الهيئة الدائمة المستقلة لحقوق الإنسان

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La Commission Permanente Indépendante
des Droits de l'Homme

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FOREWORD

On behalf of the entire team of the OIC Independent Permanent Human Rights Commission (IPHRC), We are pleased to present the first volume of compilation of all studies, reports and declarations prepared by its Members and adopted by the Commission. The release of this journal coincides with the first anniversary of operations of IPHRC from its independent Headquarters in Jeddah provided by the Government of the Kingdom of Saudi Arabia. These thematic publications showcase the substantive work done by the Commission in highlighting the importance and relevance of Islamic values and teachings to addressing serious challenges confronting the Muslim world and present-day humanity.

IPHRC, with its 57 Member States spread over four continents, is designed to work as a cross-regional human rights mechanism that promotes the universal character of human rights with an added value of combining it with the pristine values and ethos of Islamic teachings and traditions. Its establishment, as one of the principal organs of the OIC, marked the beginning of a new era in the history of OIC. It overtly affirmed the resolve of the OIC Member States that the organization was fully committed to the principles and ideals of international human rights law and willing to scrutinize and improve its own human rights policies and practices in an independent and objective manner.

From a nascent Commission in 2011, which started its work with a skeleton Secretariat within the OIC General Secretariat, this body has made important strides in consolidating both its operational as well as secretarial procedures. In a short span of seven years, despite resource constraints, IPHRC has been able to justify its existence and utility as an independent human rights body of international repute. In addition to holding biannual Regular Sessions, IPHRC has conducted numerous thematic debates, international seminars, fact finding visits and research studies on important human rights issues. Outcomes of these activities, fact-finding visit reports and specific studies, conducted to comply with relevant CFM mandates, are compiled in this journal. It is hoped that this journal will serve as a valuable resource to disseminate the human rights ideals espoused by the OIC and its Commission and shall be able to garner support in its journey towards realization of rights-based societies.

We are extremely grateful to the Kingdom of Saudi Arabia for hosting the Headquarters of this important organ of the OIC and all the Member States for their material and moral support without which these achievements would not have been possible. We also appreciate the steadfast support provided by the OIC General Secretariat in particular the Secretary General of the OIC to the IPHRC since its inception. While the scope and scale of IPHRC's activities continue to evolve and expand, we look forward to continuing our valuable cooperation with the OIC Member States and the OIC General Secretariat in the promotion and protection of human rights both within the OIC and beyond.

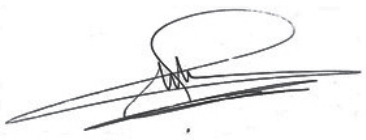

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Table of Contents

OIC-IPHRC THEMATIC STUDIES

COUNTERING ISLAMOPHOBIA: AN UNFINISHED BUSINESS..... 1

THE DIVINE JUSTICE ON WOMEN AND MEN'S INHERITANCE IN ISLAMIC SHARIA.....15

RIGHTS OF MINORITIES IN ISLAM.....19

HUMAN TRAFFICKING IN OIC COUNTRIES.....35

SEXUAL ORIENTATION AND GENDER IDENTITY 43

ISLAMOPHOBIA AND THE COUNTER-TERRORISM STRATEGIES.....53

OIC-IPHRC OUTCOME DOCUMENTS & DECLARATIONS

NEGATIVE IMPACTS OF FINANCIAL SANCTIONS ON THE FULL ENJOYMENT OF HUMAN RIGHTS BY PEOPLES OF THE AFFECTED COUNTRIES.....75

THE GROWING TREND OF EXTREMISM AND INTOLERANCE IN THE WORLD.....77

PROTECTION OF FAMILY AS THE NATURAL AND FUNDAMENTAL UNIT OF SOCIETY.....79

DECLARATION ON HUMAN RIGHTS EDUCATION.....81

FREEDOM OF EXPRESSION AND HATE SPEECH.....85

IMPACT OF WOMEN EMPOWERMENT ON SUSTAINABLE DEVELOPMENT OF MEMBER STATES.....89

DECLARATION ON THE RIGHT TO DEVELOPMENT.....93

PROTECTING AND PROMOTING RIGHTS OF CHILDREN DURING SITUATIONS OF ARMED CONFLICT.....97

PROTECTING HUMAN RIGHTS WHILE COUNTERING TERRORISM.....101

DECLARATION ON THE ROLE OF MEDIA IN COMBATTING HATE SPEECH.....107

IMPORTANCE OF CULTURAL DIVERSITY IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS.....111

OIC-IPHRC FIELD VISIT REPORTS

THE HUMAN RIGHTS SITUATION IN THE CENTRAL AFRICAN REPUBLIC 119

THE HUMAN RIGHTS SITUATION IN THE OCCUPIED PALESTINE.....131

THE HUMAN RIGHTS SITUATION IN THE INDIAN OCCUPIED KASHMIR.....141

OIC-IPHRC

THEMATIC STUDIES

COUNTERING ISLAMOPHOBIA: AN UNFINISHED BUSINESS

Prof Saleh Alkhatlan

Adopted by the 8th IPHRC Regular Session – November 2015

1. Preface

This report has been commissioned by the Council of Foreign Ministers (CFM) of the Organization of the Islamic Cooperation (OIC) and prepared by the Independent Permanent Human Rights Commission (IPHRC), as a comprehensive report analysing the phenomenon of Islamophobia. In view of the complex nature of the phenomenon and the various legal, human rights, political, cultural, social and media dimensions, and given that a full understanding of all the facets to this issue requires conducting a field study, and based on the nature of the mandate of the IPHRC, the present report draws extensively on survey of significant number of reports, studies and research material, in addition to the documented activities carried out by the Organization of Islamic Cooperation (OIC).

2. Definition of Islamophobia and its impact on human rights

Despite controversy surrounding the meaning, history and causes of Islamophobia, there is near unanimity on the prevalence of practices associated with this concept, which include acts of abuse and attacks directed against Islam and Muslims in a number of western societies, which represent a violation of human rights.

With the exception of a minority opinion, which completely rejects the use of the term Islamophobia, those who still harbour some doubts about the term, associate it exclusively with an emotional state characterised by fear and hatred, directed against Muslim communities living in the West. They deny the existence of any hatred directed against Islam as a religion per se, alleging that those who prefer to use the term Islamophobia only do so in order to shield the Islamic religion itself against criticism. Still, the majority opinion concurs with the view of the Runnymede Trust, a British think-tank, which holds that the "animosity harboured against Islam and Muslims in Western societies is unique and can only be grasped using an equally unique concept, hence the justification of the term Islamophobia[1].

There is no agreement as to the origins or causes of such a phenomenon. Some consider it as a new phenomenon caused by Muslims' inability to integrate into the Western societies where they live, or by members of violent organisations, whose conduct causes fear and scepticism. The majority of those who have analysed the phenomenon confirm that it dates back to centuries, and has a wide range of causes, most of which point in the direction of those involved in acts of abuse and assault.

Islamophobia is commonly known as a condition of phobia vis-a-vis Islam and Muslims, which develops into hostile behaviour, including verbal and physical abuse against Muslims, their scripture, holy personalities and symbols including assault against mosques, cemeteries and religious centres. This condition also manifests in the form of attempts to distort the image of Islam and its symbols, especially as directed against Prophet Mohammed (Peace be upon him). Some consider that the above definition does not accurately capture the full scope and depth of this phenomenon, which goes far beyond the phobia some individuals experience with regard to Islam and Muslims. They rather maintain that the term used to describe it fails to reflect the human rights violations it entails. Granting that Islamophobia is an expression of public ignorance about true Islam in Western societies, the argument no longer holds when you find it widespread among the elite of society as well, which leads to the belief that Islamophobia is the result of a deliberate and intentional effort to distort the image of Islam and create a state of permanent fear of Muslims for purpose of achieving both personal and collective goals.

Over the last couple of decades, namely after the terrorist attacks of September 2001, Islamophobia transformed beyond recognition. No longer a spontaneous expression of emotions, it turned into an ideology that found its way

[1] The Runnymede Trust, " Islamophobia: A Challenge for Us All", London: (1997)

into the political agendas of right-wing extremist groups, seeking to make political gains by promoting hatred against Islam and Muslims. This systematic effort to distort the image of Islam and Muslims, is not limited to the extreme right, but also includes secular-minded thinkers and intellectuals, who consciously harbour hostile sentiments against religion, seeing in the increasing number of Muslims in Western societies, an existential threat to these societies and their secular way of life.

A report published in the United States by the Council of American Islamic Relations in 2013, revealed the existence of a network of more than 37 groups, which engage in the systematic promotion of hatred against Islam and which played a role in introducing 78 legal amendments to Congress and other legislative bodies between 2011 and 2012, all of which aimed at distorting the image of Islam.

Unfortunately, these systematic efforts to distort the image of Islam and Muslims, coupled with the rise in terrorist acts involving some Muslim individuals, turned Islamophobia into a permanent cultural phenomenon, constantly evolving and ultimately feeding into so-called anti-terrorism laws, running counter to the efforts made by Muslims to enact legislation criminalizing hate speech against them.

3. Explaining Islamophobia

Islamophobia finds its reasons in as diverse fields as history, religion, politics, ideology and behaviour. Historically, hostile attitudes towards Islam and Muslims go back to centuries of interaction between Muslims and the West, during which a number of stereotypes and distorted images developed, ultimately giving way to a state of mutual fear and suspicion. At the time of the Crusades, churchmen played a key role in rallying the crowds to the battlefield by spreading contempt for Islam and Muslims and denigrating their religious symbols. Suffice it to mention here the role of Pope Urban II, who launched the campaign of the crusades in a sermon he delivered in 1095, in which he portrayed Muslims as "a despised and vile race, which worships demons[2]".

This offensive discourse against Islam and Muslims continued over different historical periods and persisted well into the Renaissance and the Enlightenment, long after the Church's role in society receded. Voltaire, a French philosopher from the Enlightenment era, wrote a play in the mid-eighteenth century entitled "Mohammed", in which he depicted the Prophet Mohamed Peace be Upon Him as a "hypocrite, and deceitful and a lover of physical pleasures[3]". Publication of the blasphemous cartoons of the Prophet Mohamed Peace be Upon Him in recent years, confirms that this stereotypical and distorted image has managed to survive and re-emerge in the collective mind of Europeans today.

This kind of discourse established a collective mind-set that is difficult to uproot, and is invoked whenever clashes occur, which happen to involve Muslims. The political reasons of Islamophobia are represented in the on-going conflict between the Muslim world and the West, which evoke religion and history to give legitimacy to policies. Muslims still remember a remark by the NATO Secretary General at the beginning of the 1990s, in which he said that "the green menace, (meaning Islam), had replaced the red menace, which ended with the collapse of the former Soviet Union". Samuel Huntington, an American intellectual, called, in his popular "Clash of Civilizations" on the West to promote solidarity and increase military cooperation. Political competition in Western societies pushed some right-wing extremist movements to employ Islamophobia as a means to gain popularity by intimidating Muslims and promising their electorates, if elected, to enact strict laws against Muslims.

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[2] Pope Urban II , https://en.wikipedia.org/wiki/Pope_Urban_II#First_Crusade

[3] Khaled Suleiman "Islamophobia: Analytical reading " http://www.asharqalarabi.org.uk/markaz/m_abhath-56.htm

The events of September 11, 2001 marked a turning point in the West's perception of Islam and Muslims. In spite of the fact that American Muslims were among the victims of the terrorist attacks, and in spite of the strong condemnation of the attacks expressed by Muslim countries and institutions alike, Islam and Muslims in the United States and in many parts of Europe and elsewhere were subjected to the worst violations in the wake of the incident. Islam was targeted

While right-wing forces are responsible for the majority of acts involving the promotion of hate speech against Islam and Muslims, for both religious and political reasons, secular forces are also responsible for wanton acts of defamation. In fact, in addition to their avowed ideological dismissal of religion in general, they are also known for their particular contempt of Islam. In the eyes of those secularists, Islam is a backward religion, opposed to freedom, democracy and human rights, degrades women, intolerant of and hostile towards minorities. Therefore, it is only natural that they should oppose this religion. Islam, in their view, is a threat not only to freedom of expression, but also to contemporary Western way of life and democratic system, which is why, it should be opposed vehemently.

At the behavioural level, we must admit that the conduct of some extremist individuals and groups within the Muslim world only reinforce this distorted image about Islam. We should be in no illusion that Western societies and even other societies should not be expected to make an effort to draw a distinction between true Islam and the acts of some individuals and groups, especially that the media tends to focus on and amplify their heinous acts, thus increasing the sensational flavour, which helps them gain in popularity ratings.

The discourse adopted by certain radical preachers living in Western societies tends to corroborate the negative image of Islam and Muslims. The state of backwardness, illiteracy, authoritarianism and political conflict equally contribute to making the inevitable association between Islam and these conditions. These factors have also led to falsely portray image of Muslims being unable to integrate in Western societies. While there have been some cases of extremism within Muslim communities in these countries (which are overtly projected) the majority of the Muslim communities have been actively and productively contributing to the economic and social progress of their host societies thus adding to the cultural diversity that is the essence of true multiculturalism.

In addition to the reasons mentioned above, there have been certain factors, internal to European societies, which contributed to the spread of hatred against Islam and Muslims. These have to do mainly with their own identity crisis, declining economies and higher rate of unemployment and the falling rates of population growth among them. Due to their weak national identities, a result of cultural differences, and the absence of a pan-European identity, Europeans suffer an identity crisis, which they blame on immigrants in general, though Muslims tend to bear the brunt of that blame, probably because of the stark contrast of their cultural and religious heritage compared to that of the European societies where they live. Population growth among Muslim communities in the West, whether as result of natural growth or immigration, along with the falling rates fertility among Europeans create concern among the latter over their European Christian identity. Extremists play on these fears and warn of an Islamic population time bomb, threatening to irreversibly transform European identity. Thus, Islamophobia has come to exist not as an expression of a hostile attitude vis-a-vis Islam, but Muslims have come to be the target of a complex form of hatred against religion, immigration and xenophobia. It is exactly this which has turned Islamophobia into the most dangerous manifestation of racism in Europe.

Although all members of Muslim minorities suffering verbal and behavioural abuse, motivated by Islamophobia, women in particular, seem to suffer the most because of their outward appearance, which readily symbolizes the difference between Muslims and non-Muslims in the West. Several Western organisations documenting the rise in the number of Islamophobic acts have noted that a great deal of attacks and abuse go unreported because the victims do not trust the security apparatus.

Although Islamophobia has become a permanent feature of Western societies, there has also been a direct correlation between the rise in this phenomenon and acts of terrorism involving Muslim individuals. Over the past two years, hate speech has seen a dramatic rise due to the emergence of a terrorist organisation in Iraq, which has incorporated the word 'Islam' in the title of its so-called state, and publishes footage of their barbaric acts of killing in the media.

We must admit that the gruesome acts of this organisation have exacerbated fear of Islam and Muslims, hampering efforts made to counter Islamophobia. What made matters worse is the fact that the rise of this terrorist organisation coincided with the growth in popularity of right wing parties in Europe and a corresponding rise in the number of Muslim immigrants fleeing the deteriorating situation in their home countries, particularly those affected by the Arab spring. Therefore, it looks like we should be bracing ourselves for a new and stronger wave of Islamophobia about to set in, calling for swift action on all fronts. Some have gone so far as to draw a comparison between the status of Muslims in Western societies today to that of the so-called Jewish issue of the inter war period, which is reflective of the seriousness of the matter.

The positive side to this situation resides in the fact that this phenomenon has now attracted widespread attention thanks to the organisation of conferences and seminars and the publication of reports on the issue. A specialized journal, called Islamophobic Studies Journal, is now published in the United States. Although such meetings do come up with recommendations to combat the phenomenon, their impact remains limited, since they avoid the sensitive issue of incitement discourse. This explains the approach adopted by the Muslim world, as represented by the OIC, which consists of acting in a concerted manner to counter this form of racism, which, if allowed to go unchecked, will throw into chaos global peace and security.

4. The United Nations and religious intolerance and discrimination based on religion or belief

Although the United Nations only started taking an interest in Islamophobia, namely through the statements of some representatives of the Muslim countries, it nonetheless addressed the issue of intolerance and religious-based discrimination at the very beginning of creating a global system of human rights. However, its role has remained of little effect up to this day.

In 1946, the Commission on Human Rights, which branched out from the Economic and Social Council, made discrimination on the basis of race, sex, language, religion, a standing item on its agenda, along with the drafting of the International Covenant on Civil Rights, as well as women's rights. The Commission established a sub-commission on Discrimination and the Protection of Minorities, which has worked since the 1950s on developing procedures on the prohibition of national, racial or religious incitement. In 1960, the sub-committee prepared a study on religious discrimination, including recommendations for General Principles for adoption as a Resolution by the General Assembly, or in the form of an International Declaration.

A protracted debate took place within the United Nations on the most appropriate form to adopt these rules. Some Muslim countries called for them to be codified into a binding international agreement, instead of a mere General Assembly resolution or a declaration of general principles. In 1962, at the conclusion of a debate on religious discrimination and ethnic discrimination, the General Assembly adopted two resolutions. The first one provided for the preparation of a draft declaration and a draft agreement on combating all forms of racial discrimination, and the second calling for the preparation of a draft declaration and a draft convention against all forms of religious intolerance. In 1965, the United Nations issued the International Convention on the Elimination of All Forms of Racial Discrimination. However, it failed to issue a similar convention against intolerance and discrimination on the basis of religion, as a result of sharp divisions between Member States, overshadowed at the time by ideological polarisation.

Still, a number of Muslim countries continued to raise the issue. The Third Committee called for a resolution to issue a declaration and a convention against all forms of religious intolerance. The Committee held 29 meetings, characterized by a heated debate as to the definition of religion and belief, the Soviet Union insisting at the time on including atheism as a belief worthy of recognition and protection. This interpretation was opposed by Muslim countries and the Catholic Church. Because of this sharp controversy, the Committee only could go as far as the title of the draft convention, the preamble and the first article. The General Assembly had to postpone the matter several times. During the 1970s, interest in the issue of intolerance and discrimination on the basis of religion or belief began to wane, giving way to a feeling of scepticism about its relevance, and whether or not there was any need at all for a convention dedicated to the issue.

In 1979, the General Assembly announced that intolerance and discrimination on the basis of religion was becoming a neglected discrimination, leading to a fresh tabling of the matter and the ultimate adoption by the General Assembly of resolution 36/55, containing a declaration on the fight against all forms of intolerance and discrimination on the basis of religion or belief. The United Nations thus managed to put to rest what was thought at the time to be a debate that lasted for over 20 years.

Between 1981-86, the General Assembly called upon the Commission on Human Rights to draw a list of appropriate measures to implement the Declaration. In 1986 the Commission also created the position of Special Rapporteur to verify the implementation of the Declaration, and mandated him to consider cases, which contravene the Declaration and submit recommendations about them. In 2000 mainly at the instigation of the West, there was a change from "fighting religious intolerance" to "freedom of belief and religion", and a change in the mandate of the rapporteur from "considering matters of fighting discrimination on the basis of religion or belief", to "seeking measures to promote and protect freedom of religion and belief". This was a major shift in the focus of the mandate that changed its outlook from addressing intolerance and discrimination based on religion to promoting freedom of religion. It was claimed that the change was introduced to reflect the positive side of the mandate.

5. The Organization of Islamic Cooperation and the shift from combating defamation of religions to combating incitement to hatred and discrimination based on religion:

In 2013, the former Secretary General of the OIC published his book entitled: "Islamophobia from confrontation to cooperation: the next mission". The book traces the evolution of the issue between the two protagonists: the Muslim world and the Western world. According to former SG the OIC's interest in issues of religious intolerance, defamation of religions and Islamophobia stems from its commitment in safeguarding global peace and security. It sets out from the view that these issues have the potential of developing into conflict with the potential to threaten global peace and stability, given the mutual feelings of hostility that they stoke among peoples.

In 1999 and for almost 12 years, the OIC submitted a resolution for combating "defamation of religions", as of a means of expressing its growing concern over the emergence of new forms of intolerance and hatred with regard to Islam and Muslims in various parts of the world. The timing of submitting the first draft resolution reflects an early awareness of the gravity of the issue and an accuracy of predicting its increase. To give a universal message as well as to respect and treat all religions with equal emphasis, the title of the draft resolution was amended to read "defamation of religions" instead of defamation of Islam. Initially, the resolution was passed by consensus, but following the introduction of this text in 2001 where OIC called on Member States to "provide adequate protection against all human rights violations resulting from defamation of religions", western countries broke the consensus and put the resolution to vote. Since then it was adopted by vote till 2010.

