

Kuala Lumpur Declaration on Rights and Access to Education for Refugees **Outcome Document of the 8th OIC-IPHRC International Seminar**

Kuala Lumpur, 6th October 2022: The Independent Permanent Human Rights Commission (IPHRC) of the Organization of Islamic Cooperation (OIC), in collaboration with the Government of Malaysia, held its 8th International Seminar on the subject of *‘Islamic Perspectives on Protection of Refugees: Rights and Access to Education’* in Kuala Lumpur on 5-6 October 2022. Besides Commission Members, the Seminar was attended by experts, academicians and practitioners from relevant international and regional organizations, including, UN Office of the High Commissioner for Human Rights (OHCHR), UN High Commissioner for Refugees (UNHCR), Statistical, Economic and Social Research and Training Centre for Islamic Countries (SESRIC), International Institute of Advance Islamic Studies (IAIS), Red Crescent of Türkiye, World Islamic Economic Forum (WIEF), Bait Al Amanah, and Burma Human Rights Network. Considerable number of representatives from the OIC Member and Observer States, including their National Human Rights Institutions (NHRIs), as well as civil society actively participated in the Seminar.

In addition to comprehensive presentations made by the experts/panelists, participants of the Seminar analyzed on-going international, regional and OIC’s initiatives and frameworks related to protection of rights of refugees, especially related to their access to education; identified gaps and suggested way forward, including building capacities and capabilities of host countries to best provide educational opportunities for refugee children; address gender dimensions of refugee education, including online learning opportunities; strengthen national legislations and development plans in improving refugee access to education, and identified avenues for enhanced international cooperation to address refugee issues. Based on comprehensive deliberations and concrete recommendations during the Seminar, IPHRC adopted the following *‘Kuala Lumpur Declaration on Rights and Access to Education for Refugees’* as outcome of the Seminar:

Affirmed that the Islamic concept of refuge is of a conscious choice to preserve one’s life and dignity in times of trouble or when one’s life and beliefs are in danger. The Noble Quran has described it as *“And whoever emigrates for the cause of Allah will find on the earth many [alternative] locations and abundance”*¹. The Islamic concept of *‘Hijrah’* (migration) provides a broader definition of refugees than the definition of refugees in Article 1 of the 1951 Convention on the Status of Refugees². In Islam, all refugees should be treated equally as Islamic perspective on protection of refugees is based on inclusiveness to embrace people of different faith, races and ethnicities. The Noble Qur’an speaks explicitly about refugees stating: *“And if anyone of the disbelievers seeks your protection, then grant him protection so that he may hear the word of Allah, and then escort him to where he will be secure”*³.

Defined a refugee as: *“someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion”*⁴. In other cases, people are compelled to leave their countries of origin due to war, armed conflicts, external aggressions, and also adverse effects of climate change, natural disasters or other environmental factors.

Underscored that Islamic principles, stipulate special protective measures/regulations for child refugees, being more vulnerable than the general refugee population. This is based on the principles of justice that

¹ The Noble Qur’an Surah: 4:100

² The Refugee Convention 1951 available at <https://www.unhcr.org/4ca34be29.pdf>

³ The Noble Qur’an Surah: 9:6

⁴ The Refugee Convention 1951 available at <https://www.unhcr.org/4ca34be29.pdf>

remains a corner stone of Islamic law⁵ requiring protection of those who are more at risk, irrespective of their faith and ethnicity. It lays down the basis of Aman (guaranteed protection to those seeking refuge in “Dar-al-Islam- House of Islam), which is deeply ingrained in Islamic faith, heritage, and tradition.

Further Underscored that the Islamic traditions recognize the principle of ‘non-refoulement’, which is the basis of human rights laws and international refugee law. Rights to justice, equality, safety, security and human dignity are among those rights deemed indispensable in Islam. These are supplemented by further rights such as social solidarity, right to health and education and attainment of better living standards.

Guided by the enduring principles and values enshrined in the Noble Quran, Islamic teachings and traditions of ‘*Mawakhat*’ and social justice, OIC Charter, Ten Year Plan of Action (TYPOA) 2025, Ashgabat Declaration on Refugees in the Muslim World-2012, Cairo Declaration of the OIC on Human Rights, Covenant on the Rights of the Child in Islam, and with due regard to the United Nations (UN) Bill of Rights, UN Refugee Convention of 1951, 1960 UNESCO Convention Against Discrimination, Vienna Declaration and Program of Action, Global Compact for Safe, Orderly and Regular Migration and UN Sustainable Development Goals (SDGs) 2030.

