

OIC-IPHRC - 11th REGULAR SESSION
OUTCOME DOCUMENT OF IPHRC THEMATIC DEBATE ON
'PROTECTING HUMAN RIGHTS WHILE COUNTERING TERRORISM'

Jeddah, 11 May 2017: The OIC Independent Permanent Human Rights Commission (IPHRC) held a thematic debate on “Protecting Human Rights While Countering Terrorism” during its 11th Regular Session on 9 May 2017. IPHRC Chairperson Mr. Med S. Kaggwa and representative of the OIC Secretary General inaugurated the debate. Representatives from the UN Counter-terrorism Implementation Task Force (CTITF) and the International Islamic Fiqh Academy (IIFA), President of the Turkish Constitutional Court and President of the Jordanian National Centre for Human Rights participated as key panelists during the discussion.

The Commission Members, OIC General Secretariat, panelists and representatives of Member States had an exhaustive and fruitful discussion that underlined the importance of combating terrorism in all its manifestations while ensuring protection of human rights as a cornerstone of counter terrorism measures and policies. The discussion also highlighted the growing menace of terrorism faced by most OIC countries and the need to work together at the regional and international level to combat this common enemy in a comprehensive manner. While reflecting on the existing international, regional and OIC policies on the subject, the discussion also reviewed the prevailing best practices and identified gaps within the existing initiatives and mechanisms to suggest the way forward.

Based on the comprehensive discussion, the Commission adopted the following:

Underscoring that Islam regards the right to life as sacred, a God-given fundamental and universal right, and that terrorism is a crime against humanity, which is strictly forbidden. Almighty Allah says in the Quran: *“and do not kill a soul that God has made sacrosanct, except by way of justice and law”* (6:151), and also says: *“Whoever kills a person, unless it is for murder or for spreading mischief in the land, it would be as if he had killed all mankind; and he who saves a life, it is as if he had saved life of all mankind”* (5:32);

Guided by the Islamic principles that guarantee human life and prohibit killing of innocents; by the noble Islamic values that promote peace, compassion, tolerance, equality, justice and human dignity; and by the objectives and principles of the OIC Charter to promote and protect human rights everywhere, consolidate the unity and solidarity among Member States and to contribute to international peace and security, understanding and dialogue among civilizations, cultures and religions;

Recalling the principles and purposes of the United Nations Charter aimed at maintaining Peace and Security and taking effective collective measures to that end;

Recalling further the Code of Conduct for Combating International Terrorism adopted by the OIC in 1994, and the OIC Convention on Combating Terrorism adopted by the 26th Session of Council of Foreign Ministers in 1999;

Reaffirming the objectives and principles of the United Nations on preventing and combating terrorism as outlined in the United Nations Global Counter-Terrorism Strategy as well as the importance of protecting human rights in all counter-terrorism efforts as laid out in the Pillar IV of this Strategy and its subsequent review resolutions and affirming that human rights must remain at the core of all efforts to

counterterrorism for peace and security and in this regard stresses the importance of further strengthening the Pillar IV of the Strategy;

Recalling the United Nations General Assembly Declaration and Programme of Action on a Culture of Peace and stressing that the respect for principles enshrined in the Declaration and implementation of the Programme of Action, in particular the actions to be taken at the national, regional and international levels by all relevant actors, are important to ensure respect for human rights and the rule of law at the international level, while countering terrorism,

Recalling further that Islamic Sharia provides guarantees of due process to justly deal with all accused including those involved in terrorist activities;

Underlines that terrorism not only poses serious threat to the peoples' enjoyment of the right to life and liberty but also portends a perpetual danger to the existence of human civilization, progress, welfare and global stability.