The growing cases of hatred against Islam and Muslims in the aftermath of the 2001 terrorist attacks, heightened concern among Muslims, to which the OIC responded quickly by seeking an international declaration with legally binding measures, a move rejected by Western countries, thus again plunging the international organisation in sharp divisions on the way forward on the subject.

Two visions emerged on how to deal with intolerance and religious discrimination. The first one was advanced by Muslim countries, focusing on combating incitement to hatred and hate speech with legally binding measures such as criminalizing incitement against religions and its followers (in accordance with the Art 19& 20 of ICCPR, as well as the existing practices followed by European countries in cases of Anti-Semitism, denial of holocaust and promotion of Nazism) etc. The second one was championed by Western countries, which sought to promote absolute individual liberties and the freedom of religion and belief including the right to insult or defame that in their view was included in the right to freedom of opinion and expression. Muslim countries maintain that, in order to combat defamation of religions there has to be legally binding measures limiting the scope of the freedom of expression. Western countries on the other hand insist that such measures constitute a breach of basic human rights, particularly freedom of expression, and will be ineffective in putting an end to the problem of intolerance and discrimination on the basis of religion.

Gradually, critical position towards the concept of defamation of religions, started to take shape based on theoretical and legal arguments. In 2006, a joint report by the rapporteurs on the freedom of religion and belief and the fight against racism alleged that criminalizing contempt of religions would prepare the ground for a state of intolerance. In 2009, a joint report published by the rapporteur of the freedom of expression and a number of regional rapporteurs, criticized the concept of defamation of religions on the grounds that it was in conflict with the already established legal concept of defamation, which applies only to the protection of individual's reputation, and that freedom of expression cannot be constrained to protect institutions, ideas or religious concepts.

In spite of the sharp division, support for the draft resolution on "combating defamation of religions" remained constant, as shown each time it was submitted to a vote 2001-2007. However, that support tended to decline after the United States joined the Human Rights Council and actively lobbied against it. In 2010 the resolution was adopted with only a margin of three votes in favour. Over these years, discussion on this resolution became overtly intense and controversial and put the whole debate of Islamophobia and discrimination on the basis of religion in a negative light. In order to salvage this situation and to make progress on this subject, the OIC embarked on a new approach by devising a new resolution that addresses the whole issue from the lens of existing human rights law.

Resolution 16/18 and the Istanbul Process

In view of the opposition, based on legal and conceptual grounds by Western countries against the concept of defamation of religions on the one hand, and the mounting cases of Islamophobia on the other, the OIC sought a new framework through which it would garner support and acceptance by the international community for countering this dangerous phenomenon. The third forum of the Alliance of Civilizations, held in Rio De Janeiro, Brazil in May 2010, offered an opportunity to present this new vision. The OIC submitted a working paper on countering Islamophobia at a panel discussion attended by the Organisation for Economic Security and Cooperation. That was the first international forum to discuss Islamophobia. The OIC again brought up the issue of countering Islamophobia at a conference on religious tolerance, held in 2010 in Astana, Kazakhstan.

During the 15th Session of the Human Rights Council, the then Secretary General of the OIC presented an eight point vision for a consensual approach for promoting a culture of tolerance and mutual understanding and rejection of

incitement to hatred, discrimination and violence on the basis of religion or belief. Such developments complemented by intense diplomatic efforts by OIC Member States and Western bloc (led by the USA and UK) paved the way for Resolution 16/18, which reconciled the two positions. This consensus resolution was termed as 'triumph of multilateralism'. It contains a detailed action plan, which if implemented in its entirety, would certainly prevent intolerance, hatred and religious discrimination. Resolution 16/18 and General Assembly resolution 66/167 are considered the two most important resolutions on the issue of intolerance and religious discrimination since the matter was tabled on the United Nations agenda almost half a century ago.

The OIC considered the adoption of resolution 16/18 a historic accomplishment and a turning point in international efforts to combat intolerance and discrimination on the basis of religion or belief. It was also keen to ensure its implementation by launching an initiative known as the Istanbul Process, which sought to review and expedite the compliance of countries with the Plan of Action set out in the resolution. Following the adoption of this resolution and the launching of the Istanbul Process, the OIC had to bear a spate of widespread criticism, particularly from right wing organizations accusing it of seeking to impose an Islamic view on the concept of combating intolerance by restricting freedom of expression for the purpose of preventing incitement on the basis of religion or belief.

The OIC launched the Istanbul Process, in June 2011, in partnership with the United States, the EU and a number of other interested countries. Since then, five meetings have been held under the Istanbul Process until the writing of this report, which were as follows: Washington (December 2011), London (December 2012), Geneva (June 2013), Doha (March 2014) and Jeddah (June 2015). The Geneva meeting, co-sponsored by the OIC, was the object of a controversy on the interpretation of resolution 16/18, which threatened, according to some participants, to undermine the entire Istanbul Process. At the Doha meeting, however, the resolution and the issues surrounding its implementation did not have their fair share of serious discussion due to the attendance of a large and heterogeneous array of civil society organisations and participants.

In order to give impetus to the Istanbul Process and to avoid the signs of lack of momentum, the OIC decided to convene the 5th meeting at its headquarters in Jeddah on 3 and 4 June 2015, to discuss and consider the full and effective implementation of resolution 16/18. A large number of various stakeholders attended the meeting, including Members States of the United Nations, academics, United Nations officials, independent experts, jurists, non-governmental organizations and representatives of civil society. The meeting reaffirmed the importance of resolution 16/18 as a landmark achievement in the framework of United Nations efforts to combat incitement to hatred and violence, discrimination and stigmatization on the basis of religion and belief, and called on everyone to maintain the general consensus about this important document. The substance of the discussions centred around the implementation of the resolution in a balanced and comprehensive way, including paragraph (5-f) on criminalizing incitement to violence on the basis of religion or belief. A number of participants, including representatives of the IPHRC stressed that the focus on the practical steps to implement the resolution should not detract from matters of substance that continue to be the source of controversy between those involved in the Istanbul Process, namely the protection of religions against deliberate abuse and distortion, subsumed under the freedom of religions. Indeed, it makes no sense to guarantee freedom of religion, while religious ritual and symbols continue to be the subject of assault and wanton distortion.
Some of the participants in the Jeddah meeting also called for institutionalizing the Istanbul Process to ensure its sustainability through the establishment of a tripartite presidency to oversee the Process, which is the sole mechanism for following up on the implementation of resolution 16/18. A set of recommendations were also highlighted as follows:

- Political commitment at the highest level of the political apparatus is an absolute requirement for the full and effective implementation of the Human Rights Council resolution 16/18.

- Double standards must be avoided to guarantee objectivity and impartiality in the implementation and promotion of the content of the message of resolution 16/18, which will help maintain a global consensus and encourage effective implementation at all levels.
- The criminalization of the forms of expression, which amount to incitement should be the exception, with due emphasis to observe the standards provided for under the Rabat Plan of Action on the prohibited forms of expression
- Promoting ways of monitoring and reporting on resolution 16/18 through active involvement and the use of a regular comprehensive review mechanism, and the organs established under special treaties and procedures.

Overall, views on resolution 16/18 fall into three categories: The first category, represented by Muslim countries, sees in the resolution a historic achievement, though not properly implemented. They express concern over the resolution being used against Muslim countries through a focus on religious freedom and minority rights. The second category, made up of western countries and human rights organizations, consider that the resolution and the Istanbul Process are enough of a success and therefore, there is no need to seek further mechanisms. The resolution, according to them, reflects an international consensus that must be safeguarded by maintaining the Istanbul Process and avoid raising the issue of Islamophobia or defamation of religion again. The third and final category speaks for right wing political organisations and other secularists who express their resentment over the resolution, which they see as an attempt to restrict the right to free speech.

In spite of their divergence, all these positions agree on one thing: lack of confidence. Muslims see that the West is being selective in the application of the resolution and avoid the most important paragraphs, which call for the criminalization of incitement to hatred on the basis of religion or belief. Westerners harbour doubts about the seriousness of Muslim countries in complying with the resolution, pointing to their insistence on raising the issue of Islamophobia and the defamation of religions again. Others still criticize their own governments for accepting the resolution in the first place, which they think will have negative consequences on the freedom of expression, if implemented in full. The Western attitude involves an implicit risk to derailing resolution 16/18 to the effect that it stands on a fragile consensus that may easily collapse if Muslims go on raising the issue of Islamophobia or even insist on interpreting, rather than merely implementing the resolution.

We are of the view that the OIC ought to consider the following matters:

1- Does calling for an interpretation of the resolution and an insistence on implementing the paragraph on criminalizing incitement threaten consensus on this resolution?
2- Does maintaining international consensus justify complacency with what has been achieved so far in this process?
3- Are there any prospects for an opportunity to further develop the resolution so that it may achieve the main purpose, which is to prevent all forms of intolerance and discrimination based on religion and belief and criminalize incitement to hatred?
4- Should the way forward be to maintain the consensus and call for full and effective implementation of the Action Plan by all stakeholders including the need to criminalize incitement to hatred and imminent violence based on religion?
5- Does the rise of Islamophobia and contempt for Islam justify the call for a new resolution no matter how flimsy the chances of success may be, thereby risking the current consensus?

These are extremely important questions, which must be answered before proceeding to the next step.

We must also note that the mechanism to verify the compliance of countries with the terms of resolution 16/18 is poor. Only 15 countries have so far submitted reports, most of them predominantly are descriptive and full of general

information. An important element to ponder in this regard is the fact that out of these 15 countries there are only 4-5 countries from the OIC, which also calls for an introspective approach vis-à-vis their commitment to implementation of this resolution.

6. The disagreement between Muslims and the West

If the discussion of resolution 16/18 is confined to the main points of contention surrounding Islamophobia and contempt of religions, attempting to find the reasons behind the poor record of implementation, four years after its passing, taking into account the criticism directed at the Istanbul Process from both parties - Muslims and the Western countries - the main problem remains in the disagreement over the interpretation of the resolution, which, if persists, will hinder its implementation itself. Disagreement about the interpretation of the resolution also reflects disagreement on how to deal with intolerance and discrimination based on religion or belief and incitement to hatred. The most prominent differences between the two positions can be summarized in the following points:

Islamic position holds that:

- The existence and continued rise of Islamophobia represents a contemporary manifestation of racism and violation of human rights;
- Negative stereotyping of religions through stigmatization and offending religious symbols is an incitement to hatred against Islam and Muslims;
- The existing legislation in Western societies is biased and not sufficient to address this phenomenon;
- Resolution 16/18 aims to combat intolerance and discrimination based on religion or belief through a range of measures including by criminalizing incitement to hatred that leads to imminent violence in accordance with international human rights law ;
- Increased incidents of violence on both sides underscore the need for urgent action to deal with cases of Islamophobia.

Western position holds that:

- If there is such a problem as Islamophobia, it is limited to certain practices against Muslims as individuals, which may be addressed under the fight against racism;
- Muslims employ the concept of Islamophobia to restrict freedom of expression and to impose their religiously-informed vision of what form of expression is permitted and what is not;
- Existing national legislations provide sufficient legal guarantees to deal with any violations which may target Muslims as individuals;

- There is no need for an international legislation banning hate speech, especially when the responsibility for overseeing its implementation is entrusted with political regimes that do not respect human rights in the first place;
- Rights are meant for individuals, not religions or ideas;
- Legislations in a number of Muslim countries aimed at criminalizing incitement in the name of Islamophobia represent a violation of the right of expression, meant to shield Islam against criticism, and are therefore not acceptable;
- Resolution 16/18 aims to combat intolerance and discrimination based on religion or belief by promoting and protecting religious freedom.

- Any additional measures, including the establishment of an international observatory to monitor acts of Islamophobia is considered as a restriction on the freedom of expression and will not be accepted4.

The disagreement, which transpires from the points above lie at the source of concern about the resilience of the consensus on resolution 16/18 and its ability to withstand the test. It also reveals the underlying problems in the Islamic position, which are as follows:

1- Muslims' inability to demonstrate that offending Islam or its symbols constitutes an act of abuse and an assault on the Muslim individual given that Islam is an integral component of a Muslim's character.

2- Muslims failed to explain their position clearly, to the effect that their drive to criminalize incitement to hatred of Islam is definitely not meant to restrict freedom of expression. It rather aims to address the deliberate defamation of Islam and Muslims, resulting in the violation of their rights and justifying acts of aggression against them.

7. Conclusion and recommendations

Despite the rise registered in all forms of Islamophobia, as monitored by the observatory, which was established by the OIC eight years ago, or through reports published by western organizations, it is attracting increasing attention and awareness about its repercussions, and a desire from Western governments to tackle it. Therefore, it is important to keep an eye on the efforts currently made in western societies, by governments and civil society alike, and capitalize on these efforts to reduce the scope of hatred and incitement against Islam and Muslims. It is also worth mentioning that the majority of Western countries, which acceded to the convention to combat all forms of racial discrimination, have since enacted national laws against hate speech, which can be readily invoked to counter hate speech against Muslims.

On the other hand, we note that efforts to mitigate the consequences of hatred directed against Islam and Muslims run into difficulties because of the fear of terrorism, which in turn generates more fear of Islam, thus making the situation more difficult for Muslims. As soon as there is any improvement, the situation tends to worsen each time individual Muslims are found to be involved in acts of terrorism. The rise of the terrorist organisation known as Daesh, which commits shocking crimes and has the ability to recruit members of the Muslim communities in the West, has increased fear and hatred of Islam and Muslims.

Some have also come to talk about the rise of Christianophobia, particularly with the efforts made by Russia and the orthodox and catholic churches to promote this new phenomenon, as a result of the attacks targeting Christian minorities in the conflict in Syria and Iraq. Today, Russia is calling for an international action to address this problem, similar to the one, which Muslims insist on making with regard to Islamophobia. Should this be a concern for us?

It is, therefore, important to define the desired objective of any move to counter Islamophobia and select the right approach to achieve it. What are we seeking to achieve here exactly? Is it to protect Islam against abuse and defamation, or to protect Muslim communities against attacks and violations that prevent them from enjoying their rights? The right approach to adopt must also be the subject of careful consideration. Should we (1)continue to pursue international advocacy campaign within the United Nations, calling for the full implementation of resolution 16/18, or (2) to seek a new resolution on the matter, or would it be better (3) to focus on national and regional level advocacy or

[4] In 2014, Universal Rights Group published a detailed report on resolution 16/18 under the title of "Combating global religious intolerance: the implementation of Human Rights Council resolution 16/18"

pursue all three routes at the same time?
The reality of the matter is that both the defamation of religions and discrimination against Muslims are interlinked and cannot be dealt in isolation, hence the need to tackle both, though with different strategies. Negative stereotyping and stigmatization of religions or religious symbols have consequential impact on their followers as it directly impinges on their right to freedom of religion as well as subjects them to negative stereotyping that leads to various forms of discrimination and violence against them. A true understanding of the nature of Islamophobia is also crucial to setting the priorities of an action plan. In fact, this phenomenon attempts to distort the image of Islam and by extension abuse all Muslims irrespective of their geographical location. Islamophobia is also in violation of many human rights of Muslim individuals and communities of Muslims living in Western societies.

Based on this understanding, countering the defamation of Islam may call for an international action. Action Plan of Res 16/18 provides for a range of measures that not only cater for positive actions such as reaching out to minorities, training of officials and intercultural dialogue, but also calls for stricter actions such as the need for criminalization of acts of incitement that lead to imminent violence.

As far as addressing violations committed against the individual rights of Muslims, this is achievable through encouraging and promoting the awareness of members of Muslim communities in the West to work within the legal system and engage in political action to counter those attacks and violations and report those incidents to the competent authorities.

Close and systematic cooperation links may also be established with human rights groups and organisations to document cases of violation and abuse, and raise public awareness about this phenomenon on a permanent basis before moving to counter it.

Action at the national level in western countries may contribute to addressing the problem of abuse against Islam in general and cases of contempt and denigration targeting religious symbols, but it may not be enough, unless supported by international action. The experience of half a century, trying to secure an internationally binding legislation criminalizing incitement on the basis of religion has been extremely difficult due to intransigence of western countries, and is becoming even more difficult, especially with the rise in cultural and civilizational polarisation, particularly between the two main protagonists in this matter: the West and the Muslim world.

Nevertheless, it still is an objective worth pursuing. Many countries share the views of OIC that there should be universality of treatment for all religions and if there are existing protections that criminalize or prohibit negative stereotyping or stigmatization of one set of beliefs and religion the same may be extended to all religions. Hence, the objective of seeking proscription of incitement to hatred, discrimination and violence based on religion as well as negative stereotyping and stigmatization of religions remain achievable and worthy of pursuing. Such legislations, if and when passed would also help address negative stereotyping and discrimination against religious minorities in Islamic countries, which some of these countries may actually find difficult, but would be in line with the Islamic principles and international human rights law.

The persistent abuse against Islam, and the distortion of its image and symbols perpetuates the conflict between the West and the Muslim world. It also plays into the hands of extremists in Muslim societies who incite innocent Muslims to violence on the plea to defend Islam thus tarnishing the image of Muslim countries. There is no doubt that these are serious negative consequences, which can be dealt with politically, culturally and through the media strate-

gies without having to wait for new international legal instruments which may or may not realize.
Given these difficulties, the best option may be at the international level to hold on to resolution 16/18 and keep it alive, while at the same time making an unequivocal choice between insisting on the interpretation of the resolution or focusing on its full and effective implementation. Following are some recommendations that we put forward:

- Conducting a comprehensive evaluation of the Istanbul Process, in terms of its agenda, working mechanism and the nature and level of participation, seeking how to bring in improvements, including ways to ensure the full implementation of all of the paragraphs of the resolution, namely the paragraph on the criminalization of incitement, and consider the appropriateness of transforming the process into a formal mechanism;
- Assigning the IPHRC as the official OIC organ responsible for following up on the Istanbul Process, attending its meetings, extending legal assistance to the OIC member states in the preparation of reports and the fulfilment of obligations arising out of resolution 16 /18, and conducting related research studies, and providing the IPHRC with necessary support to carry out these functions;
- Organizing closed panel discussions between members of the IPHRC and representatives of human rights organizations and Muslim Associations in Europe and the United States to discuss the best ways to address Islamophobia and come up with the appropriate recommendations;
- Gauge the position of non-Western countries vis-a-vis Islamophobia and consider communicating with them in the framework of the promotion of respect for cultural diversity around the world.
- Assessing the experience of the Islamophobia Observatory and seek to improve it, and exchange information and knowledge with institutions and organizations active on this issue;
- Appoint a specialized scientific and legal entity to carry out the study, approved by the 12th Islamic Summit, on national legislations on hate speech in a number of western countries, and entrust the full oversight of the study with the IPHRC. The study is to focus on identifying areas of similarity between legislation criminalizing hate speech /incitement to hatred including cases of denial of the holocaust, anti-Semitism and Nazism on the one hand and criminalizing hate speech against Islam and Muslims on the other.
- Combine the fight against extremism in the Muslim world and criminalizing of incitement to hatred against Islam and Muslims in the West, in an attempt to bridge the gap in the perspectives of the Muslim world and Western countries;
- Insisting on the criminalization of incitement against hatred based on religions within the framework of resolution 16/18, as the best way forward to tackle the issue of defamation of or discrimination based on religions.
- Establishing cooperation with the Special Rapporteur (SR) for freedom of religion and belief (FoRB) and the Special Rapporteur for combating all forms of racial discrimination (SR Racism) to develop a legal basis for preventing incitement and discrimination on the basis of religion and belief, with a list of practices which represent a risk and adopting it in the eventual case of incitement and discrimination;
- Engaging with the SR on FoRB with a view to ensuring that all religions and beliefs as well as their followers are treated impartially and given same protection.

JURISPRUDENTIAL LEAFLET ON

THE DIVINE JUSTICE ON WOMEN AND MEN'S INHERITANCE IN ISLAMIC SHARIA

Prepared by : Dr. Rashid Al Balushi & Mr. Mohamed Albashir

Reviewed by : International Islamic Fiqh Academy

Adopted by the 9th IPHRC Regular Session – April 2016

The divine miracle of the Islamic Sharia on the distribution of shares from a deceased person's estate to his/her family members is one of the most important and clearest subjects of Qur'an's miracles.

Unfortunately some have reduced the inheritance legislations in Islam to the rule that "the male takes twice the share of the female", thereby criticizing the Islamic sharia as being unjust to women. This claim negates the intent of the divine sharia and the justice of Allah the most high.