Highlighted that there are currently more than 70 million people displaced worldwide, the highest number ever recorded. Half of these refugees originate from conflict zones which include, Syria, Afghanistan, Somalia, Myanmar, Yemen, Occupied Palestinian Territories, Indian Occupied Jammu and Kashmir and other areas. OIC countries, serving simultaneously as countries of origin, transit, and destination, host over half of refugees and asylum seekers worldwide⁶. Most of the refugees are living in Türkiye, Pakistan, Bangladesh, Lebanon, Iran, and Jordan. This disproportionate share of global responsibility over some of the OIC countries, while dealing with the enormity of challenge, overstretches their national infrastructure and institutional capacities.

Expressed solidarity with refugees from these most affected countries and beyond, **reaffirmed** commitment to promote their rights in all fora, and **urged** all concerned stakeholders, including the international community, donor countries, organizations, funds, and Member States to extend urgent humanitarian support for refugees and their host communities on priority to mitigate the increasing humanitarian cost on all affected by forced displacement.

Condemned persistent denial and violations of rights of innocent children and young people living under foreign occupation and brutalities suffered at the hands of security forces causing destruction of educational facilities, physical and psychological trauma and denial of fundamental human rights. Inter-alia, urged the Member States to make every endeavor to provide necessary aid to these violence-stricken children and Muslim youth and called on the international community to condemn the criminal practices as acts of war crimes, genocides, and crimes against humanity.

Regretted that Covid-19 pandemic has exposed and exacerbated the fault lines and vulnerabilities faced by refugees, as they fall through inequality gaps in host societies. Limited resources during pandemic have led to a rise in hate speech, xenophobia, and discrimination with disproportionate effect on the most vulnerable segment of women and children refugees, in particular the girl child, who are denied access to education and alternate learning opportunities causing irreparable learning deficit.

⁵ The Noble Qur’an Surah: 42: 15, 16: 90

⁶ Forced Migration in the OIC Member Countries: Policy Framework Adopted by Host Countries; A report by OIC Standing Committee for Economic and Commercial Cooperation (COMCEC)

Recognized and appreciated the commendable role of the OIC countries which, in spirit of solidarity, have provided and continue to provide sustained and magnanimous humanitarian support and contributions to the refugees. Ashgabat Declaration on Refugees in the Muslim World⁷ reflected the strong political will of the OIC Member States to comprehensively address this issue. At the same time, OIC countries continue to face several challenges due to unequal burden sharing, limited resources and lack of technical expertise.

Took note of the commendable humanitarian relief work done by entities like UN High Commissioner for Refugees (UNHCR), International Organisation of Migration (IOM), UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), as well as various humanitarian INGOs and UN agencies, in supporting and rehabilitating refugees in different parts of the world, especially in conflict zones. Calls upon them to secure and allocate new and additional resources proportionate to rise of refugee influx to the neighbouring countries. 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 efforts to support education of child refugees in a sustainable manner. Also, **highlighted** that the humanitarian assistance from donor nations, should not be politicized, and should not be in the form of loans rather in spirit of burden sharing based on international solidarity.

Expressed deep concern that access to education for refugees is much worse than for non-refugees. There are currently around 3.7 million out of school refugee children which constitute more than half of the 7.1 million school-age refugee children⁸. In this regard, recalled that soft law instruments and international policy frameworks, including the Education 2030 Incheon Declaration and its Framework for Action, UNSESCO Convention over Discrimination and the 2030 Agenda for Sustainable Development, recognize the importance of the right to education and set goals for its implementation, including for refugees, especially the girl-child.

