countries, which are confronting problems of either declining/ageing population or shortage of professional expertise. In doing so, migrants contribute to the economic growth and socio-cultural diversity of destination countries.

Identified that multitude of factors contributing to voluntary/ involuntary or forced migration flows have increased in intensity, magnitude and complexity over the past decades, which inter-alia include: (i) intensification of conflicts and wars; (ii) foreign occupation; (iii) denial of basic rights and fundamental freedoms including growing intolerance leading to religious, ethnic and communal persecution; (iv) widening of economic disparities within and among the nations; (v) natural disasters, ecological and environmental degradation; and (vi) demographic imbalances between nations causing labor shortages.

Expressed concern at the growing and increasingly complex and relapsing conflicts, crises and humanitarian emergencies, which contribute to the growing number of migrant and refugees as well as exposes them to host of risks, vulnerabilities and exploitations during the entire cycle of migration from origin to destination. Migrants and refugees are commonly subjected to multiple and intersecting forms of discrimination, xenophobia based on their sex, race, religion or origin.

Emphasized that refugees and migrants must be seen as distinct group of people with distinct rights and protection needs who are also dealt distinctively under international human rights and humanitarian laws. If migrants and refugees lack access to human rights, their ability to benefit from migration is compromised and they will not be able to effectively contribute to the development of their host societies. They are entitled to all universal human rights and fundamental freedoms, which must be respected, protected and fulfilled regardless of their status, caste, creed, color, religion or origin and at all times.

Further emphasized that the international law provides a dual form of protection for migrants and refugees: (i) general protection under human rights treaties applicable to all persons; and (ii) specific protection applicable to particular categories of persons i.e. migrants and refugees, including victims of human trafficking. Also, the element of persecution, in case of refugees, obligates special protection under the 1951 Refugee Convention and Optional Protocol of 1967, which ordains the right not to be returned to the country from which they have fled, known as the principle of non-refoulement.

Reaffirmed that the States have the sovereign right to devise their national migration policies and to govern migration within their jurisdiction taking into account peculiar national realities, policies, priorities and requirements in conformity with international law. Also, the States have the primary responsibility and obligation for providing protection to migrants and refugees within their jurisdiction, which involve all actions aimed at ensuring equal access to and enjoyment of the rights based on international human rights law and international humanitarian law.

Highlighted that presently nearly two thirds of all forced migrants (including refugees, asylum seekers and Internally Displaced Persons) are originating from OIC Member States. At the same time, these countries also host over half of the refugees and asylum seekers worldwide with many serving simultaneously as countries of origin, transit, and destination¹, thus shouldering a disproportionate share of the global responsibility for protecting displaced people worldwide. To this end, appreciated and acknowledged the commendable role of the OIC countries who have provided and continue to provide sustained and magnanimous humanitarian support and contributions to the refugees.

Further highlighted that majority of OIC countries have either in place or are in the process of enacting comprehensive labor laws, migration policies and developing asylum legislation, which reflects their political will and commitment to comprehensively addressing these issues within their respective national capabilities and domestic laws.

¹ Forced Migration in the OIC Member Countries: Policy Framework Adopted by Host Countries; A report by COMCEC (OIC Standing Committee for Economic and Commercial Cooperation)

Expressed concern on the persistent denial and violations of human rights of displaced people living under foreign occupation and armed conflict situations who endure brutalities at the hands of occupation/security forces. To this end, expressed solidarity with the Palestinian, Afghan, Rohingya, Kashmiri and Syrian refugees; stressed the need for eliminating the root causes of all such conflicts and urged Member States to intensify their humanitarian measures to cater for refugees' health, education and psychological and social development needs.

Further expressed concern over the negative humanitarian impacts due to the terrorist activities of groups and militias undermining State institutions, disrupting developmental programs, and destabilizing the global peace and security.

Appreciated the commendable humanitarian relief work done by entities like UNHCR, IOM, UNRWA, International Committee of the Red Cross and Red Crescent in supporting and rehabilitating refugees in different parts of the world especially in conflict zones of Occupied Palestinian Territory, Myanmar and Syria. Also expressed concern at the dwindling level of financial support received by these entities, in particular UNRWA, which is seriously affecting the much-needed humanitarian relief efforts in a sustainable manner. Further, highlighted that the humanitarian assistance from donor nations should not come in the form of loans rather on the basis of equitable burden sharing in keeping with the spirit of international solidarity.