The Islamic Sharia, unlike other laws and legislations, gives detailed rules regarding organization of inheritance and family lineage. Islam organized inheritance in accordance with power and need (such as full brother and half brother), closeness (such as brotherhood in general) and not granting inheritance to someone who does not have the right (such as a product of adultery). In addition, the Islamic law did not lose sight of kindness in regard to adopting orphans (voluntary charities) or obligations (such as zakat).

This leaflet highlights the extent of the creator's wisdom concerning the shares of heirs and Allah's justice to women and men, the young and the old. Should the researcher follow how Allah has guaranteed a woman her right –having known her weakness and vulnerability- one will find that Islam classifies a woman always among those entitled to statutory portion of inheritance, and she inherits by consociation with her brother only in one situation when "the male takes twice the share of the female." The purpose of this leaflet is to explain, clearly and briefly, the justice of Islamic legislation on the subject of women and men inheritance.

Based on the study of the Quranic verses regarding inheritance, it becomes clear that the rule of "the male takes twice the share of the female" is not a uniform rule. When reviewing the overall cases of inheritance, we observe the following:

1. There are many cases, in multiples of the previous ones mentioned above, where woman inherits exactly what man inherits. Such as in the case of woman who died leaving behind a husband (he gets half). If she leaves behind a mother (she gets a third). If she leaves behind a brother or sister to mother (they both get a sixth), if they are alone. But if there are more than one they share a third of what is left provided the legator has absolutely no issue or an upper line source such as father or grandfather or even higher up. This is in addition to the case of inheritance between male and female in the inheritance of siblings of mother, provided that there is no origin male heir, father or grandfather or even higher up, or a pure branch heir, son, daughter, or daughter of a son, or even lower down. Also, male and female inheritance shares are equal when the deceased leaves behind a pure sister and a half brother to father, in this case the sister gets half, and the brother to father gets half.
2. There are more than ten cases where a woman inherits more than a man. Also, there are cases where a woman inherits while a man does not inherit, like the case of a woman who died leaving behind a husband (he gets half), and a mother (she gets sixth), and two sisters of a mother (they get a third), and a brother of a father (he does not inherit anything). Or in the case of a man who died leaving behind a daughter (she gets half), and the rest is distributed to the rest of men or women, even though they were in dozens.
3. With regard to the rule of "the male takes twice the share of the female", the Islamic law took into account the three differentiation criteria: degree and strength of kinship between the heir (either male or female) and the deceased, the level of the heir-generation in the chronology of generations, and the financial burden that is required from the heir as responsibility toward others. Note that the application of this rule (the male takes twice the share of the female) is limited to only five cases in which the female inherits one-third of the male, namely:

- The case of a daughter with a son.
- The case of a grandson with a granddaughter.
- The case of full brother with full sister.
- The case of brother to father and sister to father.
- The case where inheritance in only for parents: the mother gets one-third and the father gets two-thirds.

Most of the provisions of the Islamic sharia on inheritance are mentioned in Surat an-Nisaa (Chapter of Women). The Islamic sharia has arranged inheritance in order of closeness to the legator. The just and divine wisdom in inheritance provisions is also clear in the consideration Allah gives to the difference in inheritance which is conditioned by three criteria:

1. Degree and strength of closeness between the heir – male or female – and the deceased legator; the closer the bond the more the share. Accordingly, comparison between the share of a male and a female in inheritance in terms of closeness must be on the same level such as fatherhood, sonship, brotherhood, marriage, etc. Distinction must also be made between full brothers and half brothers.
2. The position of the inheriting generation in the sequence of the generations. Thus generations embracing life would have a greater share of inheritance than generations leaving life behind. This is without regard to the gender of the heir – male or female – the daughter inherits more than the mother – even though both are females – indeed she inherits more than the father. The son inherits more than the father – even though both are males. From the foregoing, when considering the shares of male and female heirs in terms of the degree of closeness, the comparison must be within the same generation.
3. The size of the financial burden imposed on the heir by the law towards others. This is the criterion that necessitates variation between male and female siblings because the inheriting male, in this case, is equal in terms of the degree of closeness and generation, but he is saddled with the maintenance of his sister if she is not married (single, divorcee or widow). However, a female is not responsible or obligated to take charge of any of her relatives.

In the cases where the female inherits half the share of the male, she has the right under the Islamic sharia to be provided for in all cases as: daughter, wife, mother, sister, or otherwise (upper-level or lower-level relationship). In Islam, it is compulsory for the father to provide for his daughter; for the husband to provide for his wife; for the son to provide for his mother; and for the brother to provide for his sister as long as she is not married or she was married but divorced or widowed. As for the son, his provision is taken off the shoulder of his father once he is matured and becomes capable of providing for himself.

It is therefore needed to view the inheritance rules as an interconnected and complementary system in different cases, not as independent pieces.

Finally, an instance of Islam's honour for women is that it has made it a right that if a woman's husband dies before she has collected her dowry, she should be paid the dowry before the husband's estate is distributed, without her prescribed share of inheritance being affected. The Islamic sharia also protects a woman's rights in the husband's estate, for what she spent as contribution in the husband's estate when he was alive, this particular concept in the Islamic law is called "right of the conjugal patrimony". This is unlike many of the modern legislations that give the big brother all the inheritance.

From the above, it is clear that Islamic law does not distinguish between male and female in inheritance, it also illustrates the extent of honoring the Islamic law for women, by protecting women's social and economic rights in all walks of life, including the right to inheritance. Islamic law, without doubt, did not undermine women's rights at this regard. The fact that women inherit less than men in few cases, has its positive philosophy, and has nothing to do with the status of women vs. men, who are equally honored by Islam.

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RIGHTS OF MINORITIES IN ISLAM

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PREFACE:

The issue of the rights and duties of minorities in Islam is one of crucial importance and value for all Muslims, if only to make sure that no one attributes to them anything in this regard that is unworthy of the authentic texts and the established principles. This also has been a matter of concern for diverse international circles. And beyond all, it has pertinence for those to whom the actual status of 'minority' currently applies.

The issue of rights today is at the core of the notion of civic rights, and the objective in this essay, is to demonstrate, as we possibly can, that Islam did institutionalize the civic rights for minorities, and that there is no room in Islam for anyone to question these rights (of minorities) or to use religion to obstruct any of these rights, inasmuch as civic rights (in Islam) are governed by the laws of the land, applicable to all, without discrimination.

All countries around the world include persons belonging to national or ethnic, religious and linguistic minorities, which enriches the diversity of their societies. Despite the diverse conditions of minorities, what is common among minorities, in many cases, is that they face multiple forms of discrimination resulting in marginalization and exclusion. To achieve an effective participation of minorities and to end exclusion, there should be an acceptance of diversity through the promotion and implementation of international human rights standards.

Protection of the rights of minorities is provided under Article 27 of the International Covenant on Civil and Political Rights, and under Article 30 of the Convention of the Child. In addition, the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities is the document which sets principle standards and provide guidance to countries to take legislative and other necessary measures to ensure the rights of persons belonging to minorities.

In Islam, the first document that protects the rights of minorities is known as "the Madinah Constitution" or "the Madinah Pact", which we will talk about later in this document.

Indeed, we can always link rights to duties, because 'right' and 'duty' always go hand in hand and are interdependent. The right is all what is granted to the individual or the community or the two together, decided by law/Sharia in order to achieve an interest or to prevent a harm, while the duty is all what men are responsible for in this context.

Indeed, it is needed to present elements that may serve as a reference for the international drive towards evolving a fundamental document relevant to the issue of the rights of minorities, as a common framework that may be referred to, especially by those who are not so clear about the issue, a document that would benefit Muslims, minority-members, institutions, and such other concerned parties.
A minority is a social community representing a minor group within a particular demographic setting. A minority's status usually transcribes into a curtailment of rights, whether those that are meant to be shared equally with the majority or those that are specific to that minority. A minority status may refer, as we all know, to a racial, ethnic, religious or cultural affiliation. Our focus here will be on the religious minority.

2. Al Madinah Pact:

The Madinah Pact is considered as the first civil constitution evolved under Islam as established by the Prophet (PBUH) in the first year of the Hejira (Emigration to Madinah)/623 AC, we find the reference to the people of "Dhimma", a term frequently used in pre-Islamic times to refer to neighbors and to the notion of neighborhood which involved a principal of mutual guardianship observed among Arab tribes in times of peace and war. The Prophet

(PBUH) refashioned this pre-Islamic tribal paradigm into a religious duty by labeling it as "Allah's ordained Guardianship". In fact, under item fifteen of the said Madinah Pact, "Allah's ordained Guardianship" is a right shared among all Muslims who are thus duty-bound to offer exclusive support (guardianship) to each other.

A pact, or covenant in such a context is also known as "Dhimma", that is a contract of safe-conduct and guardianship. Suffice it that Islam has had the credit of introducing this notion, thus institutionalizing the Islamic State's relation with the minorities, as a relation of protection and ensured safety on a basis of mutual responsibility, whereby whoever is granted "safety" is granted protection for his life, his religion, his livelihood and his culture. And, in no way does this bear any notion of disdain or ascendency over the other as alleged by scores of ill-intentioned Western studies that took up the subject of Dhimma and People of Dhimma (protected people, under Allah's witness). Indeed, the team has been used by Muslim scholars to mean a 'covenant', and by some orthodoxy as indicating a "mandatory" nature.

A covenant-partner is someone who may have been at war with Muslims and then those to conclude peace with them reaching an agreement with them on the grounds of mutually accepted terms to be observed by both parties.

It is a common knowledge that honoring an agreement is an obligation under Islamic Shari'ah. Allah Almighty says ***"Honor your pledge – Indeed you are answerable for your pledge"***.

In the pact that was signed by the Prophet (PBUH) with the Christians of Najran, we find the terms "Dhimma" and "Jiwar" (Ensured safety and protection) carrying the meaning of a protection that goes hand in hand with the freedom enunciated in the agreement.

As for the Al-Quds Covenant which was concluded by Caliph Omar with the people of Al-Quds after its conquest, it uses the term "Allah's covenant" instead of talking about protection rights and 'Guaranteed freewill', indicating that these two words are synonymous, bearing the same meaning.

Many earlier scholars have indeed explored the foundations of the Islamic approach in dealing with minorities, reasoning by deduction, on the basis of the Holy Book and the Sunnah (Prophet's Tradition), to fathom the matter and the prescribed duties of either party. At this regard, these scholars emphasized that Islam is founded on three general principles in the light of which one can appreciate the great mass of rights introduced by this religion, including the very aspects of concern to us here:

First: Removing all the considerations that underlie the different types of segregation such as differences in ethnicity, gender, color or culture. Allah, glorified and exalted be He, created all humans from one single unit and made them then into communities and tribes so that they may connect and reach out to each other on the basis of solidarity, mercy and justice. He established fraternity and equality among them in terms of livelihood, community-building, and benefiting from the resources made available to them to perpetrate life, as a general honor graciously imparted by God Almighty on his creation. Indeed, within the fold of the Islamic State since its early days, multiple races and diverse people lived and merged together in the Islamic environment free from any segregation. In the very first generation of disciples we already find, for instance, Salman Al-Farsi, (the Persian) Bilal Al-Habashi, (the Ethiopian) Sohaib Al-Rumi, (the Frank) and so many others.

Second: Protecting the fundamental matters for Muslims and non-Muslims alike; that is protecting people's life, religion, intellect, property and honor, in an all-embracing manner to ensure the continuity and integrity of life and its basic components. The issue of minority rights is left open as to the problems relating to sharing neighborhoods in the case of there being many religions living together.

Third: Refraining from exerting any coercion, thus acknowledging the principle of religious freedom, as illustrated in God's injunction "No compulsion in religion". Islam indeed gave individuals and communities all types of freedom as long as they didn't encroach on religious fundamentals or on the rights of others, including the right to choose one's religion and perform freely one's religious rites and worshipping practices, as well as one's social mores, ceremonies, festivities and holidays, for non-Muslims living in the land of Islam.

These generic and holistic principles that were introduced by Islam, and other such fundamentals of concern to us here, form the key platform which Islam established for interactions among Muslims and between them on the one hand and other communities and peoples that have not embraced Islam. These are the fundaments, and whatever diversions a researcher may find across the history of Muslims, were only the result of misinterpretation or cases of erring applications that may have taken place in certain stages in its history.

3. Applications of the Islamic Pact/Al Madinah pact:

The Al Madinah Pact includes 47 articles (52 articles in some other calculations), of which the first 23 articles set the rights and duties of Muslims in Madinah, while the remaining articles set the rights and duties of the Jews.

Al Madinah Pact was written immediately after the migration of the Prophet Muhammad peace be upon him to Madinah. Indeed, this pact is considered to be the first civil constitution in history, and historians and Orientalists Throughout history have spoken about it. This constitution was designed primarily to regulate the relations among all sects and groups in Al Madinah, principally the immigrants from Makkah (Al Muhajirin) and the local Muslims (Al Anssar), and Jewish tribes and others. Many have considered this pact to be one of the prides and glories of Islamic civilization, mainly of its political and humanitarian glories and landmarks.

The main principles of the Al Madinah pact can be summed up as follows:

- First: The Islamic nation is over the Tribe.
- Secondly: Social solidarity between the factions of the people.
- Third: Deter treacherous of covenants.
- Fourth: Respect for the protection pledge granted by a Muslim.
- Fifth: protection of dhimmis and non-Muslim minorities.
- Sixth: Ensure Social Security and Blood Money.
- Seventh: The governance reference is Islamic law
- Eighth: Freedom of conscience and worship is guaranteed to all factions of the people.
- Ninth: Financial support for the defense of the State is everyone's responsibility.
- Tenth: Financial independence of every fraction of the people.
- Eleventh: Obligation of common defense against any aggression.
- Twelfth: Advise and mutual righteousness between Muslims and the People of the Book.
- Thirteenth: Freedom of each faction to have alliances that do not harm the state.
- Fourteenth: Obligation to defend the oppressed.
- Fifteenth: Right to security for every citizen.

4. The requisites of international law in the field of minority rights:

Many international charters speak about rights of minorities, specifically article 27 the International Covenant on Civil and Political Rights, and article 30 of the Convention of the Child, and the UN Declaration of 1992 on Minorities Rights, main minorities rights can be summarized as follow:

- The right to protection against partisanship, segregation or social violence
- The right to equal protection irrespective of one's ethnic or racial origins
- The right for minorities to preserve their culture, their religion and their language.
- The right to benefit from the positive measures adopted by the State to encourage racial integration and promote minority rights.
- The right to seek asylum to flee from persecution based on their race, religion, ethnicity, social affiliation or political opinion.
- The right to appeal legal rulings and to resort to justice.

Let us take up these rights one by one, and note along the way the fundaments therein which tie them to the treatment advocated in Islamic Shari'ah.

I. The Right of Minorities to Protection against Partisanship, Segregation and Racial Violence

Here is an article on general protection rooted in people's commonality in humanity above all. If we refer to the Holy Scripture, we find, Allah's declaration:

"And we have certainly honored the children of Adam and carried them on the land and sea, and provided for them of the good things and preferred them over much of what We have created, with (definite) preference."
(Al Isra: 70)

God has indeed created all humanity from one single unit and made them into communities and tribes for them to exchange graces and reach out to each other on the basis of solidarity, compassion and justice. God made them into fraternal communities with equal rights to livelihood, to growth and to tapping into the resources made available to them for the perpetuation of life, with no distinction between races, black or white, Muslim or non-Muslim. This is an inclusive honor bestowed on man by God Almighty, and is apt in its essence to command fair and indiscriminate treatment between the Muslim majority and the non-Muslim minority wherever that may be.

As for individual honoring, it is based on Iman (firm belief in God) and Islam (Submission to God), proceeding from God's saying"

"…Indeed, the most noble of you in the sight of Allah is the most righteous of you."
[Al Moujadala (9)]

or based on knowledge and perception deduced from Allah's saying"

"… Allah will Raise those who have believed among you and those who were given knowledge, by degrees. And Allah is Acquainted with what you do".
(Al Hujurat: 13)

This individual honoring does not clash with the idea of equality at the general level which God Almighty has bestowed on all the masses of people, all descendants of Adam. It is rather a special favor and privilege accorded to the righteous believer and the learned Muslim. As for those who do not belong to the community of Islam, they are still looked upon with God's encompassing grace and honor accorded to all humans and with full rights under the Islamic Shari'ah whose key hallmark is indeed justice, equity and compassion.

Hence, the notion of mutual respect among humans, irrespective of their ethnicity or beliefs, is founded on the spirit of mutuality as advocated in the Quran and as dictated by the requisites of coexistence and communal living, amounting to recognition of the value of the other and of his rights. It is also built on the concept of freewill which God has instilled in man as an innate feature, enjoyed by all in their inter-relations, on an equal footing in their conduct, their labor, their coexistence, their intellectual appreciation, their freedom expression and argumentation.

In the Madinah Pact it is stated that "A neighbor is (to be treated) like, the self, (as long as) he is neither an aggressor nor a trespasser"

Also, Islam has ensured minorities against any aggression of whatever character. In his book "Al Furook" (Variations), Al Qourafi says:

(If someone is under a Dhimma (Protected status) pact in our land and some enemies come seeking him, we are duty-bound to rise to his defense with every available weapon, even laying our lives in the protection of he who is under such a pact of dhimmahood (protection) under God and His Messenger – Doing otherwise or handing him over would be a breach of the dhimmahood pact).

II. The Right to Equal Protection Irrespective of Ethnic or Racial Origins

Here we find that Islamic Shari'ah founded its interaction with non-Muslim minorities living in an Islamic State, on the principle of justice and equality, Allah, Exalted be He, says;

"O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And your Allah; indeed, Allah is acquainted with what you do."
[Al Maida: 8]

In this, one finds a clear reference to the need to spread justice and apply its principles to all irrespective of differences in ethnicity or culture, and a clear directive not to be swayed away from justice by any feelings of hatred, offense, disagreements or by the misconduct of some individuals, since justice is posited as a divine injunction that must be honored and enforce. In his book "Koranic Tafsir" (Quranic Interpretations), Ibn Katheer states, regarding the above verse that it is meant to establish justice in dealing with the non-believers, and that it applies quite obviously to Muslims as well.

Regarding the idea of banishing injustice to a (peace) covenant – partner (Dhimmi), the Hadith is clear, insisting on the right of the said partner to undiminished rights and to full equality with Muslims. Also, the Shari'ah law has guaranteed for this group the honoring of every commitment taken with them. Indeed, a Muslim is enjoined to abide by his commitment with others as long as the said commitment does not cause any harm to Muslims – Ibn Qaiem says: "It was the practice for the Prophet (PBUH) that if any of his enemies entered in a commitment with one of his disciples, provided no harm is entailed for Muslims, he would put his signature to it."

Also it is further stated in the Madinah Pact that a person is not to be held accountable for a wrong committed by a covenant-partner of his, but that reaching out to ensure justice for a wronged person is a duty for all, irrespective of the wronged person's religion.

III. The Right for Minorities to Preserve their Culture, Religion and Language

Here we find that Islamic Shari'ah has guaranteed the right for non-Muslim communities to practice their religious creed and rites, according them religious freedom, proceeding from God Almighty's injunction (No coercion in matters of faith). This was well epitomized in the message addressed by the Prophet (PBUH) to the People of the Book of the Yemen in which he invited them to Islam in these words: "Whoever chooses to join Islam amongst the Jews or the Christians becomes a member of the Muslim Community of Believers, enjoying equal rights and equal duties, and whoever chooses to stand by his Jewishness or Christianity must not be tempted (away from their beliefs)".

In the Madinah Pact, it is stated that Jews are entitled to their faith and Muslims to theirs. Likewise, the Najran Pact includes a provision for non-interference in the Christians' religious affairs, as an inviolable right for each and for their dependents.

IV. The Right to the Benefit of Positive Measures Taken by the State to Encourage Racial Harmony and Promote Human Rights

When we refer back to Islamic literature we find that it has guaranteed for non-Muslims the right to mutual cooperation and mutual righteous treatment. This is well illustrated in the prescribed duties to cover the needs of the relatives, to honor one's debts to honor your guest, to forgive even when capable of meeting punishment, to be affable to the incoming, and to provide for the defenseless, ensuring proper livelihood for non-Muslims in the land of Islam, as they form an integral part of its citizenship and as the state is responsible for the wellbeing of all is citizens. Prophet Mohamed (PBUH) says: "Each one of you is a steward and each is responsible for (the safety and wellbeing of) those under his stewardship Indeed an Imam (local religious leader) is a steward accountable for the wellbeing of his dependents, the husband is a steward in his family accountable for its wellbeing, etc…."