Identified main obstacles and challenges faced by host countries and the refugee communities relating to access to education as: (i) lack of strategic preparedness and planning to respond to refugee crises; (ii) limited financial resources allocated to providing education facilities in refugee camps; (iii) overcrowding and lack of space in local host schools; (iv) distance to school and lack of safe transportation from refugee camps; (v) discrimination and xenophobia against refugee students who frequently encounter different forms of stereotyping, and bullying from teachers, peers, and their host communities; (vi) psychological trauma which impacts refugees' capacity to engage in work and education and undermines self-confidence, concentration and memory; (vii) lack of training of teachers who are often not prepared for refugee needs; (viii) poverty of refugee families; (ix) linguistic barriers, cultural and social stereo types and regressive mindset which prevent girls to access educational opportunities; (x) lack of necessary documentation i.e. birth certificates, school records required to gain entry to normal schools in host countries; (xi) lack of disaggregated data on refugees, which impedes the accurate need assessment and commissioning of interventions to deal with emergent conditions; (xii) differing curriculum and lack of emphasis on skill development and social integration to meet labour shortages of the host countries.

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. States have the primary responsibility to respect, protect and fulfil the right to education of refugees within their jurisdiction, regardless of their status at

⁷ <https://www.refworld.org/pdfid/595c95ba4.pdf>

⁸ <https://www.unhcr.org/news/press/2019/8/5d67b2f47/refugee-education-crisis-half-worlds-school-age-refugee-children-education.html>

the points of departure, arrival or in transit. It involves all actions aimed at ensuring equal access to and enjoyment of the rights based on international human rights law and international humanitarian law. States are also bound by the principles of non- retrogression and by allocating the maximum level of available resources with a view to achieving progressively the full realization of the right to education for all, including refugees.

Underscored that international normative framework has established inalienability of the right to education which affirms that the principles of non-discrimination and equality of educational opportunities are central to the full realization of right to education for refugees. It prohibits any discrimination based, inter alia, on social origin, economic condition or birth, so that educational opportunities are truly accessible to all, including refugees. Hence, refugees should receive same treatment as nationals with respect to elementary education and treatment as favourable as possible with respect to other education levels.

Stressed that a combination of political will, advocacy and legislative reforms with emphasis on applicability are needed to secure rights of refugees to education. Transformation of domestic laws and legal frameworks, where necessary, are the most effective ways of bringing long lasting change. Host countries are encouraged to consider establishing institutional linkages with relevant human rights bodies for promoting refugee friendly policies. Periodic monitoring and evaluation of such policies may be maintained through relevant institutions, including NHRIs or Ombudsperson Offices to ensure sustainability and accountability.

Underlined that the responsibility to fulfil the right to education for refugee children does not rest upon individual States alone. In event of State lacking the capacity or requisite resources, the international community, including other States, donor organizations and UN agencies, in framework of equitable burden sharing, have an equal responsibility to assist the host country in ensuring that the Right to education of refugee children is universally fulfilled.

Stressed the need to implement the principles of Islam and preserve the dignity of Muslim women, especially the girl child, in all settings, particularly to ensure their right to access to education, by all appropriate means.

Expressed concern that lack of focus on realization of the Right to Development (RtD) has led to the widening of socio-economic and technological gaps within and among nations, causing unequal and unjust global order. To this end, while acknowledging the necessity of identification and overcoming all the obstacles to the full realization of the RtD, **urged** Member States to cooperate with the UN and OIC mechanisms, the Special Rapporteur on the RtD to expedite the adoption of a legally binding convention on RtD.

Emphasized that refugees' right to education from a sustainable perspective means providing them with the necessary tools to rebuild their lives, exercise other human rights and foster their individual freedom and empowerment. Quality education boosts life chances, facilitates integration, and is a win-win for the refugees and host societies. Education is an elevator right which provides refugee children, many of whom witnessed or experienced violence, hunger, isolation and other stressful situations, with a place of normalcy and protection against exploitation from traffickers, criminal gangs, armed groups looking to forcibly recruit children, and others.

Encouraged sharing of best practices among OIC Member States and other countries on refugee policies, particularly, to replicate and adapt successful experiences in ensuring access to education for refugee children, including through technological tools and online learning spaces for refugees.

Urged UN organs and agencies as well as other international and regional humanitarian organizations to support building and strengthening of the State structures and institutions in vulnerable / affected countries to avoid spill over of the conflicts and to build capacities of States for good governance and better utilization of scarce/available resources for mitigating refugee crises. Inter-alia, multilateral development institutions must consider providing debt moratorium or debt write offs for States who share refugee burden and invest in refugees' social well-being.