Reiterates its principled position against terrorism in all its forms and manifestations, committed by whomsoever and wherever; and reaffirms its unequivocal rejection of all attempts to associate any country, race, religion, culture, ethnicity or nationality with terrorism;

Reaffirms its unequivocal rejection of all attempts to equate just and legitimate struggles for self-determination and resistance to achieve liberation from foreign occupation with terrorism;

Recognizes the primacy of the State responsibility to protect its citizens from terrorism, which is indeed a human rights obligation. Governments must, therefore, have in place effective counterterrorism strategies to mitigate the risk of terrorism to the extent possible, while ensuring that these measures are proportionate, necessary and in full compliance with their obligations under international law, in particular human rights law, refugee law and international humanitarian law;

Further recognizes that international human rights system contains practical measures to respond to terrorism threats and emergency situations, under which governments can take certain actions to prevent potential threats to the public order, as long as these are transparent, time bound, broad-based and people centric with utmost respect for the human rights, rule of law, individual freedoms and opportunity for a fair judicial process. Whenever rights-limiting measures are considered, their potential impact on women, children, ethnic and religious communities or any other specific group must be considered;

Reaffirms the need to address the root causes and conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved international conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, violent extremist ideologies and incitement to religious hatred, socioeconomic marginalization and lack of good governance at national and international levels, while recognizing that none of these conditions can excuse or justify acts of terrorism;

Stresses that everyone has the right to life, liberty and security of person, as stipulated in the article 3 of the UDHR, and that International human rights law prohibits arbitrary deprivation of life under any circumstance (Article 6 of ICCPR), and explicitly bans torture, even in times of national emergency or when the security of the State is threatened (ICCPR Articles 4 and 7);

Highlights that certain measures like arbitrary detentions, extrajudicial killings, racial and ethnic profiling and discriminatory travel bans etc. pose serious challenges to human rights and the rule of law. Such measures foster an atmosphere of mistrust, resentment and marginalization in a manner that diminishes States' long-term security. These measures impact disproportionately certain populations, including ethnic, racial or religious minorities and migrants, which undermine social cohesion and intensify radicalization and violence. Stigmatization of certain communities also leads to increase in support for terrorist groups among affected communities;

Expresses concern over the illegal use of new warfare technologies such as remotely piloted aircrafts that involve serious issues relating to transparency, accountability and control;

Bearing in mind that terrorism cannot be defeated by military force, law enforcement measures and intelligence operations alone, hence, the need to promote initiatives aimed at achieving peace through national reconciliation with the groups and individuals who shun violence and extremist ideas, give up terrorist acts and activities for good and recognize Islam's true values and the State's constitutional legitimacy, as well as to devise concrete and practical plans for addressing various dimensions and root causes of terrorism, as set out in the Final Communiqué of the Extraordinary Meeting of the OIC Executive Committee held in Jeddah on 15 February 2015;

Highlighted that human life should never be considered as collateral damage of counterterrorism measures. Accordingly, respect for human rights and the rule of law must be the cornerstone of the fight against terrorism at the national and international levels.

Affirms that counterterrorism measures that violate human rights are not only unlawful under international law, but they are also counter-productive. Fighting terrorism cannot justify unjust means to fight it. Instead, counter-terrorism measures must uphold human rights and give weight, resources, and priority to it;

Stresses the importance of addressing the narrative used by the terrorists including understanding the motives used for incitement and recruitment with a view to developing the most effective means of countering terrorist propaganda in accordance with mental capacities of targeted audience.

Also stresses that a national criminal justice system based on respect for human rights and the rule of law, due process and fair trial guarantees is one of the best means for effectively countering terrorism and ensuring accountability.

Further stresses the important role of constitutional courts in reviewing the constitutionality of counterterrorism measures, policies and laws

Called upon all States to:

- a. take all measures to ensure respect for human rights for all, and the rule of law at the national and international levels, as the fundamental basis for the fight against terrorism;
- b. continue to do all they can to resolve conflict, end foreign occupation, confront oppression, eradicate poverty, promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and the rule of law, improve intercultural understanding and ensure respect for all religions, religious values and cultures;
- c. prosecute those responsible or suspected of engaging in terrorism acts in accordance with the rule of law, where everyone is entitled to a fair trial, by a competent, independent and impartial tribunal established by law;
- d. work collectively to implement relevant tenets of their domestic and foreign policies that adhere to the dignity and integrity of human beings, and to develop comprehensive counterterrorism strategies that go beyond military and intelligence actions/options;
- e. expand their efforts to achieve a consensus about adopting a comprehensive convention on International terrorism, which would help mainstreaming international policies to counter terrorism, and to improve the efficiency of related policies, in full respect to international human law;
- f. adopt an international agreement to control arms trade/movement, to prevent terrorists from having access to weapons and take further measures to stop the financing of terrorism.