Islam also commands compassion for the weak and the vulnerable among the people of the Book who are affable to (refraining from aggressing) Islam. It also instructs that a share of the Zakat levied from by Muslims be allocated to the People of the Book, as established in the Quran: ***"The alms are only for the poor and the needy, and for those employed in connection therewith, and for those who hearts are to be reconciled, and for the freeing of slaves, and for those in debt, and for the cause of Allah and for the wayfarer"***

Neither has Islam denied Muslim men the right to marry non-Muslim women and to accept non- Muslims as in-laws. In this, Islam's perception is predicated on the ideal of equal coexistence, whereby the wife maintains her faith freely when she marries a Muslim, thus causing the two religions to converge in the same household and to coexist under the same roof.

Even more admirable than all the above, is the right for the non-Muslim community for proper coverage of their needs from the Islamic State's treasury (Beitulmel) in the case of incapacity, old age or destitution. This is well established in what Abu Ubeid reported (in his book "Financial Assets") on the authority of Ibn Al Musseib, that "The Prophet (PBUH) offered a 'Sadaqa' (Charity) to a Jewish household, a 'standing' (perpetual) Sadaqa that was offered to them regularly even after his death. Also, in the Madina Pact, it is stated that "The Jews of Beni Awf are to be treated by Muslims as they treat themselves".

In the Dhimmahood Contract established by Khaled Ibn Al-Waleed for the benefit of the people of Al Hayra in Iraq, who were Christians, one finds the following: (I have taken it upon myself that whoever among them is incapacitated

because of old age or ill health, and whoever is stricken by poverty after ease and becomes the receiver of charity from the people of his own faith, shall be exempted from the payment of Jezya (tax) as well as shall enjoy life-coverage from Beitulmel (the Islamic State treasury) for himself as well as for his dependents).

V. The Right to Asylum for Fear of Persecution on Account of One's Race, Religion, Ethnicity, Social Affiliation or Political opinion

Here, Islamic Shari'ah guarantees the right to neighborly succor and to protection:

"And if any one of the poly theists seeks your protection, then grant him protection that he may hear the word of Allah. Then deliver him to his place of Safety. That is because they are a people who do not know."
(Al Tawba: 6)

Allah, Mighty and Sublime Be He, tells His Messenger: "And if one of the polytheists seeks your protection" (that is your succor), then do respond to this call for help. Offer them the opportunity to listen to the word of God (that is the Quran of which you may read for him, introducing him to the faith) as a duty on your part, after which you must help him reach a safe place". In other words, after you recue him and offer him some insights of the word of God, if he still declines your offer to embrace Islam and is not inclined to accept what you have read out to him from the word of God, then it is still your duty to help him reach a safe place, where he would feel safe from you and from those under your command, until he reunites with his own homeland and people among the unbelievers. This is a command that applies not only to that past era. It is applicable at all times and in all places. Indeed, Saeed Ibn Jabeir reports that "One man among the polytheists came to Ali (May the satisfaction of Allah be with Him) and said: "What if one of us comes to Mohamed (seeking relief and succor) after having already been through this stated condition, that is having already heard passages from the word of God, would he be killed? And Ali (MSAH) answered: Not at all, for Allah Almighty says: "In case any of the polytheists seeks your succor…" (See the full verse).

VI. The Right to Appeal Before the Court:

Here, Islamic Shari'ah has guaranteed for all non-Muslims living within its borders the right to resort to court under their own law, while still offering them the free option to resort to either their own law or that of Islam. Mohammad Ibn Al Qacem Al Shibani said: (If two adversaries among the Dhimma – partners choose on the basis of a common agreement between them, to resort to a Muslim judge, the latter may only take up their case after the approval of their priests, failing which, he must refrain. And the same applies in case the priests' approval does not have the consent of both adversaries'.

In parallel to this, Islam having imparted upon this social category so many rights which honor and dignify them in the land of Muslims, it also required of them certain duties which they had to honor on their side, so that society at large may enjoy collective security, symbiosis and peace. These duties include the following:

1. Abiding by the General Terms of Islamic Law

As a matter of fact, there is a need for all non-Muslims living within the fold of the Islamic society to abide by the same Islamic provisions applicable to Muslims. As long as they have chosen to live within the fold of the Muslim society, it becomes a duty for them to abide by its laws without prejudice to their own creeds and religious freedom. Indeed, under Islam, they are not required to abide by any of the worshiping rites of Muslims, nor are they required to cede any of their civilian or social particulars permitted to them by their religion, even if prohibited by Islam, as in

the cases of marriage and divorce and all that has to do with their food and drink. They are also free to practice their religious rites and not to renounce what is permissible under their religion. However, they have (in all collective civil matters) to accept and abide by the law of the state where they are living, under the umbrella of its ruler.

2. Be Considerate of the Feelings of Muslims

Non-Muslims living in a Muslim State need also to be considerate of the feelings of Muslims and be respectful of the dignity of the state under whose umbrella they are living, by being respectful of the Islamic religion and its sanctuaries and refraining from any manifestations likely to offend the feelings of Muslims.

3. Paying Financial Dues

Another requirement for non-Muslims living in a Muslim state is to settle all the required fiscal duties and contributions, in which they are in fact equal to Muslims, in terms of taxes levied on all types of assets, commerce, agriculture and trading.

4. To Refrain from Causing Prejudice to Religious Sanctities

Anyone living within the fold of the Islamic state enjoys full freedom to practice their own religious rites and are entitled to all the manifestations of their rituals, subject however to steering away from any public manifestations offending Muslims or prejudicing their religion or their Prophet.

Thus Islam has defined the foundations of peaceful coexistence between Muslims and non-Muslim minorities living within the territories of Islam. It offered thus a template for modalities of dialogue and interplay between Muslims and the followers of other religions, in favor of building a well-integrated society enjoying peace, security, equality and mutuality, it being known that this has been the subject of a wide spectrum of texts (in the Quran and Hadith) that may be referred on the matter, all of which converge around what we have expounded in terms of the inviolability of the rights of religious minorities in the land of Islam.

5. Conclusion:

Minority rights are fundamental rights derived from the ground rules of international human rights law. These rules dictated the development of protective measures for the rights of these minorities, to ensure that all races and ethnicities that exist in a country, enjoy all the rights enjoyed by the rest of society components, as well as to ensure their participation in development of countries they are in, and to participate in public life, and to protected own identities from any damage or harm that may inflict these minorities.

In 25-27 January 2016, a meeting organized by the Ministry of Awqaf and Islamic Affairs in Morocco, was held in Marrakech, in partnership with the Forum for the promotion of peace in the Muslim communities of the United Arab Emirates, under the patronage of His Majesty King Mohammed VI, King of Morocco. During this meeting, about three hundred scholars from the Muslim world have issued the Marrakesh declaration, which guarantees basic principles in the field of protection of minority rights.

In sum, the rights of minorities in Islam have been guaranteed to ensure a full and comprehensive treatment, within the scope of maintaining all concerned covenants and conventions. Indeed, it may be appropriate to put an Islamic Charter regarding this matter, to be published by the Organization of Islamic Cooperation.

References:

• "Provisions of the Dhimmis", Ibn AlQayim Al-Jawziya

• "Sultanic Provisions", Abu al-Hassan Ali bin Mohammed al-Mawardi

• "Behavior to know the nations", Maqrizi

• International Covenant on Civil and Political Rights, December 16th 1966

• Convention on the Rights of the Child, 20th November 1989

Annexes:

• The Constitution of Madinah, 623 AC

• Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 18th December 1992

• The Marrakech Declaration, 27th January 2016

The Constitution of Madinah, 623 AC

- This is a document from Muhammad the Prophet (may Allah bless him and grant him peace), governing relations between the Believers i.e. Muslims of Quraysh and Yathrib and those who followed them and worked hard with them. They form one nation -- Ummah.
- The Quraysh Mohajireen will continue to pay blood money, according to their present custom.
- In case of war with any body they will redeem their prisoners with kindness and justice common among Believers. (Not according to pre-Islamic nations where the rich and the poor were treated differently).
- The Bani Awf will decide the blood money, within themselves, according to their existing custom.
- In case of war with anybody all parties other than Muslims will redeem their prisoners with kindness and justice according to practice among Believers and not in accordance with pre-Islamic notions.
- The Bani Saeeda, the Bani Harith, the Bani Jusham and the Bani Najjar will be governed on the lines of the above (principles)
- The Bani Amr, Bani Awf, Bani Al-Nabeet, and Bani Al-Aws will be governed in the same manner.
- Believers will not fail to redeem their prisoners they will pay blood money on their behalf. It will be a common responsibility of the Ummah and not of the family of the prisoners to pay blood money.
- A Believer will not make the freedman of another Believer as his ally against the wishes of the other Believers.
- The Believers, who fear Allah, will oppose the rebellious elements and those that encourage injustice or sin, or enmity or corruption among Believers.
- If anyone is guilty of any such act all the Believers will oppose him even if he be the son of any one of them.
- A Believer will not kill another Believer, for the sake of an un-Believer. (i.e. even though the un-Believer is his close relative).
- No Believer will help an un-Believer against a Believer.
- Protection (when given) in the Name of Allah will be common. The weakest among Believers may give protection (In the Name of Allah) and it will be binding on all Believers.
- Believers are all friends to each other to the exclusion of all others.
- Those Jews who follow the Believers will be helped and will be treated with equality. (Social, legal and economic equality is promised to all loyal citizens of the State).
- No Jew will be wronged for being a Jew.
- The enemies of the Jews who follow us will not be helped.
- The peace of the Believers (of the State of Madinah) cannot be divided. (it is either peace or war for all. It cannot be that a part of the population is at war with the outsiders and a part is at peace).
- No separate peace will be made by anyone in Madinah when Believers are fighting in the Path of Allah.
- Conditions of peace and war and the accompanying ease or hardships must be fair and equitable to all citizens alike.
- When going out on expeditions a rider must take his fellow member of the Army-share his ride.
- The Believers must avenge the blood of one another when fighting in the Path of Allah (This clause was to remind those in front of whom there may be less severe fighting that the cause was common to all. This also meant that although each battle appeared a separate entity it was in fact a part of the War, which affected all Muslims equally).
- The Believers (because they fear Allah) are better in showing steadfastness and as a result receive guidance from Allah in this respect. Others must also aspire to come up to the same standard of steadfastness.
- No un-Believer will be permitted to take the property of the Quraysh (the enemy) under his protection. Enemy property must be surrendered to the State.
- No un-Believer will intervene in favor of a Quraysh, (because the Quraysh having declared war are the enemy).
- If any un-believer kills a Believer, without good cause, he shall be killed in return, unless the next of kin are

satisfied (as it creates law and order problems and weakens the defense of the State). All Believers shall be against such a wrong-doer. No Believer will be allowed to shelter such a man.

- When you differ on anything (regarding this Document) the matter shall be referred to Allah and Muhammad (may Allah bless him and grant him peace).
- The Jews will contribute towards the war when fighting alongside the Believers.
- The Jews of Bani Awf will be treated as one community with the Believers. The Jews have their religion. This will also apply to their freedmen. The exception will be those who act unjustly and sinfully. By so doing they wrong themselves and their families.
- The same applies to Jews of Bani Al-Najjar, Bani Al Harith, Bani Saeeda, Bani Jusham, Bani Al Aws, Thaalba, and the Jaffna, (a clan of the Bani Thaalba) and the Bani Al Shutayba.
- Loyalty gives protection against treachery. (loyal people are protected by their friends against treachery. As long as a person remains loyal to the State he is not likely to succumb to the ideas of being treacherous. He protects himself against weakness).
- The freedmen of Thaalba will be afforded the same status as Thaalba themselves. This status is for fair dealings and full justice as a right and equal responsibility for military service.
- Those in alliance with the Jews will be given the same treatment as the Jews.
- No one (no tribe which is party to the Pact) shall go to war except with the permission of Muhammed (may Allah bless him and grant him peace). If any wrong has been done to any person or party, it may be avenged.
- Any one who kills another without warning (there being no just cause for it) amounts to his slaying himself and his household, unless the killing was done due to a wrong being done to him.
- The Jews must bear their own expenses (in War) and the Muslims bear their expenses.
- If anyone attacks anyone who is a party to this Pact the other must come to his help.
- They (parties to this Pact) must seek mutual advice and consultation.
- Loyalty gives protection against treachery. Those who avoid mutual consultation do so because of lack of sincerity and loyalty.
- A man will not be made liable for misdeeds of his ally.
- Anyone (any individual or party) who is wronged must be helped.
- The Jews must pay (for war) with the Muslims. (this clause appears to be for occasions when Jews are not taking part in the war. Clause 37 deals with occasions when they are taking part in war).
- Yathrib will be Sanctuary for the people of this Pact.
- A stranger (individual) who has been given protection (by anyone party to this Pact) will be treated as his host (who has given him protection) while (he is) doing no harm and is not committing any crime. Those given protection but indulging in anti-state activities will be liable to punishment.
- A woman will be given protection only with the consent of her family (Guardian). (a good precaution to avoid inter-tribal conflicts).
- In case of any dispute or controversy, which may result in trouble the matter must be referred to Allah and Muhammed (may Allah bless him and grant him peace), The Prophet (may Allah bless him and grant him peace) of Allah will accept anything in this document, which is for (bringing about) piety and goodness.
- Quraysh and their allies will not be given protection.
- The parties to this Pact are bound to help each other in the event of an attack on Yathrib.
- If they (the parties to the Pact other than the Muslims) are called upon to make and maintain peace (within the State) they must do so. If a similar demand (of making and maintaining peace) is made on the Muslims, it must be carried out, except when the Muslims are already engaged in a war in the Path of Allah. (so that no secret ally of the enemy can aid the enemy by calling upon Muslims to end hostilities under this clause).
- Everyone (individual) will have his share (of treatment) in accordance with what party he belongs to. Individuals must benefit or suffer for the good or bad deed of the group they belong to. Without such a rule party affiliations and discipline cannot be maintained.

- The Jews of al-Aws, including their freedmen, have the same standing, as other parties to the Pact, as long as they are loyal to the Pact. Loyalty is a protection against treachery.
- Anyone who acts loyally or otherwise does it for his own good (or loss).
- Allah approves this Document.
- This document will not (be employed to) protect one who is unjust or commits a crime (against other parties of the Pact).
- Whether an individual goes out to fight (in accordance with the terms of this Pact) or remains in his home, he will be safe unless he has committed a crime or is a sinner. (i.e. No one will be punished in his individual capacity for not having gone out to fight in accordance with the terms of this Pact).
- Allah is the Protector of the good people and those who fear Allah, and Muhammad (may Allah bless him and grant him peace) is the Messenger of Allah (He guarantees protection for those who are good and fear Allah).

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 18th December 1992

Adopted by General Assembly resolution 47/135 of 18 December 1992

The General Assembly,
Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,
Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,
Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,
Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious and linguistic minorities,
Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,
Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,
Considering that the United Nations has an important role to play regarding the protection of minorities,
Bearing in mind the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,
Taking into account the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,
Recognizing the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,
Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favorable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programs shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programs of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, inter alia , exchanging information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

Article 8

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.
2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.
3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

The Marrakech Declaration, 27th January 2016

In the Name of God, the All-Merciful, the All-Compassionate
Executive Summary of the Marrakesh Declaration on the Rights of Religious Minorities in Predominantly Muslim Majority Communities 2016
25th – 27th January 2016

WHEREAS, conditions in various parts of the Muslim World have deteriorated dangerously due to the use of violence and armed struggle as a tool for settling conflicts and imposing one's point of view;

WHEREAS, this situation has also weakened the authority of legitimate governments and enabled criminal groups to issue edicts attributed to Islam, but which, in fact, alarmingly distort its fundamental principles and goals in ways that have seriously harmed the population as a whole;

WHEREAS, this year marks the 1,400th anniversary of the Charter of Medina, a constitutional contract between the Prophet Muhammad, God's peace and blessings be upon him, and the people of Medina, which guaranteed the religious liberty of all, regardless of faith;

WHEREAS, hundreds of Muslim scholars and intellectuals from over 120 countries, along with representatives of Islamic and international organizations, as well as leaders from diverse religious groups and nationalities, gathered in Marrakesh on this date to reaffirm the principles of the Charter of Medina at a major conference;

WHEREAS, this conference was held under the auspices of His Majesty, King Mohammed VI of Morocco, and organized jointly by the Ministry of Endowment and Islamic A airs in the Kingdom of Morocco and the Forum for Promoting Peace in Muslim Societies based in the United Arab Emirates;

AND NOTING the gravity of this situation affecting Muslims as well as peoples of other faiths throughout the world, and after thorough deliberation and discussion, the convened Muslim scholars and intellectuals:

DECLARE HEREBY our firm commitment to the principles articulated in the Charter of Medina, whose provisions contained a number of the principles of constitutional contractual citizenship, such as freedom of movement, property ownership, mutual solidarity and defense, as well as principles of justice and equality before the law; and that,

The objectives of the Charter of Medina provide a suitable framework for national constitutions in countries with Muslim majorities, and the United Nations Charter and related documents, such as the Universal Declaration of Human Rights, are in harmony with the Charter of Medina, including consideration for public order.

NOTING FURTHER that deep reflection upon the various crises afflicting humanity underscores the inevitable and urgent need for cooperation among all religious groups, we

AFFIRM HEREBY that such cooperation must be based on a "Common Word," requiring that such cooperation must go beyond mutual tolerance and respect, to providing full protection for the rights and liberties to all religious groups in a civilized manner that eschews coercion, bias, and arrogance.

BASED ON ALL OF THE ABOVE, we hereby:

Call upon Muslim scholars and intellectuals around the world to develop a jurisprudence of the concept of "citizenship" which is inclusive of diverse groups. Such jurisprudence shall be rooted in Islamic tradition and principles and mindful of global changes.

Urge Muslim educational institutions and authorities to conduct a courageous review of educational curricula that addresses honestly and actively any material that instigates aggression and extremism, leads to war and chaos, and results in the destruction of our shared societies;

Call upon politicians and decision makers to take the political and legal steps necessary to establish a constitutional contractual relationship among its citizens, and to support all formulations and initiatives that aim to fortify relations and understanding among the various religious groups in the Muslim World;

Call upon the educated, artistic, and creative members of our societies, as well as organizations of civil society, to establish a broad movement for the just treatment of religious minorities in Muslim countries and to raise awareness as to their rights, and to work together to ensure the success of these e orts.

Call upon the various religious groups bound by the same national fabric to address their mutual state of selective amnesia that blocks memories of centuries of joint and shared living on the same land; we call upon them to rebuild the past by reviving this tradition of conviviality, and restoring our shared trust that has been eroded by extremists using acts of terror and aggression;

Call upon representatives of the various religions, sects and denominations to confront all forms of religious bigotry, vilification, and denigration of what people hold sacred, as well as all speech that promote hatred and bigotry; AND FINALLY,

AFFIRM that it is unconscionable to employ religion for the purpose of aggressing upon the rights of religious minorities in Muslim countries.

Marrakesh
January 2016 ,27th

HUMAN TRAFFICKING IN OIC COUNTRIES

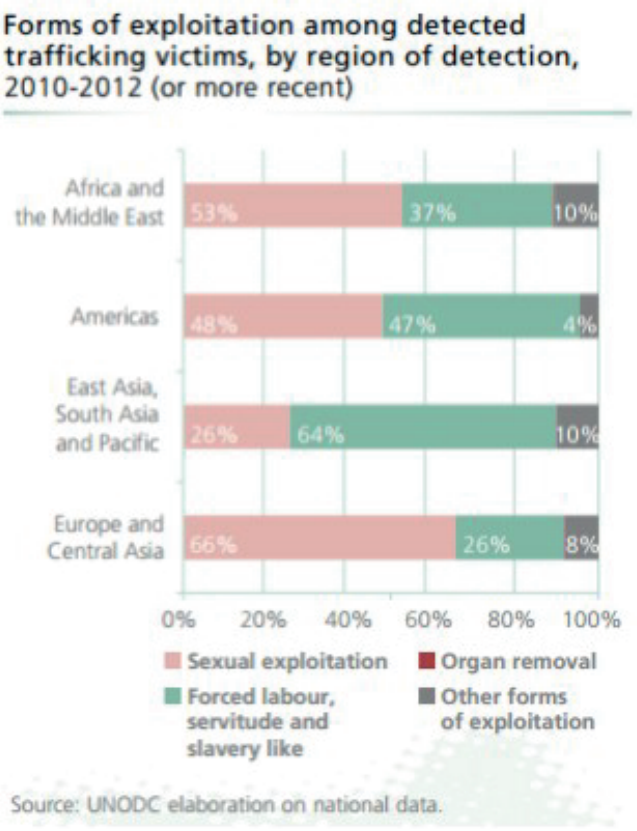
Dr. Saeed Alghufli

Adopted by the 9th IPHRC Regular Session – April 2016

Human trafficking is a global problem, involving about 30 million people, of which a significant number involves women and children. Exploitation is at the core of human trafficking. It involves the movement of vulnerable people from their place of origin to elsewhere where they are exploited against their will. While this is not the same as the age-old evil of slavery, which has been banned around the world, and hence diminished, human trafficking is seen as modern-day slavery. Worse, it operates as a 'business' model involving several billion dollars annually, next only to drugs and arms smuggling. As a result, the number of people involved – both victims and perpetrators – are increasing with each passing year.