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

- i. Equip respective national education systems to meet standards in terms of 4As when dealing with the refugees: (a) availability; (b) accessibility; (c) acceptability and (d) adaptability, as was determined by the Committee on Economic, social and Cultural Rights⁹;
- ii. Grant refugees the right of access to public educational institutions and programmes on a non-discriminatory basis;
- iii. Provide at least primary education for all, including refugees;
- iv. Adopt and implement a national educational strategy that includes provision for refugees;
- v. Track refugees' educational access and attainment through national monitoring systems;
- vi. Adopt, implement and monitor legal and policy national frameworks preventing discrimination based on any ground and protecting the rights of refugees;
- vii. Support refugees in learning the language of the host country at an early stage;
- viii. Make available and promote information/materials on education (and welfare) systems with respect to rights, opportunities and responsibilities in migrant languages and in accordance with migrant, refugee and asylum-seeker population needs;
- ix. Include provisions related to protection and promotion of the rights of refugees and access to education in OIC Covenant on the Rights of the Child which is being considered for revision;
- x. Fulfil respective international obligations related to refugees provided in human rights law as stated in CRC and its Optional Protocols and expedite their ratification by those States who have not done so yet. Also, consider incorporating the provisions of ratified conventions into national laws for implementation of national refugee policies;
- xi. Intensify cooperation with the UN, OIC and other related entities to take all legislative and administrative measures for guaranteeing the rights recognized in the relevant international human rights and humanitarian;
- xii. 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 to avoid poverty trap, abuse and exploitation;
- xiii. Adopt inclusive approaches to address multidimensional and cross-sectional nature of refugees' issues, which include policy coherence across all sectors and levels of government with the active involvement of all stakeholders including media, civil society, NHRIs, religious leaders, private sector; so as to relieve pressure on State structures in generating additional funding for refugee programs and tailored responses to refugee situations;
- xiv. Mainstream refugee 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,

⁹ Right to Education: Scope and Implementation, General Comment No. 13.

- promoting culture of tolerance, countering xenophobia and discrimination, including by integrating mental health and psychosocial activities into school settings;
- xv. Adopt legal framework that are accessible to refugees 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 and establishing complaints and reporting mechanisms either through NHRIs or Ombudsperson Offices to address any incidents of refugees' exploitation or other grievances;
 - xvi. Strengthen national capacities to collect and disseminate quality data with access to objective, evidence-based, clear information for policy making and legislative actions;
 - xvii. 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;
 - xviii. Make Early Childhood Development interventions an integral part of refugee policies and educational and health systems by addressing childhood issues in the refugee population within an integrated approach.

Proposed that the OIC General Secretariat and IsDB should team up to prepare specific assistance programs for countries facing emergencies and armed conflicts in accordance with the human rights needs of affected population, in particular, women, children and persons with disabilities. To this end a '*Scholarship Scheme*' may be launched to train young refugees, especially women and girls, to help young refugees overcome financial barriers to accessing education and obtain gainful skills. Also, digital platforms could be introduced to bridge the accessibility and availability aspect of refugees' higher education needs.

Further proposed to create a mandate by the OIC Council of Foreign Ministers (CFM) that can work toward establishing a special institution, mechanism, or fund within the OIC system to systematically improve the welfare of refugee communities in OIC countries, in line with Islamic principles, humanitarian considerations, and burden-sharing approach among OIC member States. The mechanism could coordinate and oversee various functions, including funding primary and secondary education for refugee students, providing infrastructure and facilities for refugee students, granting places or scholarships for tertiary education, facilitating accreditation and international recognition, training teachers, organising trainings for skills and livelihood, as well as providing funding for their healthcare and special needs.

Welcomed the recent establishment of the Global Islamic Refugee Fund (GIFR) as an innovative Shariah compliant tool for investment into humanitarian response to forced displacement, by the Islamic Solidarity Fund for Development (ISFD), the humanitarian arm of the Islamic Development Bank (IsDB), in partnership with the UNHCR – the UN Refugee Agency, and **urged** OIC Member States to support the initiative to handle refugee issues and to safeguard their welfare including on education, health, and livelihood.

Appreciated the dynamic leadership and commendable role played by Malaysia in the field of human rights and emphasized the need to develop collaborative linkages among all OIC Member States, OIC and IPHRC for promoting best practices to ensure full protection of refugee rights in accordance with Islamic teachings and international human rights law.