Highlighted the need to adopt child sensitive and gender responsive administrative and legislative measures to uphold the principle of best interest of child and cater for the specific needs and protection of girls and women, which constitute more than half of the refugee population. Lack of access to education and medical care can be particularly challenging to protect the survival and developmental rights of children as well as their physical and mental development.

Identified challenges to migration governance, which include: (a) collation of disaggregated data on migration, which impedes the accurate need assessment and commissioning of interventions to deal with emergent conditions; (b) non-adherence to the relevant international legal instruments, which limits the national capacities to formulate and implement relevant laws and procedures for enforcing orderly migration policies; (c) disproportionate spread of refugee burden over the OIC countries, which overstretches their national infrastructure and institutional capacities to the extent of collapse; (d) lack of emphasis on safe and orderly migration policies with skill integration to meet the labor shortages of the developed countries and implementation of labor laws to protect the rights of migrant workers; and (e) lack of focus on the realization of the Right to Development, which has led to widening of socio-economic and technological gaps within and among the nations causing abrupt and unregulated movement of people.

Called upon all Member States, international community and other stake holders to, as appropriate:

- i. consider ratifying relevant International instruments and incorporating the provisions of ratified conventions into national laws for implementation of national migration/refugee policies;
- ii. intensify cooperation with the UN and related entities to take all legislative and administrative measures for guaranteeing the rights recognized in the relevant international human rights and humanitarian instruments through germane policies with special focus on women and children;
- iii. grant legal status to the refugees in conformity with the international law, enabling them to access crucial social services as well as be able to integrate and earn livelihood. This could be the first step to maintain their dignity and self-respect; avoid poverty trap, abuse and exploitation;
- iv. integrate voluntary repatriation, local integration and resettlement into one comprehensive approach to durable solutions for refugees, to be implemented in close cooperation among countries of origin, transit and destination, involving UN and its partners, as well as refugees;

- v. commit to addressing the root causes of refugee situations in accordance with international law, while respecting the sovereignty of Member States;
- vi. allocate more resources to support and assist refugee hosting countries, in line with the principle of international solidarity, cooperation and equitable burden sharing. The role of Islamic Development Bank, in the context of OIC countries, was highlighted for providing financial and technical assistance to deal with the infrastructure and development related challenges to fulfil the rights of the migrants and refugees;
- vii. adopt inclusive approaches to address multidimensional and cross-sectional issues of migration, which include policy coherence across all sectors and levels of government with the active involvement of all stakeholders including media, civil society, National Human Rights Institutions, private sector; so as to relieve pressure on State structures in generating additional funding for refugee programs and tailored responses to refugee situations;
- viii. Mainstream migration issues in the Human Rights Education programs to sensitize the public opinion aimed at creating awareness about the plight of refugees and their protection needs for integration, promoting culture of tolerance, countering xenophobia and discrimination; and
- ix. adopt legal framework that are accessible to migrants to claim their rights and guard against any potential exploitation including imparting human rights training to law enforcement authorities, decision makers and other national institutions dealing with refugees.

Recommended that:

- a. a combination of political will, advocacy and legislative reforms with emphasis on enforceability are needed to secure migrant rights. Transformation of domestic laws and legal frameworks are the most effective ways of bringing long lasting change. Institutional linkages with relevant human rights bodies should be established for promoting sustainable and migrant/refugee friendly policies;
- b. migration issues may be addressed within the context of development cooperation with focus on job creation, youth skill development, access to technologies, rural development, food security, social development and environmental protection to address the root causes of migration factors;
- c. the national poverty alleviation strategies of destination countries be integrated with their migration policies to strengthen the link between humanitarian assistance and long-term development measures to prevent further displacement, improve livelihoods with focus on labor market integration;
- d. the relevant UN organs and agencies as well as other international humanitarian organizations should support building and strengthening of the State structures and institutions in vulnerable / affected countries to avoid spillover of the conflicts and to build their capacities for good governance and better utilization of scarce/available resources for human development;
- e. the formal and informal conflict resolution and prevention mechanisms be strengthened and early warning systems reinforced to preempt and prevent humanitarian crises including large scale displacement / trafficking of people;
- f. the mechanisms of legal, safe and orderly migration be promoted through strengthening of bilateral and multilateral institutional mechanisms between labor markets within and among the nations, liberalizing visa regimes and border controls through mutually acceptable agreements and procedures. Also, national strategies on operationalization of integrated border management may be initiated to tackle migrant smuggling and trafficking in human beings; and
- g. there is a need to strengthen national capacities to collect and disseminate quality data with access to objective, evidence-based, clear information for policy making and legislative actions.