According to the 2014 report released by the United Nations Office against Drugs and Crime (UNODC), more than 90% of countries have legislation criminalizing human trafficking since the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, under the United Nations Convention against Transnational Organized Crime, came into force in 2000. Nevertheless, this legislation does not always comply with the Protocol, or does not cover all forms of trafficking. Between 2010 and 2012, some 40 per cent of countries reported less than 10 convictions per year. Some 15 per cent of the 128 countries covered in the 2014 report did not record a single conviction. Most detected trafficking victims, according to the report, are subjected to sexual exploitation, but there is evidence of increased numbers being trafficked for forced labour.

This shows that without robust criminal justice responses, human trafficking will remain a low-risk, high-profit activity for criminals. Trafficking happens all over, but the report shows that most victims are trafficked close to their homes, within the region or even in their country of origin, and their exploiters are often fellow citizens. Solutions, therefore, need to be fashioned to national and regional specifics if they are to be effective.



OIC countries

While it is a global phenomenon, this paper focuses on human trafficking in the Organization of the Islamic Conference (OIC) countries. It seeks to highlight in brief:

- the various manifestations of human trafficking;
- Islam's position on this crime;
- the extent of the crime in Muslim countries/ Different kinds of human trafficking in the (OIC) countries;
- which is more relevant – religion or economic/social status or human rights;
- the policy options that OIC could implement to stem this crime.

Since the OIC countries are distributed across several regions and continents, each with its own characteristics and ground realities, human trafficking manifests itself in different forms too.

(i) sexual exploitation
(ii) labour exploitation
(iii) exploitation of children – for labour and sexual abuse, as well as for army recruitment
(iv) trafficking for the purpose of marriage
(v) trade in human organs
(vi) trafficking for the purpose of adoption.

Religious interpretation

Given this scale of human trafficking violations in Muslim countries, critics suggest that there is a link between Islam and human trafficking. They argue that because of the "unequal" or "low" or "discriminatory" status accorded to women in Islamic practices, the religion condones exploitative acts against women, including sex trafficking.

The is also the issue of human trafficking often being justified in the name of tradition and culture, which is closely linked to religion, especially in the case of child marriage.

Crime, however, has no religion and no religion professes crime. It also needs to be underlined that the argument that human trafficking is more rampant in the OIC countries is only as true as dictatorships being the forte of the Muslim countries or democracy being antithetical to Islam.

The following references, however, counters the argument that Islam encourages this crime. They demonstrate that Islam and the Quran are antithetical to slavery, human trafficking, and exploitation of human beings. It also suggests that Islam and Islamic law can combat human trafficking through its prohibition of other forms of exploitation, protection of victims' rights, and protection of vulnerable groups, such as women and children.

Many aspects of 'human trafficking' are clearly forbidden in Islam. For example, a central Islamic tenet is that any form of exploitation is forbidden. There are repeated warnings against oppressing other human beings. There are also warnings against those who abuse the vulnerable in society. In this backdrop, the fact that trafficking is built on oppression of human beings, makes it contradictory to Islamic principles.

Islam is also very respectful about the rights of workers. It emphasizes that contracts between employer and employee must be clearly articulated. Since human beings are commanded by God to give each other their dues and not to withhold each others' rights, breaching the contract in any way is construed as a serious offence.

Lastly, of the 30 million human trafficking victims, about two million are reportedly sexually exploited against their will. On this too, Islam strictly prohibits any sexual relation outside of marriage. Furthermore, prostitution is forbidden

- Verse 33 in Chapter 24 forbids forcing slavegirls into prostitution

وَلَا تُكْرِهُوا فَتَيَاتِكُمْ عَلَى الْبِغَاء إِنْ أَرَدْنَ تَحَصُّنًا لِّتَبْتَغُوا عَرَضَ الْحَيَاةِ الدُّنْيَا وَمَن يُكْرِههُّنَّ فَإِنَّ اللَّهَ مِن بَعْدِ إِكْرَاهِهِنَّ غَفُورٌ رَّحِيمٌ

- Verse 1 in Chapter 5 professes fulfilling all obligations

يَا أَيُّهَا الَّذِينَ آمَنُواْ أَوْفُواْ بِالْعُقُودِ

- Verse 85 in Chapter 7 warns against breaking contracts of workers

وَإِلَى مَدْيَنَ أَخَاهُمْ شُعَيْبًا قَالَ يَا قَوْمِ اعْبُدُواْ اللّهَ مَا لَكُم مِّنْ إِلَهٍ غَيْرُهُ قَدْ جَاءتْكُم بَيِّنَةٌ مِّن رَّبِّكُمْ فَأَوْفُواْ الْكَيْلَ وَالْمِيزَانَ وَلاَ تَبْخَسُواْ النَّاسَ أَشْيَاءهُمْ وَلاَ تُفْسِدُواْ فِي الأَرْضِ بَعْدَ إِصْلاَحِهَا ذَلِكُمْ خَيْرٌ لَّكُمْ إِن كُنتُم مُّؤْمِنِينَ

Thus, Islam is categorically against human trafficking. Further, Islamic law is also in sync with international law on the issue of human trafficking. This means that Islam and Islamic law should serve as the basis for achieving compliance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which was adopted by the United Nations General Assembly in 2000 and came into force in December 2003.

Ta'zir crime

Since it is not defined specifically in the Quran, human trafficking may be classified as a Ta'zir crime, and the governments in Muslim countries have the discretion to enact penalties that are commensurate with the gravity of the crime. Human trafficking constitutes a clear violation of one's right to personal security, which is one of the five essentials of Islam. This specification emphasizes trafficking in persons as a threat against human security and not only as a crime against the State.

Factors encouraging trafficking

While looking beyond religion, there are several external factors that explain the severity of the problem of human trafficking in Muslim countries. In the Middle East, for example, where the majority of second tier "watch list" and third tier Muslim countries are located, the region serves as a place of "origin, transit, and destinations" for human trafficking. The most common form of exploitation in this region is sexual exploitation and forced labour, particularly domestic servitude. Economic, social, and cultural factors explain the prevalence of this crime in the Middle East.

- **Economic**

Following the oil boom in 1970, the Middle East experienced increased inter-regional migration from South, South-east Asia, parts of the Arab World and even Africa. Such migration was necessary because the oil-producing Gulf countries needed both low- and high-skilled workers, such as migrant health professionals, to establish banking systems, help with management and engineering, aid construction, and provide overall assistance with the increasing development of the region.

- **Social**

Socioeconomic changes not only altered the lifestyle of those living in this region, but also made the Middle East more vulnerable to human trafficking and exploitation. As men left to pursue work in oil-rich countries, the need for domestic workers in the region also increased. Thus, the poor economic conditions in the labour-sending countries became a factor for exploitation in the labour-receiving countries.

Reality versus hype

Despite Islamic tenets against this practice, human trafficking is, in reality, a problem in all the OIC countries, as it is all over the world.

Within its definition of "trafficking in persons," the Protocol also defines the term 'exploitation': "Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." Importantly, forms of exploitation addressed in the Protocol are also specifically addressed in Islamic tenets.

Most Muslim countries have made efforts to join the international community in the fight against human trafficking. Some have responded by passing anti-trafficking legislation and establishing mechanisms, committees and shelters to fight the crime. However, according to the 2014 UNODC report on human trafficking, about a dozen countries are NOT states parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime.

If this first step is taken in earnest, it is bound to go a long way in checking human trafficking violations in OIC countries.

Lastly, Islamic law and the prohibition of human trafficking are in full accordance with one another. This harmony between international trafficking provisions and Islamic law is illustrated by Muslim countries' domestic legislation and constitutions that prohibit human trafficking and by the adoption of international human rights documents as national law. 59 Such international influence on Islamic countries' domestic legislation portrays Islamic law's agreement with international anti-trafficking measures and provisions on the subject of human trafficking.

Anti-human trafficking documents in Muslim world

Recent international human rights documents promulgated in the Muslim world have attempted to address the issue of trafficking more explicitly and based on Islamic doctrine. For example, Article 13 of the Cairo Declaration on Human Rights in Islam of 1990 states that an employee may neither be assigned work beyond his capacity nor be subjected to compulsion or harmed in any way.

Likewise, since prostitution is prohibited under Islamic law, not only trafficking for the purpose of exploitation of the prostitution of others, but trafficking for the purpose of prostitution is prohibited under the Arab Charter of Human Rights. Article 10 of the Charter makes this distinction, prohibiting — human trafficking for the purposes of prostitution and — the exploitation of the prostitution of others or any other form of exploitation.

More specifically, Article 10 of the Arab Charter on Human Rights provides that:

a. All forms of slavery and human trafficking are prohibited and punishable by law, No one shall be held in slavery and servitude under any circumstances.

b. Forced labour, human trafficking for the purposes of prostitution or sexual exploitation, the exploitation of the prostitution of others or any other form of exploitation or the exploitation of children in armed conflict are prohibited.

Additionally, the Arab Charter also prohibited organ trafficking, stating in Article 9 that — no one shall be subjected to medical or scientific experimentation or to the use of his organs without his free consent and full awareness of the consequences and provided that ethical, humanitarian and professional rules are followed and medical procedures are observed to ensure his personal safety pursuant to the relevant domestic laws in force in each State party. Trafficking in human organs is prohibited in all circumstances. And, Arab countries that have ratified the Charter are required to report on the status of trafficking in their countries.

Further, a number of constitutions of Muslim countries have explicitly prohibited human trafficking. As a result, the argument that Islamic law is in harmony with international provisions against human trafficking has become progressively evident by virtue of the enactment of national legislation prohibiting trafficking in many Muslim countries.

As most of Muslim countries require that national legislation be in compliance with Islamic law, the fact that anti-trafficking legislation has been developed and enacted signifies that the two are in compliance with one another. These laws cover all the elements of combatting human trafficking.

Conclusion

Human trafficking is a developing subject of discussion in many Muslim countries. While some OIC countries are yet to pass specific legislation to counter the crime, many others are active and have taken significant steps to address the crime. Best practices, therefore, are available and can be built upon. A constructive dialogue has begun and an exploration of what Islamic law has to offer in this realm can be an important step towards making such a dialogue more meaningful. Equally, the discussion needs to encompass translation of ideas into concrete policy steps, especially in the realms legislation; recognition, redress and assistance for victims; prevention and public awareness; and a rethinking of immigration laws, labour laws, health laws, child protection laws, and other relevant legislation.

International measures, such as the Protocol, are increasing in order to address the rapidly growing problem of human trafficking. Muslim countries have been touched by this issue and are experiencing severe compliance problems. Some blame the trafficking problem on the Islamic religion or the Islamic legal system. The ground realities for the prevalence of human trafficking in Muslim countries – economic and social factors – clearly explain that linking human trafficking to Islam is untrue and unjustified

While taking social, economic and legal avenues to fighting this crime are important, given the importance attached to religion in the OIC countries, it is equally important to use the inherent respect for religious tenets and human rights among Muslims as deterrents to fight human trafficking

Further, supported both internally by the compassionate teachings of Islam and externally by international anti-trafficking laws, Muslim countries have every reason – even a religious obligation – to prevent human trafficking, protect its victims, and prosecute its perpetrators.

Policy recommendations

- Commission a comprehensive research paper to establish that economic and social factors, not Islam, drives human trafficking
- Enact anti-human trafficking law, where they don't exist
- Train law enforcement and judicial officials to deal with such crimes and endorse strict punishment
- Raise public awareness – using human rights approach and adherence to Islamic tenets which prohibits exploitation
- Encourage establishing victim shelters
- Sharing best practices – Muslim countries with anti-trafficking laws could form a steering committee to guide others in this effort; and organize a workshop to highlight the importance of fighting this crime and propagate mechanisms to institutionalize the same
- Encourage coordination among source-transit-destination countries within the OIC
- Encourage coordination with international organizations like International Labour Organization, International Organization for Migration and United Nations Organization for Drugs and Crime
- Encourage the few countries that have not signed the Protocol in the OIC to sign.

STUDY ON SEXUAL ORIENTATION AND GENDER IDENTITY

In the light of Islamic Interpretations and International Human Rights Framework

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A. INTRODUCTION:

The IPHRC based on the mandate given by the 43rd Council of Foreign Ministers (CFM) of the Organization of the Islamic Cooperation (OIC) through resolution no. 4/43-C has carried out a study to examine the controversial subject of 'Sexual Orientation and Gender Identity (SOGI)' in the light of the Islamic interpretations and international human rights framework. The scope of the study is to analyze the subject within the context of marriage and family relations.

The natural family, composed of a father, mother and children, has always been the corner stone for fostering social relationships, rearing children, transmitting values for creation of prosperous and vibrant societies. Across time and cultures, core meaning of the marriage, defined as union of a man and a woman, remained essential to nurturing, promoting and protecting the family and society. However, lately, the institution of marriage is under assault by those who are attempting to radically redefine it to include 'union of any two persons' i.e. 'same-sex unions'.

A gender related discussion on the right of Lesbian, Gay, Bisexual and Transsexual community (LGBT), to practice their way of life as normal families, remains the most controversial subject that continue to pitch traditional societies in the Muslim and most African countries as well as many of the religious communities against Western societies, where LGBT community is lobbying hard to claim 'Sexual orientation and Gender Identity' (SOGI) as one's inherent human right based on individuals' choice and consent.

The LGBT community has introduced slanted narrative of 'genderless marriage' and 'alternative form of family' based on their claim of genetically predisposed 'sexual orientation'. They have portrayed themselves as victims of prejudice and discrimination to enact specific protective laws, sought legislative support to legalize same sex marriage at par with the traditional marriage, introduced curricular changes at grass roots level to sensitize the future generations with this radically different set of understanding, belief and legitimacy in a way that, if unchecked, the future societies will change dramatically with worse consequences. The disastrous consequences of this suicidal social experiment would be evident in distant future when it will be too late to rewind and recreate the extinct family values.

If the tendency to redefine the concept of traditional (heterosexual) marriage and family is not resisted and fallacies of 'sexual orientation' are not exposed, there is a real danger that other groups, citing genetic predisposition claims, would also be encouraged to demand legalizing incest, bestiality and other such deviant sexual behaviors and personal choices as a matter of 'human right'.[1]

B. 'SOGI' DEBATE IN THE LIGHT OF ISLAMIC & OTHER INTERPRETATIONS:

(i) Concept of Marriage and family in Islam and Other Religions:

In Islam, 'marriage', solemnized through 'Nikah' (in the name of Allah), is a sacred religious contract between man and woman that imposes rights and duties designed for procreation, care and harmonious development of children and society as a whole. The Holy Quran explains that marriage, a union between the two sexes, is a combination of love, tenderness, and care, so that each find in the other completeness, tranquility, and support (Quran 30:21). Again the Holy Qur'an provides that "He it is Who created you from a single being, and of the same did He make his mate that he might find comfort with her." (7: 189). This relationship transcends beyond sexual contact to psychological and spiritual fulfillment.

[1] A German man sent to prison over an incestuous relationship was convicted by the German constitutional court and his conviction was upheld by European Court of Human Rights. http://edition.cnn.com/2012/04/13/world/europe/germany-incest-court/

The fact that man and woman alone are impotent beings establishes the complementarities of the two sexes for the purpose of procreation, development and progress of generations and societies.

All Abrahamic faiths share the same concept of marriage. Pope Benedict XVI remarked: "There is also a need to acknowledge and promote the natural structure of marriage as the union of a man and a woman in the face of attempts to make it juridical equivalent to radically different types of union; such attempts actually harm and help to destabilize marriage, obscuring its specific nature and its indispensable role in society."[2]

6th US District Court of Appeals Judge Jeffrey S. Sutton, while upholding same sex marriage bans in Kentucky, Michigan, Ohio and Tennessee, USA on Nov. 6, 2014, wrote that "marriage has long been a social institution defined by relationships between men and women. So long defined, the tradition is measured in millennia, not centuries or decades. So widely shared, the tradition until recently had been adopted by all governments and major religions of the world."[3]

In the Oct. 15, 1971 Baker v. Nelson decision, the Supreme Court of Minnesota, USA found that "the institution of marriage as a union of man and woman, uniquely involving the procreation and rearing of children within a family, is as old as the book of Genesis."[4]

John F. Harvey, MA, STL, Catholic priest, wrote in July 2009 that "Throughout the history of the human race the institution of marriage has been understood as the complete spiritual and bodily communion of one man and one woman."[5]

Literature suggests that (traditional) marriage has a wide range of benefits, including improvements in individuals' economic well-being and mental and physical health, as well as the well-being of their children.[6]

(ii) Homosexuality according to Abrahamic religious thoughts:

Marriage, family, and sexuality have always been and shall remain the subject of profound religious beliefs and practices which in turn shape personal identities.

Islam, a religion of "nature", could serve as a value reference for any social system. The major understanding of sexual orientation which is valid in the Qur'an, Sunnah and Fiqh is heterosexual. The two related aspects are: a). sexuality should serve personal satisfaction and dignity (The Qur'an (30:21); b). God creates partnership between a man and a woman to achieve peace, tranquility and serenity in life. Heterosexual marriage is the only valid way for couples to acquire the true satisfaction and high dignity without disturbing social orders. It is because of this Divine wisdom that all Abrahamic faiths Judaism, Christianity, and Islam view homosexuality as sinful and detestable.

The Qur'an is explicit in its condemnation of homosexuality, In the Qur'an, homosexuals are referred to as 'qaumLut' (Lut's people), the Quran mentions that the Prophet Lut questioned his people: *"Have you become so shameless that you commit such indecent acts as no one committed before you in the world? You gratify your lust with men instead*

[2] Benedict XVI, Message for the Celebration of the Word Day of Peace, 1 January 2013
[3] US Court of Appeals for the Sixth Circuit, April DeBoer, et al., v. Richard Snyder, et al., ca6.uscourts.gov, Nov. 6, 2014
[4] Bruce Peterson, JD, Majority Opinion, Baker v. Nelson(186 KB) , www.marriagelawfoundation.org, Oct. 15, 1971
[5] John F. Harvey, "Regarding 'Gay Marriage,' " patheos.com, July 7, 2009
[6] Lerman 2002; Ross et al.1990; Waite and Gallagher 2000; Wilson and Oswald 2005

of women: indeed you are a people who are transgressors of all limits." (7: 80-81). The Prophet Muhammad adds, that *"Doomed by God is who does what Lut's people did [i.e. homosexuality]."*

There is a consensus among Islamic scholars that human beings are naturally heterosexual. Accordingly, the accepted form of sexual orientation in Islam is heterosexual, which is legally defined by the Islamic Shariah.Homosexuality is seen as a perverted deviation from the norm and all schools of Islamic thought and jurisprudence consider homosexual acts to be unlawful, which violate the rights of man, woman and children. Muslim societies, Islamic teachings and jurisprudence do not conceive of 'homosexuality' as an identity.

From jurisprudence view point, historically, it is an established fact that Muslim polity has always held private matters and personal lives of individuals in high esteem and any attempt to breach the privacy of individuals is strongly opposed. Similarly, the application of Hudood laws (and punishments) for homosexual acts are subject to strict conditions of producing appropriate witnesses. It is probably because of this reason that, despite strict penal codes, instances of people being punished for homosexual transgressions i.e. Liwat (in Arabic) are exceedingly rare.

While Islam acknowledges the sensual aspect of human nature, it does not subscribe to a 'laissez faire' sexual conduct where one is free to hunt whatever one desires. Accordingly, it also stresses the need to harness the carnal impulses for individuals' benefits and societal stability. The Quran has referred to pursuit of ones passions and lust as a 'great deviation' *"Allah wants to accept your repentance, but those who follow [their] passions want you to digress [into] a great deviation" (4:27).*

Humans are not homosexuals by nature. According to the Holy Quran: *"We have certainly created man in the best of stature"(95:4)* and further it mentions that *"(Adhere to) the nature of Allah upon which He has created (all) people" (30:30).* The Islamic teachings refute the notion that humans are created with homosexual predispositions. People become homosexuals because of environmental factors, some treatable medical or psychiatric conditions and at worst due to their unbridled lust for perverted sexual activities.