Further called upon all governments, among others, in engaging counter-terrorism measures to: (a) respect the right to privacy, (b) ensure that the use of remotely piloted aircrafts, comply with their obligations under international law, including human rights law and international humanitarian law, in particular the principles of distinction and proportionality; and (c) not to impede humanitarian and medical activities or engagement with relevant stakeholders as provided in international humanitarian law;(d) respect their non-refoulment obligations, prohibit collective expulsions of refugees, migrants and asylum seekers and to comply with due process guarantees, and (e) to prevent refugee status from being abused by the perpetrators and to take appropriate measure to ensure asylum seekers are not involved in any terrorist activities;

Underlined that serious consideration must be given to the legal and ethical ramifications of international counter-terrorism efforts, which include strengthening the role of NHRIs in ensuring accountability, and redefining policies in accordance with the protection and preservation of human rights. Counter Terrorism efforts must include measures to ensure compliance with Human Rights laws, refugee law, improving national criminal justice system, and preventing all forms of torture;

Further underlined that discriminatory asylum and migration policies, which violate human rights of migrants, refugees and asylum seekers have negative effects on the efforts of States to counter terrorism by provoking irregular migration, fostering an atmosphere of mistrust, resentment and marginalization, which leads to increase in the support of terrorist groups, violent ideologies and create conditions conducive to terrorism;

Encouraged Member States to develop tailored strategies to counter the extremist narrative and ideologies, incitement to religious hatred that could lead to recruitment in terrorist groups and the commission of terrorist acts including by engaging relevant local communities, religious leaders and non-governmental actors, where appropriate; To this end urged Member States to extend full support to the

welcome initiative of the OIC Center for Dialogue, Peace and Understanding as a counter-messaging platform to delegitimize and deconstruct the terrorist narratives propagated online;

Further encouraged Member States to involve the women and youth in the promotion of a culture of peace, tolerance and intercultural and interreligious dialogue and develop, as appropriate, an understanding of respect for human dignity, pluralism and diversity, including, as appropriate, through education programmes, that could discourage their participation in acts of terrorism, violence, xenophobia and all forms of discrimination. Also urged Member States to take effective measures, in conformity with international law, to protect young people affected or exploited by terrorism or violent ideologies and take measures to rehabilitate and reintegrate them and their families in society;

Recommended that the OIC Member States should:

- a. review and develop their counter-terrorism national laws, legislations, policies and strategies to make them in line with international human rights law,
- b. ensure parliamentary monitoring over executive authorities in charge of enforcing counter terrorism measures as well as enhance the role of civil society, media and independent commissions in monitoring the strategies applied in this context,
- c. strengthen the capacity of their security forces, law enforcement agencies and justice institutions based on a human rights-led approach,
- d. establish a series of regional workshops aimed at exchanging best practices among Member States relating to protection of human rights and securing the principle of accountability for human rights violations in the context of counterterrorism policies;
- e. work with their respective diaspora in promoting the true values, teachings and traits of our pristine religion that stands for justice, equality and peace among human beings as well as to positively contribute to the development of their adopted countries /societies in accordance with the respective laws;

Urged all States to promote and develop understanding on the shared humanistic values of different religions and faiths. This can be done by promoting inter and intra faith education and dialogue at international, regional, and national level.

Further urged all States to develop and maintain effective, fair, independent, humane, transparent and accountable criminal justice systems, as a fundamental basis of any strategy to counter terrorism, provide regular training to the concerned professionals and officials in the criminal justice systems as well as to guarantee the respect for their decisions and physical security in all circumstances.

Highlighted that an effective international counterterrorism policy, must include a comprehensive migration policy that respects human rights, justice, accountability, human dignity, equality and non-discrimination, and that grants victims of terrorism the protection to which they are entitled. Security and the protection of the rights of migrants are not opposing goals; they are complementary and mutually reinforcing;

Appreciated the establishment of the United Nations Centre for Counter Terrorism (UNCCT) with the generous contribution of the Kingdom of Saudi Arabia and encouraged Member States to consider benefiting from the UNCCT capacity building work especially in the area of human rights capacity building of law enforcement officials.