Homosexual acts, in the Jewish and Christian traditions are also strictly prohibited. Chapters 18 and 20 of Leviticus provide clear guidance on the prohibited forms of intercourse through following verses, which have historically been interpreted as prohibitions against homosexual acts in general:

- "You shall not lie with a male as with a woman; it is an abomination." Chapter 18 verse 22
- "If a man lies with a male as with a woman, both of them have committed an abomination; they shall surely be put to death; their blood is upon them." Chapter 20 verse 13

A 2003 set of guidelines signed by Pope John Paul II stated: *"There are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for marriage and family... Marriage is holy, while homosexual acts go against the natural moral law.*[7]*"* Also, Pope Benedict stated in Jan. 2012 that same sex marriage threatened "the future of humanity itself.[8]"

(iii) Homosexuality according to scientific research:

According to the American Psychiatrist Association (APA), sexual orientation is an enduring pattern of emotional and sexual attractions of human kind which manifest in various forms of heterosexual, homosexual and bisexual. Homosexuality is not a new behavior. It is prevalent in all cultures where it is practiced with varying levels of discretion. Until the 1970s, the dominant medical opinion considered homosexuality as a kind of mental illness or deviant

[7] Maria De Cristofaro and Tracy Wilkinson, "Gay Marriage Is Immoral, Vatican Says," latimes.com, Aug. 3, 2003
[8] Philip Pullella, "Gay Marriage a Threat to Humanity's Future: Pope," reuters.com, Jan. 9, 2012

sexual behavior responsive to therapeutic interventions. However, in 1973-74, the APA declassified homosexuality as a mental disorder and enlisted it as merely an orientation or a sexual variant with genetic predisposition[9]. Despite APA position, the role of biological factors in the development of human sexual orientation remains a widely debated controversial topic. Dr. Nicholas Cummings who was President of the APA has said that the APA has been taken over by *"ultraliberals"* beholden to the *"gay rights movement,"* who refuse to allow an open debate on reparative therapy for homosexuality[10].

A similar research on the issue of genetic predisposition conducted by the National Institute for Mathematical and Biological Synthesis (NIMBioS) suggests that homosexuality is not written in our genes, which explains why scientists have failed so far to find "gay genes". Instead, they said, it is in certain modifications to how and when DNA is activated. These changes can have environmental roots, so are not normally permanent enough to be passed from parent to child[11].

It is a common medical knowledge that there are other mental conditions like schizophrenia[12] and paranoid which have known genetic predispositions. Now this genetic predisposition of these conditions does not justify accepting behavioral anomalies associated with these conditions. Instead, people suffering from these states are provided medical treatment either voluntarily or at times even forced to receive treatment for the societal benefit.

Muslims, based on their overt religious beliefs and traditions, are duty bound to protect and promote the social institution of marriage and family. However, while putting resistance against the introduction of these deviant concepts, they need to clarify, that they have no specific animus against the homosexual individuals rather they do not approve of this detestable sexual behavior, which goes against their religious beliefs.

C. REASONS TO PRESERVE THE TRADITIONAL CONCEPT OF MAN/WOMAN MARRIAGE:

A society is the sum of its constitutive social institutions and their interactions over time. The family and marriage are among the major 'social institutions' which dispense enormous 'social goods' for benefits of society as a whole and to the individual members also. Strong families based on husband-wife marriage 'serve as the fundamental institution for transmitting to future generations the moral strengths, traditions, and values that sustain civilization13. All societies, therefore, have a compelling interest in preserving the institution of marriage.

The Proponents of same-sex marriage have long sought to portray this relationship as equivalent to those of heterosexual married couples. However, many gay activists portray a very different cultural ethic. In reality, the campaign to fight for same-sex marriage and its benefits and then, once granted, is meant to redefine the institution completely. It surely is not meant to demand the right to marry as a way of adhering to society's moral codes, but rather to debunk a myth and radically alter an archaic institution[14].

A social institution defined at its core as the union of any two persons is unmistakably different from the historic marriage institution between a man and a woman[15]. "To redefine marriage as the union of any two persons is not to pull gay men and lesbians into marriage as our societies now know it but to pull married man/woman couples into what the media calls imprecisely " gay marriage". [16] Therefore, attempts to redefine, legalize and promote the concept

[9] http://www.apa.org/research/action/gay.aspx
[10] https://www.lifesitenews.com/news/former-president-of-apa-says-organization-controlled-by-gay-rights-movement
[11] http://healthland.time.com/2012/12/13/new-insight-into-the-epigenetic-roots-of-homosexuality/
[12] Genetic Predisposition to schizophrenia; what did we learn and what does the future hold? By Andrea Vereczkei and Karoly Mirnics
[13] http://www.familywatchinternational.org/fwi/documents/FWIpolicybrieftraditionalmarriagefinal.pdf
[14] Michelangelo Signorile, "Bridal Wave," Out, December 1993/January 1994, pp. 68 and 161.
[15] "Genderless Marriage and Institutional Theory" by Monte Neil Stewart, President Marriage Law Foundation, USA.
[16] "Genderless Marriage, Institutional Realities and Judicial Elision" by Monte Neil Stewart

of 'genderless marriage' portend to deinstitutionalize the institution of traditional marriage and concomitantly deform the values underlying the family and society.

The demand for universalization of the 'genderless marriage' by the LGBT community is not only intended to gain parity with the privileges of traditional marriage but motivated by the design to render the time-tested institution of man/woman marriage obsolete and replace it with a radically different, untested and unproven institution of "genderless marriage", which although radically different but may still be called "marriage," Scholar Joseph Raz, while commenting on same-sex marriage, wrote: "When people demand recognition of gay marriages, they usually mean to demand access to an existing good. In fact, they also ask for the transformation of that good.[17]"

In the face of this onslaught on the institution of the marriage, there is an urgent need to preserve the structure and sanctity of this institution for following reasons:

- The institution of man/woman marriage is society's best and probably its only effective means to make meaningful realization of a child's right to know and be brought up by his or her biological parents.[18] The Supreme Court of California, USA ruling from 1859 stated that "the first purpose of matrimony, by the laws of nature and society, is procreation."[19] According to Article 3of the Convention on the Child Rights, all adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. The legalization of same sex marriage would defy the purpose of marriage from procreation to mere adult sexual gratification[20]. Nobel Prize-winning philosopher Bertrand Russell stated that "it is through children alone that sexual relations become important to society, and worthy to be taken cognizance of by a legal institution." Contrary to the same sex marriage argument that some different-sex couples cannot have children or don't want them, even in those cases there is still the potential to produce children. Seemingly infertile heterosexual couples sometimes produce children, and medical advances may allow others to procreate in the future. Heterosexual couples who do not wish to have children are still biologically capable of having them, and may change their minds[21];
- Man/woman marriage optimizes the private welfare provided to children conceived and cared for by both biological parents. Daniel Cere's contends that "*[M]arriage is an institution that interacts with a unique social- sexual ecology in human life. It bridges the male-female divide. It negotiates a stable partnership of life and property. It seeks to manage the procreative process and to establish parental obligations to offspring. It supports the birthright of children to be connected to their mothers and fathers.*[22]" . Doug Mainwaring, the openly gay co-founder of National Capital Tea Party Patriots, stated that "*it became increasingly apparent to me, even if I found somebody else exactly like me, who loved my kids as much as I do, there would still be a gaping hole in their lives because they need a mom... I don't want to see children being engineered for same-sex couples where there is either a mom missing or a dad missing.*[23]";
- "*[M]arriage has always been the central cultural site of male-female relations*[24]" and society's primary and most effective means of bridging the male-female divide. Camille Williams contends that man/woman marriage "*is the only important social institution in which women have always been necessary participants.*" Displacement of that institution "*may result in future generations with a decreased ability or desire for men*

[17] Joseph Raz, Ethics in the Public Domain 23
[18] Margaret Somerville, What About the Children?, in DIVORCING MARRIAGE
[19] Ed. Basil Jones, "The American Ruling Cases as Determined by the Courts: Including the Fundamental Cases of England and Canada;also, All Reviewing and Illustrating Cases of Material Value from the Latest Official Reports, Completely Annotated," books.google.com, 1917
[20] Dana Mack, "Now What for Marriage?," www.wsj.com, Aug. 6, 2010
[21] Meredith Clark, "Arizona Points to Procreation to Defend Gay Marriage Ban," msnbc.com, July 25, 2014
[22] Daniel Cere, War of the Ring, in DIVORCING MARRIAGE: UNVEILING THE DANGERS IN CANADA'S NEW SOCIAL EXPERIMENT 9, 15 (Daniel Cere & Douglas\ Farrow eds., 2004) [hereinafter DIVORCING MARRIAGE]
[23] Napp Nazworth, "Kids Need Both Mom and Dad, Says Gay Man Opposed to Gay Marriage," christianpost.com, Jan. 28, 2013
[24] ibid

and women to cooperate in families, and may ultimately contribute to a new form of gender hierarchy and a new variation of a sex-segregated society.[25]" ;

- Man/woman marriage is the only institution that can confer the status of husband and wife, that can transform a male into a husband or a female into a wife (a social identity quite different from "partner") and thus that can transform males into husband/fathers (a category of males particularly beneficial to society) and females into wife/mothers (likewise a socially beneficial category);

Homosexuality and its negative impact on society:

- Wherever genderless marriage is legalized, parents will have no legal basis to object to curriculum and books read in schools promoting homosexuality, hence children could potentially be taught and made to believe including against their parents' wishes that homosexuality is healthy and normal. Lou Sheldon, Founder of the Traditional Values Coalition, warned of the influence on children of the "homosexual agenda," writing that "[o]ur little children are being targeted by the homosexuals and liberals... To be brainwashed to think that homosexuality is the moral equivalent of heterosexuality.[26]";
- When rights for same-sex couples are expanded and enforced, freedom of expression, thought, conscience, religion and belief are threatened as citizens are coerced to accept and act against their conscience and belief;
- The promiscuous nature of gay relationships, especially those of gay men, is becoming more widely recognized, a fact that is also a common knowledge to the LGBT community.The homosexual lifestyle is generally highly promiscuous[27]. Studies conducted on the subject indicate that with same-sex marriages, promiscuity in marriage will become more generally accepted.
- There are documented disturbing social impacts in societies where same-sex marriage has been legalized. The Netherlands was the first country to legalize same-sex marriage in 2001. Several years later, a group of Dutch professors warned in an open letter "about the wisdom of the efforts [in the Netherlands] to deconstruct marriage in its traditional form.[28]" ;
- Although there aren't many scientifically valid studies of long-term effects and influence on children raised in same-sex households, the available data does provide adequate reasons for concern. These studies confirm that children reared by same-sex couples fare worse in a wide range of outcome categories than those reared by heterosexual, married couples. They are more likely to experience sexual confusion, engage in risky sexual experiments and are at increased risk for mental health problems, including major depression, anxiety and conduct disorders[29]
- Researchers studying homosexuality agree that homosexuals as a group experience a disproportionate amount of negative outcomes in their lives. These well-documented outcomes include high rates of domestic violence and sexual coercion, suicidal tendencies, lower life expectancy, high AIDS rates, drug and alcohol problems, promiscuity and infidelity, involvement with pedophilia, mental and emotional disorders/illnesses, and deliberate self-harm and other problems. These negative outcomes associated with the homosexual lifestyle are well-recognized by the gay community and are not in dispute. What is being disputed, however, is how to best help homosexuals avoid these negative outcomes[30].

D. COUNTER NARRATIVE TO 'SOGI' ON THE BASIS OF INTERNATIONAL HUMAN RIGHTS FRAMEWORK:

The rights recognized in the Bill of Rights form the basis of the overarching framework for the international human rights. These rights were duly codified in subsequent international legal instruments. Any attempt to create controver-

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[25] Camille S. Williams, Women, Equality, and the Federal Marriage Amendment,

[26] Rob Boston, "The Religious Right's Gay Agenda: How Jerry Falwell, Pat Robertson and Other Religious Right Leaders Use Gay-Bashing to Fill Their Coffers and Rally Their Troops," Americans United for Separation of Church and State website, Oct. 1999

[27] Meyer-Bahlburg, H. F .L., Exner, T. M., Lorenz, G., Gruen, R. S., Gorman, J.M., Ehrhardt, A. A. (1991). Sexual risk behavior, sexual functioning, and HIV disease progression in gay men. Journal of Sex Research, 28, 3-27.

[28] http://www.heritage.org/Research/Family/netherlands statement.cfm

[29] Judith Stacey and Timothy J. Biblarz, "(How) Does the Sexual Orientation of Parents Matter," American Sociological Review 66 (2001): 174, 179.

[30] http://www.familywatchinternational.org/fwi/policy_brief_manwomanmarriage.pdf

sial new notions or standards by misinterpreting the Bill of Rights and international treaties to include notions that were never articulated or agreed to by the UN membership can be counterproductive. The following arguments clearly define that the concept of sexual orientation does not fall into the purview of international human rights law:

i. Notion of '*sexual orientation or sexual preferences*' has never been a subject of human rights discourse as it relates to individuals' private preferences, hence, it has not found any place in international human rights law/standards. There is even no agreement on the term of "sexual rights" least to mention sexual orientation or preferences, which are far more vague concepts. Due to its highly controversial definition/scope the term sexual rights has been repeatedly rejected in UN negotiations. After repeated failures on this account, proponents of sexual rights falsely claim that such rights are covered under the existing rights of equality, non-discrimination and sexual and reproductive health. But the fact remains that none of the above has ever been defined or accepted in any of the human rights instruments or UN documents by consensus.
ii. As the subject of sexual orientation is not relevant to the international human rights discourse, therefore, any attempt to introduce such concepts or notions, that have no legal foundation in international human rights law and directly impinge on the socio-cultural and religious sensitivities of a large group of UN countries, would only lead to further polarization and undermining of the cooperative and consensual nature of the international human rights architecture;
iii. The notion of SOGI is against the fundamental precepts of not only Islamic but all Abrahamic and many other religious and cultural societies;
iv. Contrary to the claims of LGBT community that their efforts to promote the concept of sexual orientation and sexual preference within human rights discussions/forums is meant to combat discrimination and violence against LGBT community, it is amply clear that this movement is carefully planned to codify new and distinct set of rights and protection for a specific group of individuals, whose only commonality is their specific sexual preference that has no legal basis in international human rights law. International human rights law already provides enough clarity to combat violence and discrimination against any person or group on any ground, hence the need to avoid creating such groups that are neither universally recognized nor accepted by a sizeable majority of cross regional, cultural and religious societies.
v. While reaffirming commitment to combating all forms of violence and discrimination against any person or group on any ground, attempts to universalize SOGI are clearly meant to imposing one set of values and preferences on the rest of the world, which counteracts the fundamentals of universal human rights that call for respecting diversity, national and regional particularities and various historical, cultural and religious backgrounds; as clearly set out in various international human rights instruments;[31]
vi. Any attempt to impose concepts or notions pertaining to private individual conduct, that falls outside the internationally agreed human rights legal framework undermines and disregards the universal nature of the international human rights system. Such efforts are, therefore, Ultra Vires to international human rights law. This also runs contrary to the principle of promoting consensus on human rights issues through a cooperative and constructive approach as established in UNGA Res 60/251;[32]
vii. While attempting to implement such controversial concepts, the international community must accord respect for the sovereign right of each country as well as its national laws, development priorities, the various religious and ethical values and cultural backgrounds of its people in full conformity with universally recognized international human rights;
viii. The European Court of Human Rights ruled on June 24, 2010 that the State has a valid interest in protecting the traditional definition of marriage, and stated that the Convention for the Protection of Human Rights and Fundamental Freedoms "enshrined the traditional concept of marriage as being between a man and a

[31] Vienna Declaration and Program of Action
[32] http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf
[33] Center for Family and Human Rights, "European Court: Gay Marriage Is Not a Human Right," lifesitenews.com, Jul 25, 2014 & European Court of Human Rights, "Case of Schalk and Kopf v. Austria," hudoc.echr.coe.int, Nov. 22, 2010

woman.[33] "In another ruling in 2016, the European Court of Human Rights unanimously recalled that the European Convention on Human Rights does not include the right to marriage for homosexual couples, neither under the right to respect for private and family life (Art. 8) nor the right to marry and to found a family (Art. 12).[34]

ix. In case some societies, despite clear argument against same sex marriage, allow same-sex couples to marry based on either majority or democratic views of the society but then they should let other societies also have the right to decide the social fabric and dispensation of their societies without coercion and pressures of any sorts.

E. CONCLUSION/RECOMMENDATIONS:

After careful deliberation on various aspects of the debate on Sexual Orientation, Sexual Identity and the corresponding push to legalize the same sex marriage, IPHRC considers that such concepts are not recognized under any universal human rights instrument and run counter to the values and teachings of many cultures, religions and beliefs including Islam.

Existing provisions of international human rights law provide enough guarantees for protection against violence and discrimination against any individual or group on any grounds.Hence, the efforts by SOGI proponents to seek to create special protection for individuals, whose only identity is their sexual behavior, which falls outside the internationally agreed human rights legal framework, can only be considered as an expression of disregard for the universality of human rights.

Push by LGBT community to promote these practices as human rights have led to divisiveness and polarization among members of international community and UN Member States. The controversy arising from acceptance and rejection of these concepts hasalso done more harm to the progressive development of international human rights norms and standards, including in some of the most consensual areas. The creation of the controversial mandate of the Independent Expert on protection against violence and discrimination against SOGI met a stiff resistance within the UN not only from the OIC Member States but also from other likeminded countries.

IPHRC also affirms that the natural family – consisting of a man and a woman – is the main part and fundamental group unit of society, which must be accorded protection by the society and the State. It ensures a natural and harmonious relationship between men and women, with a unique role in ensuring healthy life style and well-being of all its members especially children. The Social Summit +5 in 2000 also recognized the importance of family as the basic unit of society and its key role in social development, social cohesion and integration.

The daunting task to defend the age-old institution of marriage and preserving family unit in the face of well-funded propaganda campaign of the SOGI proponents remains a real challenge. This, warrants pooling of intellectual resources to devise a coordinated strategy to clearly identify the distinct characteristics of marriage and to uphold the family unit and its values, and protection of it as a socially viable nucleus of every society. This herculean task requires tactful handling by balancing individual's right and society's wellbeing. However, while promoting our pristine values, it should not be seen as an aggression against any individual or group.
In this regard, following recommendations are proposed:

a. OIC Member States must continue to express their strong opposition and rejection of this legally flawed and deeply divisive notion at all fora including sponsoring counter resolutions at the UN Human Rights Council to keep the issue alive and keep the concerns of the Muslim world known to all. OIC Countries should also support the well-crafted UN resolution on Protection of Family both in the HRC and UNGA;

[34] Puppinck, G. The ECHR Unanimously Confirms the Non-Existence of a Right to Gay Marriage. (n.d.). Retrieved from http://us10.campaign archive2.com/?u=567507fce24ff5f4d84cc3e33&id=13467e2ca2&e=247ffef2e4

b. Fortunately, in this struggle, OIC countries are not alone as SOGI issue faces stiff opposition even in the countries where it is legalized. Then there are likeminded countries, faith communities and international groups who are opposed to these misplaced notions and are actively involved in countering the SOGI agenda to preserve and promote the natural and moral values of societies through strengthening the institution of family based on partnership between a man and a woman. The OIC should form a broader coalition to put a joint affront to the SOGI agenda. This coalition should also pool intellectual resources to devise a coordinated strategy to defeat the agenda of genderless marriage at national, international and domestic levels. In this regard, the OIC countries along with their allies should continue to oppose the legality of the controversial mandate of the Independent Expert on protection against violence and discrimination against SOGI and while maintaining the stance of non-cooperation reject his forthcoming report to be presented during the 35th Session of HRC in June 2017;
c. The counter narrative to the ongoing debate on SOGI should be formulated in partnership with all segments of society especially the religious leaders, youth and media to disseminate the message far and wide through use of modern information and communication technologies to counter the propaganda;
d. OIC General Secretariat, together with known international experts in the field, may produce comprehensive report on various aspects of the issue and print opinion articles in international al journals refuting the legality of SOGI debate both from the Islamic and international human rights law perspective. Such write ups would be useful in international opinion forming and logically and legally arguing against these concepts;
e. In Muslim minority societies, especially in the West, Muslims may invoke protection to practice their religious beliefs on the basis of their well-recognised and protected right to freedom of thought, conscience, religion and belief that grants the right to manifest one's religion in accordance with his/her beliefs;
f. IPHRC welcomes the holding of the OIC Ministerial Conference on Marriage and Family Institution, endorses its recommendations and requests Member States to implement these in their relevant policies and legislations;
g. Based on the recommendations of the above referred Conference as well as suggestions made in this study, OIC General Secretariat should prepare a comprehensive OIC Declaration on the subject for the consideration and approval of the OIC Council of Foreign Ministers, which can serve as the standard OIC position on the subject;
h. OIC countries give large sum of donations to UN Agencies and projects to promote and protect human rights. They may reconsider and stop providing these funds to those UN Agencies who use these funds in promoting views and positions against the religious and ethical beliefs of our pristine religion in particular in Muslim countries;
i. OIC countries should caution and adviseall concerned against efforts to use the banner of preventing "discrimination" to promote radical sexual and gender agendas related to sensitive issues regarding family, family life, or sexuality in their societies. Cooperation with UN mandates and Agencies, who promote/ seek to establish controversial and unagreed upon so called human rights that may compromise or undermine our religious or cultural norms, should be reconsidered.

ISLAMOPHOBIA AND THE COUNTER-TERRORISM STRATEGIES

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INTRODUCTION

Islamophobia - a term widely used both in the media and political and academic circles - has become a current issue in world public opinion. The word "Islamophobia" is formed from the word "Islam" and the Greek word "phobos". Islamophobia, as a term, can be described as prejudice and hatred towards Islam, and racism against a Muslim minority.[1] The term combines all sorts of different discussions, discourse and actions emerging from the ideological core bred by an irrational fear of Islam.[2]

The concept does not hold a legal description, because studies in this field are yet to produce abinding international legal document. Also, there are those who are against such a conceptualization. However, the fact that the term has found its place in the areas of interest and activity of certain main international organizations such as the United Nations (UN), the Council of Europe (CE), the Organization for Security and Cooperation in Europe (OSCE), the Organization of Islamic Cooperation (OIC) has led to a general acceptance of the term.

Islamophobia is accompanied by hostility, hatred and othering originating from an irrational, groundless fear of Islam and Muslims, discriminatory actions and the legitimization of violence. Islam's role in the past as a source of fear constructing Western Christian identity causes the West to approach Islam and Muslims with prejudices arising from their collective subconscious. Such prejudices prevent the scientific, objective and holistic consideration of the faith, civilization and culture of Islam. Moreover, Islam and Muslims - sometimes deliberately and especially for political motives - are depicted side by side with violence and terrorism. Western researchers, with a few exceptions, are unable to maintain the scientific perspective they use in other areas when it comes to Islam and Muslims. In this context, Rumi, a universal philosopher whose ideas have come to inspire humanity since the 13th century, said: "Prejudice buries knowledge. While the unprejudiced approach turns the illiterate into a scholar, the prejudiced perspective ruins and falsifies the knowledge."[3]

According to some, following the 9/11 terrorist attacks the world has entered a new political era characterized as the "age of terrorism". All the measures of this new era could not prevent the bloody terrorist attacks in Madrid 2004, London 2005 and the attacks in France at the beginning of 2015 called the "September 11 of France."[4]

The perpetrators of these attacks were presented as Islamist terrorists, radical Islamists, fundamentalist Muslims, Muslim terrorists and jihadists in Western media and in the discourse of certain politicians and intellectuals which led to a similar public opinion. This discourse has also shaped the national counter-terrorism activities. This concept put Muslim society located anywhere in the World under suspicion. The conceptualizations labelling a number of barbaric, inhuman acts and their perpetrators as Islam and Muslims wound the vast majority of Muslims particularly those living in the West, and make them feel accused, offended and excluded. On the other hand, it triggers the discourse of prejudice, spite and hatred, and acts of violence characterized as Islamophobic in minds of the Westerners unfamiliar with Islam and Muslims.

Due to globalization, the Islamophobic repercussions of such a conceptualization - has not been contained in the West but extended to South East Asia and Africa, giving rise to radicalization of members of various faiths against

[1] Necmi KARSLI, İslamofobi'nin Psikolojik Olarak İncelenmesi, Dinbilimleri Akademik Araştırma Dergisi, Volume 13, Issue 1, 2013, p.80
[2] Jocelyne CESARI, Batıda İslamofobi: Avrupa ve Amerika Birleşik Devletleri Arasında Bir Mukayase, in John L. ESPOSITO, İbrahim KALIN, İslamofobi, 21. Yüzyılda Çoğulculuk Sorunu, İnsan Yayınları, İstanbul, 2015, p.64
[3] Eva De Vitray-MEYEROVITCH/Djamchid MORTAZAVI, Mathnawi, La quête de l'absolu, édition du Rocher, Paris 2004, p. 460
[4] Kutlay TELLİ, Uluslararası Terörizm ile Mücadelede Fransa'nın Ocak 2015 Paradoksu, TBB Dergisi 2015, p. 117

Muslims. Moreover governments introduce obstacles to the implementation of the basic human rights of Muslim minorities under the pretext of the fight against terrorism.

1. ISLAMOPHOBIA: CONCEPT AND PHONEMENON

1.1 Term and Concept

The term is formed of two concepts - Islam and -phobie. Therefore, the term Islamophobia means "the fear of Islam."

The term Islamophobia is believed to be first used in 1910 by a group of French orientalists specialized in West Africa Islam studies.[5] For example, in his thesis in law on "Muslim Policy in the French Western Africa" of 1910 Alain Quellien defined Islamophobia as the "prejudice against Islam." According to the author, there was and is again a prejudice against Islam in Western and Christian civilizations. For them, Muslims are the natural and irreconcilable enemies of Christians and Europeans. Islam is the negation of the civilization, and is an equivalent of barbarism and ill-will and violence are all expected from Muslims.[6]

According to the second view, the term was used by the painter Alphonso Etienne Dinet and Algerian intellectual Sliman ben Ibrahim in their 1918 biography of Islam's prophet Muhammed.[7] However, the term did not become a part of everyday use until 1990s.[8]

Towards the end of 1980s and at the beginning of 1990s, the term came to be used, in Anglo-Saxon countries, particularly in the United Kingdom, to refer to Muslims living in the West who are victims of rejection and discrimination.[9] The Oxford English Dictionary - adopting a similar view - states that the term was first used in 1991.[10]

Though the sources argue that the term was first used in a report dated 1997 by an English Think Tank named Runnymede Trust, the aforementioned English and French sources verify that the term had been used before 1997. However, this report is significant for it is the first publication in which Islamophobia was used as a term in a technical context.[11]

The Runnymede report played an important role in spreading the term Islamophobia. The report on religious prejudices and the problems of Muslims had significant repercussions in international arena and academic circles. It reveals that an anti-Islam prejudice dominates the studies on Muslims and the problems Muslims face. The report mentions that this prejudice incites discrimination and hatred towards Muslims in work-life and education, and mischaracterizes them in media and daily life.[12]

On the other hand, following the 9/11 attacks the term has come to be widely used to express the actual and intellectual attacks on Muslims.[13]

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[5] Abdellali HAJJAT, Maewan MOHAMMED, Islamophobie, Comment les élites françaises fabriquent le probleme musulman, La découverte, Paris 2013, p.18
[6] Mohammed MOUSSAOUI, Islamophobie ou racisme antimusulman ? http://www.atlasinfo.fr/Islamophobie-ou-racisme-antimusulman_a53527.html access: 21.04.2015
[7] Issa DIAB, Religiophobia, Fear of Religion, Fear of the Religious, in. Islamophia, Islamophobia and Violation of Human Rights, ODVV, Tahran 2013, p.62.
[8] CESARI, ibid, p.63.
[9] Mohammed MOUSSAOUI,. Islamophobie ou racisme antimusulman ?, http://www.atlasinfo.fr/Islamophobie-ou-racisme-antimusulman_a53527.html access: 21.04.2015
[10] ALLEN, ibid, p. 5
[11] Hilal BARIN, Runnymede Trust Raporları Bağlamında İslamofobi, http://setav.org/tr/runnymede-trust-raporlari-baglaminda-islamofobi/yorum/17488, access: 16.04. 2015
[12] Murat AKTAŞ, Avrupa'da Yükselen İslamofobi ve Medeniyetler Çatışması Tezi, Ankara Avrupa Çalışmaları Dergisi Volume:13, No:1 (Year: 2014), p.38
[13] Tuba ER, Kemal ATAMAN, İslamofobi ve Avrupa'da Birlikte Yaşama Tecrübesi Üzerine Uludağ Üniversitesi İlâhiyat Fakültesi Dergisi, Volume: 17, No: 2, 2008, p.755

As per the definitions of the term in international documents, 1991 Runnymede Trust Report defines Islamophobia as "unfounded hostility towards Muslims, and therefore fear or dislike of all or most Muslims" while the 1997 Runneymede Report defines it as "fear and hatred of Islam and Muslims exacerbated by certain views attributing negative and derogatory stereotyped judgements."[14]

An article published in the Journal of Sociology in 2007 defines Islamophobia as the continuation of anti-Muslim racism, anti-Asia and anti-Arab racism.[15] The 1st edition of the 2006 Robert Dictionary defines Islamophobia as "a particular form of racism aimed at Islam and Muslims manifesting in France as malicious acts and an ethnic discrimination against the Maghreb immigrants." The definition in the 2014 edition: "Hostility towards Islam and Muslims." 2014 edition of the Grand Larousse uses a similar definition: "Hostility towards Islam and Muslims."[16] According to the EU Agency of Fundamental Rights, Islamophobia is the general term for the discriminatory treatment to which the individuals of the Islamic world are subject.[17]

Today "Islamophobia" is used as an umbrella term for various types of religious discrimination against Muslims. The term is gradually gaining scientific acceptance as a separate term from stereotype, racism and xenophobia towards Muslims.[18]

1.2. Phenomenon

Although the conceptualization dates back to the beginning of the 20th century, the roots of Islamophobia goes back to the Islamic dominance over the Christian world in the Middle East, Anatolia and Andalusia.

The Christian reaction to the unexpected progress of Islam manifested itself as a deep fear and anger in their perception of Muslims as the "others". Though the term Islamophobia had not been invented yet, that was exactly what is today defined as Islamophobia. Theological thesis and researches show that Islamophobia pervades the nature of the Christian culture similar to anti-Semitism in Christianity.[19]

An anecdote in his work Fihi-Mafih – Discourses- of Rumi (1207-1273) who lived in a time shortly after the 1st Crusades (1096-1097) provoked by the Byzantium due to the Anatolian Seljuk's advancing to Europe and making Nicea the capital should be mentioned in this context. This document is the reflection of the 13th century Byzantium Christian perception of the fear of Islam in today's Western Islamophobia. They said to Rumi: "The people of Rum have urged me to give my daughter in marriage to the Tartars, so that our religion may become one and this new religion of Islam can disappear."[20]

British historian Norman Daniel confirms this thesis in his book "Islam and the West". To him, the initial reactions of Christians to Muslims share some common threads with today's new reactions. The tradition has never disappeared

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[14] İslamofobi: Hepimiz İçin Bir Meydan Okuma (İslamophobia: A challange for Us Al) . ESPOSITO, KALIN, ibid, p. 19
[15] Reuven FIRESTONE, İslamofobi& Antisemitizm: Tarihi Seyir ve İmkanlar, http://www.academia.edu/8745622/%C4%B0slamofobi_and_Antisemitizm_Tarihi_Seyir_Ve_%C4%B0mkanlar, access: 4.5.2015
[16] MOUSSAOUI , http://www.atlasinfo.fr/Islamophobie-ou-racisme-antimusulman_a53527.html
[17] EUMC, Muslims in the European Union: Discrimination and Islamophobia", http://fra.europa.eu/sites/default/files/fra_uploads/156-Manifestations_EN.pdf, access:27.09.2012.
[18] Hilal h, Runnymede Trust Raporları Bağlamında İslamofobi, http://setav.org/tr/runnymede-trust-raporlari-baglaminda-islamofobi/yorum/17488, access: 16.04. 2015
[19] Reuven FIRESTONE, İslamofobi& Antisemitizm: Tarihi Seyir Ve İmkanlar, http://www.academia.edu/8745622/%C4%B0slamofobi_and_Antisemitizm_Tarihi_Seyir_Ve_%C4%B0mkanlar, access: 4.5.2015
[20] Rumi's answer is: When was it that the religion was one? It was always two, three. And there had always been fights and wars among them. How is it possible to make the religions as one? Religion can only be one when the world is ended. However, it is impossible to achieve that here, in this world. Because everybody has a different motive, a different wish; and it hinders unity. But they will be one there. They will turn to the same direction. They will have the same language and ears. Abdülbâki GÖLPINARLI (translation.), Fîhi Mâ-Fîh, İnkılap, İstanbul 2009, p.23; Eva De Vitray-MEYEROVITCH, Le livre du dedans, Babel, Paris 2010, p.53.

and is still valid. Naturally, some variations also appear. The Western Europe has a unique view of Islam that originates around 1100 and 1300 and that has only slightly changed since then.[21]

Xenophobia, discrimination and racism - Europe's ancient and deep-rooted problems - have gained a new dimension with religion axis and Islamophobia after the 9/11 attacks. Today, discourse and actions in this direction are raising in European countries. Europe takes a common stance on Islamophobia and racism against Muslim immigrants and their kind. Such attitudes have increased significantly after 9/11 and governments' reactions to terrorism. Muslims came under attack in many countries and mosques were destroyed or burnt.[22]

Western public opinion was formed based on the Iranian Revolution and the aggressive policies of Saddam Hussein for the rapidly rising Islamophobia before the 9/11 attacks. Thus, French journalists Rachel and Jean-Pierre Cartier describe the climate during the 1991 Gulf War as follows: "The Gulf War was about to reach the military phase. The air was filled with fear and anxiety and moreover some were enjoying a weird enthusiasm for war. Rachel and I were at a loss as we sensed the rise of distrust and grudge against Islam. Such times of tension are ripe for rough simplifications and questionable confusions. Moreover, we heard some reasoning at the homes of some of our friends that made our blood run cold: Actually, you two are naive. In your last two books you included two people that presented Islam as a tolerant and pure Sufi religion. Open your eyes! The real Islam, the one you are avoiding, is the Islam of Ayatollah and Saddam Hussain. It is a religion of grudge. That is the religion of the holy war. It is a threat with which we constantly have to fight to avoid total destruction."[23]

It is true that associating Islam with bad and incorrect actions and implementations of Muslims, organizations or countries - whether they claim to take Islam as reference or not- or the violence in the Muslim world feed the prejudice, fear and anxiety against the Muslim foreigners living in the European countries. Moreover, puts a negative influence on the Europeans that treat Muslims objectively.

On the other hand, predictions of some of the research agencies in favor of Muslims have broad repercussion in the Western press and flame the public fear of Islam and Muslims. For example the April 2015 report of the Pew Research Center[24] has the following evaluation: "If current demographic trends continue, however, Islam will nearly catch up by the middle of the 21st century. Between 2010 and 2050, the world's total population is expected to rise to 9.3 billion, a 35% increase. Over that same period, Muslims – a comparatively youthful population with high fertility rates – are projected to increase by 73%. The number of Christians also is projected to rise, but more slowly, at about the same rate (35%) as the global population overall. In conclusion according to the Pew research projections in 2050 the Muslim population (2.8 billion, 30%) and the Christian population (2.9 billion, 31%) will be almost equal."[25]

Islamophobic actions manifest in various ways. Some are explicit and clear, some are implicit and obscure. They take various shapes and have different degrees of aggression. It may be a verbal or physical attack. In some cases the targets were the mosques, Islamic centers and the properties of Muslim population. Islamophobia manifests itself in the form of suspicion, harassment, ridicule, rejection and open discrimination in workplaces, health institutions, schools and residences, and indirect discrimination, hatred or denial of access to goods and services in other public spaces.[26]

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[21] Vincent GEISSIER, L'islamophobie en France au regard du débat européen İn Rémiy LEVEAU, Khadija Mohsen-FINAN, Musulmans de France et d'Europe, L'islamophobie en France au regard du débat européen, CNRS Editions,, p.59.
[22] Thomas HAMMARBERG (translation. Ayşen Ekmakçi), Avrupa'da İnsan Hakları, İletişim Yayınları, Ankara 2011, p.49
[23] Eva de Vitray- MEYEROVI TCH, Islam, l'autre visage Albin Michel, Paris 1995, p.8
[24] The original name of the non-governmental organization founded in 2001 is Pew Research Center's Forum on Religion & Public Life
[25] Pew Research Center, April 2, 2015, "The Future of World Religions: Population Growth Projections, 2010-2050, p.7
[26] ESPOSITO/KALIN, ibid, p.49

The chapter the "Nature of Islamophobia of the Runnymede Report" explains the basic perspectives of the Islamophobic discourse escalated following the 9/11 attacks and apparent in the views of the so called "experts". According to them;

1. Islam is seen as a monolithic bloc, static and unresponsive to new realities
2. Islam is seen as separate and other - (a) not having any aims or values in common with other cultures (b) not affected by them (c) not influencing them
3. Islam is seen as inferior to the West - barbaric, irrational, primitive, sexist
4. Islam is seen as violent, aggressive, threatening, supportive of terrorism, engaged in a 'clash of civilisations'
5. Islam is seen as a political ideology, used for political or military advantage
6. Criticisms made by Islam of the 'West' are rejected out of hand without consideration
7. Hostility towards Islam is used to justify discriminatory practices towards Muslims and their subsequent exclusion from mainstream society
8. Anti-Muslim hostility accepted as natural and 'normal'[26]

Though extending back a long time, Islamophobia has recently become an important political instrument and discourse. Islamophobia appears particularly in the media and turns into a legal matter in the context of human rights. Islamophobia is considered as a matter of human rights since it also involves intolerance, exclusion and discrimination against Muslims which lead to hate speech and hate crimes.[27]

Today, it seems that the longstanding prejudices and discrimination against Muslims have reached to a level which could become a source of hate crimes. Also, hate speech triggered by Islamophobic behaviors and attitudes causes feelings of labelling and exclusion, especially towards Muslims and constitutes an attack on people's identity, their individual values and prestige.[28] Islamophobia threatens social unity in the countries where Muslims live as immigrants and it also causes violations of human rights, occasionally resulting in homicide.[29]

To put it simply, Islamophobia is a hate speech and any hate speech is incorrect. Also, it is a matter of human rights and it should be discussed as hate speech and it should matter so as the treatment that the anti-Semitism is subject to. Concerning 1.6 billion Muslims, Islamophobia is not just a problem of people who live in the West or in the United States as it is a phenomenon created via Islam with results affecting Muslims everywhere.[30]

Nowadays, as Nathan Lean suggests, there is an "Islamophobia Industry" which is gradually getting stronger in the world by using all forms of media and any opportunities to generate fear and concern through Islam and Muslims.[31] While this Industry is lining some people's pockets or returning as votes in favor of certain political parties, it disrupts the peace of societies and humanity.

Today, it seems that Islamophobia has become a chronic disease that is fostered by mass media, religious groups and other interest groups which directly or indirectly exploit the fear propaganda.[32] According to Buehler: "Islamophobia

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[27] Chris ALLEN, The 'first' decade of Islamophobia: 10 years of the Runnymede Trust report "Islamophobia: a challenge for us all "http://www.islamiccouncilwa.com.au/wp content/uploads/2014/05/Decade_of_Islamophobia.pdf, access : 21.05.2015

[28] http://islamophobia.info/files/downloads/konferans-el-kitabi.pdf, access: 28.4.2015

[29] Mehmet YÜKSEL, İslamofobinin Tarihsel Temellerine Bir Bakış: Oryantalizm ya da Batı ve Öteki, İslamofobi, Kolektif Bir Korkunun Anatomisi, Sempozyum Tebliğleri, Ankara 2012 , p.229

[30] Hüseyin YILMAZ, İslam Karşıtlığında (İslamofobi) cihad Algısının Rolü, İslamofobi, Kolektif Bir Korkunun Anatomisi, Sempozyum Tebliğleri, Ankara 2012 p.237, (217-231)

[31] BARIN, ibid, http://setav.org/tr/runnymede-trust-raporlari-baglaminda-islamofobi/yorum/17488, access: 16.04. 2015

is a disease which denies one fifth of the world population. This disease refers to a phobia which is defined as the irrational fear of an unreal thing or person."[33]

2. RELIGIONS, ISLAM AND TERRORISM

In reality religions offer peace, justice, brotherhood, love and mutual help; but in the past and nowadays it is a fact that certain people arise among almost all religions who resort to unjustified violence by exploiting religion. Today, acts of violence and attacks by Israel against Palestinian people occur in front of international communities as living proof of state terrorism. Reports of international organizations for human rights indicate that Buddhist communities in Burma perpetrate acts of violence against Muslims in Arakan and the Christian Anti-Balaka organization in the Central African Republic carries out acts of violence against Muslims, which may even be considered as genocide extending beyond terrorism.

And yet, it seems that especially in the Western media, the only religion associated with violence and terrorism is Islam. The politically-driven acts of violence perpetrated by a Muslim individual or groups are ruled out or deliberately being concealed.[34]

The way that media associates Islam with images and clichés, stereotype concepts which result in connotations of terrorism, violence, and brutality paves the way for the danger of Islam turning into an exaggerated fear in the eyes of average citizens who don't know much about Islam, and even about their own social issues.[34]

Not only the media but also many institutions and actors, particularly the political actors, play a role in the creation of such incorrect perceptions. Especially certain political actors make references to and emphasize radical Islam and Islamic terror through an approach that fosters the negative perception of Islam to legitimatize their policies, strategies and actions in the Middle East. As media and politics are correlated, one always feeds and supports the other. Therefore, an anti-Islam spiral develops and this spiral also negatively affects other institutions.[36]

Obviously, in the terrorist activities between Ireland and England – a venue for Catholic and Protestant conflicts - a religious characterization has never been made despite violence stemming from the religious beliefs of the militants and there has never been a characterization as Christian, Catholic or Protestant terrorists. Thus, just as we do not characterize people with their religious beliefs when we are talking about terrorists who are Christian and Jewish or those of other religions, the same respect and consistency should be shown for Islam, too.[37]

The famous boxer Muhammed Ali visited the ruins of the World Trade Center on 11 September 11, 2001 and when reporters asked him how he felt about the suspects sharing his Islamic faith, Ali responded "How do you feel about Hitler sharing yours?"[38]

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[32] Nathan LEAN (Translated by: İbrahim YILMAZ), İslamofobi Endüstrisi, DİB Yayınları, Ankara 2015
[33] Arthur F. BUEHLER (Translated by: Mehmet ATALAY), İslamofobi: Batı'nın "Karanlık Tarafı"nın Bir Yansıması, Ankara Üniversitesi İlahiyat Fakültesi Dergisi 55:1 (2014), p.123.
[34] BUEHLER, ibid, p.132
[35] YILMAZ, ibid, p.247
[36] Orhan GÖKÇE, Avrupa Medyasının ve Kamuoyunun İslam Algısı, İslamofobi, Kolektif Bir Korkunun Anatomisi, Sempozyum Tebliğleri, Ankara 2012,p.102
[37] Vahap GÖKSU, Rukiye SAYGILI, Amerikan Medyasının İslam Algısı, İslamofobi, Kolektif Bir Korkunun Anatomisi, Sempozyum Tebliğleri, Ankara 2012, p.277

Also, the statistics regarding the roles of those with Muslim origins in the US and European countries in events characterized as terrorism reveal that such characterizations are totally wrong. Only 6% of terrorist attacks committed from 1980 to 2005 in the US are linked to Muslims (and the percentage of Muslims in the US population is 6%). And only 4% of current EUROPOL-based terrorist reports (2006-2008) are linked to Muslims.[39]

There are no references that Islam, which means "peace", would legitimatize actions that are characterized as terrorism in terms of principles and values. Moreover, much more severe punishments are set forth against those actions in Islamic resources and past practices.

When the principles and rules of Islam regarding international relations, war and peace, living together with people of different religions, methods of informing and calling to Islam, extremism and violence are examined, it is clearly understood that any attacks by any individuals, organizations and states on civilians, and any actions that would jeopardize the security of life and property of innocent people and cause them to feel fear and terror either during war or at others times can be legitimatized under no circumstance.[40]

Taking into account the principles of Islam, it is crystal clear that terrorism, violence, depression and anarchy, regardless of what it is called, have nothing to do with Islam. Apart from the fact that Islam has nothing to do with such destructive actions, it also excluded any sorts of anarchy, unrest, plot, defeatism, oppression, torture and maltreatment, in brief terrorism, from the agenda of Muslims. The purpose of religion is not to distort and degenerate the society, but to the contrary, it is to glorify and promote individuals and society in line with their disposition materially and morally.[41]

3. AN OUTLOOK ON RELIGION AND TERRORISM IN INTERNATIONAL AND NATIONAL COUNTER-TERRORISM STRATEGIES

3.1. In general terms

International organizations have prepared counter-terrorism strategies taking into account human rights at universal, regional and supra-national levels. Among those strategies, the United Nations Global Counter-Terrorism Strategy, Guidelines on Human Rights and the Fight against Terrorism adopted by the Committee of Ministers of the Council of Europe and EU Counter-Terrorism Strategy are the most prominent ones. Also, many countries have published their own national counter-terrorism strategies based on their threat assessments and shared them with public. The threats of organizations such as Al Qaeda played a key role in those strategies prepared after 9/11 and examining how discussions on Islam-terrorism relationship in Western public opinion reflected in those strategies becomes useful in the context of Islamophobia. In this regard, it would be explanatory in the context of Islamophobia-terrorism relationship if the type of threat addressed in the key international and national strategies and the expressions and contexts about religion or Islam are analyzed.

3.2. United Nations Global Counter-Terrorism Strategy

The Global Counter-Terrorism Strategy was adopted by the General Assembly on 8 September 2006, with the decision No. 60/288.[42] The United Nations Global Counter-Terrorism Strategy was adopted by Member States on 8

[38] Zakir AVŞAR, İslami Terörizm Nitelemesine İtiraz, İslamofobi, Kolektif Bir Korkunun Anatomisi, Sempozyum Tebliğleri, Ankara 2012, p.158
[39] Nevzat TARHAN, Şiddetin Psikososyopolitik Boyutu, Şiddet Karşısında İslam, DİB Yayınları, Ankara 2014, p.109
[40] BUEHLER, ibid, p. 133, footnote, 24
[41] Ahmet ÖZEL, İslam ve Terör, Fıkhî bir yaklaşım, Küre yayınları, İstanbul 2007, p. 111.
[42] AVŞAR,a.g.m, p. 155

September 2006. The strategy, in the form of a resolution and an annexed Plan of Action (A/RES/60/288), is a unique global instrument that will enhance national, regional and international efforts to counter terrorism.

In the decision of the General Assembly, terrorism is described as one of the most serious threats to international peace and security: Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aiming the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism.

It is clearly stressed in the Strategy that: "Reaffirming also that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group. It is also striking that to prevent the spread of terrorism - among others - respect for all religious values, beliefs and cultures is ensured:

Bearing in mind the need to address the conditions conducive to the spread of terrorism. Affirming Member States' determination to 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 rule of law, improve intercultural understanding and ensure respect for all religions, religious values, beliefs or cultures.

In the first paragraph of the Part I titled "Measures to address the conditions conducive to the spread of terrorism" of the Action Plan annexed to the Strategy; it is emphasized that "none of these conditions can excuse or justify acts of terrorism" and "the conditions conducive to the spread of terrorism are specified as lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion" (paragraphe.1). With these expressions, it is argued that Islamophobic approach and practices will contribute to the spread of terrorism.

We resolve to undertake the following measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization, and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism.

At the end of the first paragraph, determination is emphasized to undertake a number of measures aimed at addressing the conditions conducive to the spread of terrorism. The first two of these seven measures include issues which also matter in fight against Islamophobia:

"To continue to arrange under the auspices of the United Nations initiatives and programs to promote dialogue, tolerance and understanding among civilizations, cultures, peoples and religions, and to promote mutual respect for and prevent the defamation of religions, religious values, beliefs and cultures. In this regard, we welcome the launching by the Secretary-General of the initiative on the Alliance of Civilizations. We also welcome similar initiatives that have been taken in other parts of the world. (paragraphe. 2)."

To promote a culture of peace, justice and human development, ethnic, national and religious tolerance, and respect for all religions, religious values, beliefs or cultures by establishing and encouraging, as appropriate, education and public awareness programs involving all sectors of society. In this regard, we encourage the United Nations Educational, Scientific and Cultural Organization to play a key role, including through inter-faith and intra-faith dialogue and dialogue among civilizations. (paragraphe.3)

To implement the Strategy, certain working groups were established under the "Counter-Terrorism Task Force and one of them is the Working Group on Radicalization and Extremism."[43] It is a positive approach to use neutral concepts such as "radicalization and extremism that lead to terrorism", "extremism that leads to violence" that are not associated with any religion and belief in the UN activities and documents and this approach should be followed by national strategies.

3.3. Guidelines on the Fight against Terrorism adopted by the Committee of Ministers of the Council of Europe

"Guidelines on human rights and the fight against terrorism" adopted by the Committee of Ministers on July 11, 2002 at the 804th meeting is an important international document as it brings a different approach to fight against terrorism and addresses this fight in line with absolute respect for human rights.

In the aforementioned document, seventeen guidelines have been adopted considering the UN conventions on human rights, particularly the European Convention on Human Rights and the case-law of European Court of Human Rights and the Member States are invited to ensure that they are widely disseminated among all authorities responsible for the fight against terrorism.

In the Preamble of the Guidelines, an approach which is not associating terrorism with any religion or belief is adopted; unequivocally condemning all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed.

In the subparagraph h) of the Preamble, the necessity to promote a multicultural and inter-religious dialogue in fight against terrorism is emphasized: *Keeping in mind that the fight against terrorism implies long-term measures with a view to preventing the causes of terrorism, by promoting, in particular, cohesion in our societies and a multicultural and inter-religious dialogue.*

As expressed in the Guidelines, "In order to fight against the causes of terrorism, it is also essential to promote multi-cultural and inter-religious dialogue. The Parliamentary Assembly has devoted a number of important documents to this issue, among which its Recommendations 1162 (1991) Contribution of the Islamic civilization to European culture, 1202 (1993) Religious tolerance in a democratic society, 1396 (1999) Religion and democracy, 11 1426 (1999) European democracies facing terrorism, as well as its Resolution 1258 (2001), Democracies facing terrorism. The Secretary General of the Council of Europe has also highlighted the importance of multicultural and inter-religious dialogue in the long-term fight against terrorism"

3.4. EU Counter-Terrorism Strategy

"The EU Counter-Terrorism Strategy" was adopted by the EU Council on 30 November 2005 considering the proposals of the Presidency of the Council of the EU and the Counter-Terrorism Coordinator.[44]

In the introduction of the Strategy, it is expressed that terrorism is a threat to all States and to all people. In the Strategy, dialogue and alliance between cultures, faiths and civilizations are considered as essential elements in order to address radicalization resulting in terrorism: *Finally, working to resolve conflicts and promote good governance*

[43] http://www.un.org/en/terrorism/pdfs/radicalization.pdf, Access: 25.05.2015

[44] For the English version of the Strategy see http://register.consilium.europa.eu/doc/srv?l=EN&f=ST+14469+2005+REV+4 , For Turkish version see: KDGM, Ulusal ve Uluslararası Terörle Mücadele Strateji Belgeleri, Ankara 2013 (p. 353-365)

and democracy will be essential elements of the Strategy, as part of the dialogue and alliance between cultures, faiths and civilizations, in order to address the motivational and structural factors underpinning radicalization.

In the first paragraph of the Prevent part, the focus is on countering radicalization and recruitment to terrorist groups and it is expressed that the main threats are Al Qaeda and the groups it inspires: *This strategy focuses on countering radicalization and recruitment to terrorist groups such as Al Qaeda and the groups it inspires, given that this type of terrorism currently represents the main threat to the Union as a whole.*

According to the Strategy; *There can be no excuse or impunity for terrorist acts. The vast majority of Europeans, irrespective of belief, do not accept extremist ideologies. Even amongst the small number that do, only a few turn to terrorism. The decision to become involved in terrorism varies from one individual to another, even though the motives behind such a decision are often similar. We must identify and counter the methods, propaganda and conditions through which people are drawn into terrorism.*

The Strategy rejects the clash of civilizations: *The propagation of a particular extremist worldview brings individuals to consider and justify violence. In the context of the most recent wave of terrorism, for example, the core of the issue is propaganda which distorts conflicts around the world as a supposed proof of a clash between the West and Islam. To address these issues, we need to ensure that voices of mainstream opinion prevail over those of extremism by engaging with civil society and faith groups that reject the ideas put forward by terrorists and extremists that incite violence. And we need to get our own message across more effectively, to change the perception of national and European policies. We must also ensure that our own policies do not exacerbate division. Developing a non-emotive lexicon for discussing the issues will support this.*

As "developing a non-emotive lexicon" for discussing the issues requires an unprejudiced approach towards the phenomenon of terrorism, the only way to achieve this is to put an end to the concepts and characterizations associating Islam and Muslims with terrorism.

The Strategy regards inter-cultural dialogue as an instrument to promote long-term integration within the context of activities outside the Union: *Within the Union these factors are not generally present but in individual segments of the population they may be. To counter this, outside the Union we must promote even more vigorously good governance, human rights, democracy as well as education and economic prosperity, and engage in conflict resolution. We must also target inequalities and discrimination where they exist and promote inter-cultural dialogue and long-term integration where appropriate.*

The Strategy sets out seven key priorities for "Prevent" and among these priorities there are two which can be associated with Islamophobia:
-Develop inter-cultural dialogue within and outside the Union;
-Develop a non-emotive lexicon for discussing the issues.

3.5. National Strategies

3.5.1. US National Strategy for Counter-Terrorism

Published in 2011[45], the Strategy focuses on the fight against al-Qa'ida and its affiliates. According to the Strategy; *The preeminent security threat to the United States continues to be from al-Qa'ida and its affiliates and adherents.*

[45] See: https://www.whitehouse.gov/sites/default/files/counterterrorism_strategy.pdf, Access: 15.05.2015

Including a preface by President Obama, the Strategy also includes expressions criticizing the panic strategies pursued after September 11, 2001 and supports the strongly criticized idea of "war against terrorism" instead of "fight against terrorism": *" The United States deliberately uses the word "war" to describe our relentless campaign against al-Qa'ida. However, this Administration has made it clear that we are not at war with the tactic of terrorism or the religion of Islam. We are at war with a specific organization—al-Qa'ida.*

A decade after the September 11, 2001 terrorist attacks, the United States remains at war with al-Qa'ida. Although the United States did not seek this conflict, we remain committed, in conjunction with our partners worldwide, to disrupt, dismantle, and eventually defeat al-Qa'ida and its affiliates and adherents to ensure the security of our citizens and interests.

The Strategy was published right after the event of the Arab Spring and regime changes. The Strategy approves these changes and expresses that support of the US for this change will contribute to fight against terrorism: *Laden's persistent calls for violent regime change in the Arab World and perpetual violence against the United States and our allies as the method to empower Muslim populations stands in stark contrast to the nonviolent movements for change in the Middle East and North Africa. In just a few short months, those movements achieved far more political change than al-Qa'ida's years of violence, which has claimed thousands upon thousands of victims—most of them Muslim. Our support for the aspirations of people throughout the Middle East, North Africa, and around the world to live in peace and prosperity under representative governments stands in marked contrast to al-Qa'ida's dark and bankrupt worldview. Our approach to political change in the Middle East and North Africa illustrates that promoting representative and accountable governance is a core tenet of U.S. foreign policy and directly contributes to our CT goals.*

However, it should be noted that the positive references to the Arab Spring in the context of fight against terrorism in the strategy are not applied in practice, actually some policies implemented are contrary to those expressions.

The Strategy also includes certain actions in order to disrupt al-Qa'ida's ideology and to prevent it from having supporters among Muslims under the chapter "Information and Ideas": *We will continue to make it clear that the United States is not—and never will be—at war with Islam. We will focus on disrupting al-Qa'ida's ability to project its message across a range of media, challenge the legitimacy and accuracy of the assertions and behavior it advances, and promote a greater understanding of U.S. policies and actions and an alternative to al-Qa'ida's vision. We also will seek to amplify positive and influential messages that undermine the legitimacy of al-Qa'ida and its actions and contest its worldview. In some cases we may convey our ideas and messages through person-to-person engagement, other times through the power of social media, and in every case through the message of our deeds .*

3.5.2. The United Kingdom Strategy for Countering Terrorism

The Strategy is dated 12 July 2011 and known as CONTEST in short.[46] In the foreword by Theresa May, the Home Secretary of that time, the threats the UK faces are listed as al-Qa'ida, its affiliates, associated groups and terrorists acting on their own – so called lone-wolves, and also threats from Northern Ireland related terrorism. This document focuses on the aforementioned three threats, particularly threats from al-Qa'ida, separately.

[46] See. CONTEST, The United Kingdom's Strategy for Countering Terrorism, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97995/strategy-contest.pdf access: 10.05.2015

However, according to the Strategy document; *We will prioritize according to the risks we face and at present the greatest risk to our security comes from terrorism associated with Al Qa'ida and like-minded groups.*

Thus, the core of this document has been shaped within this framework. According to the document, *In common with the CONTEST strategy as a whole Prevent will address all forms of terrorism, but continue to prioritise resources according to the risks to our national security. At this stage its principal (but not its only) focus will therefore remain terrorism associated with Al Qa'ida and related groups*

The Strategy also points to Islamophobia in the context of radicalization: *"The grievances upon which propagandists can draw may be real or perceived, although clearly none of them justify terrorism. They include a perception of foreign policy, in particular towards the Muslim majority world; a sense and experience of Islamophobia; and counterterrorism powers, which have sometimes been regarded as discriminatory or disproportionate."*

Radicalization is being driven by ideology, by a number of people who set out to disseminate these ideologies and by vulnerabilities in people which make them susceptible to a message of violence. Radicalisers exploit grievances; which (where Al Qa'ida inspired terrorism is concerned) include a perception of our foreign policy, the experience of Islamophobia and a broader view that the west is at war with Islam itself.

The Strategy expresses that actions in line with Islamophobia towards Muslims are effective in radicalization processes of counter-terrorism policies, which are disproportionate, however, proposals to prevent this result are not presented.

3.5.3 National Counter-Terrorism Strategy of the Netherlands

The strategy document[47] published in 2011 became distinct with its jihadist emphasis compared to other national strategies. According to the Strategy; The number of terrorist attacks has increased, both nationally and globally, since the beginning of this millennium. These attacks have primarily come from jihadist quarters.

According to the Strategy; these days the target group is primarily jihadists. They constitute the most acute and probable future terrorist threat against the Netherlands and Dutch interests abroad. The joint efforts in the field of counterterrorism will therefore concentrate on this group.

As the jihadist concept as used in the Strategy does not refer to any existing organizations compared to the US and UK strategies, it remains more abstract and therefore it is difficult to understand the aim concretely. Also, the use of the word "jihad", which is a multidimensional concept in Islam and Islamic law and which also means one's effort to realize oneself, in association with terrorism is an approach which offends Muslims and serves for Islamophobic view in the Western public opinion.[48]

The Strategy document makes a brief and practical definition of terrorism to be used by all parties involved in countering terrorism in the Netherlands; *Terrorism is the threat or preparation of, or the committing of, serious violence based on ideological motives against people, or deeds aimed at causing socially-disruptive material damage with the goal being to cause social change, to instil fear among the population or to influence political decision-making.*

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[47] See: https://www.counterextremism.org/resources/details/id/584/national-counter-terrorism-strategy-2011-2015, Access: 10.05.2015

[48] For a detailed study on this subject see: Hüseyin YILMAZ, İslam Karşıtlığında (İslamofobi) Cihad Algısının Rolü, İslamofobi, Kolektif Bir Korkunun Anatomisi, Sempozyum Tebliğleri, Ankara 2012, p.217-231

Those who prepared the Strategy document also felt the necessity to emphasize the following: *"What this strategy is explicitly not intended to lead to, is a renewed 'war against terrorism', an initiative to combat specific religious minority groups or a Dutch contribution to the so-called 'clash of civilisations'. The point of departure of this strategy is that terrorist crimes must be prevented and resisted, irrespective of the ideological basis on which they are committed.*

However, instead of emphasizing what it is not and what it doesn't aim to serve for, the Strategy could have been a more objective and balanced text if it had highlighted counter-Islamophobic tools such as alliances of civilizations intercultural dialogue in order to stop activities that disturb Muslims.

3.54. Sweden National Counter-Terrorism Strategy

The Strategy dated 2012[49] sets out three main counter-terrorism methods: preventing, stopping and preparing. It covers all forms of terrorism and violent extremism, irrespective of the background or the motives of the terrorist threat.

The Strategy identifies the terrorist threat to Sweden as: *From an international perspective, most terrorist attacks occur in areas affected by conflict outside Europe. In Europe, local nationalist and separatist groups account for most of the attacks. Violent extremism in Sweden is often divided into three different types of environments: white power, left-wing autonomous movements and violent Islamic extremism. At present none of these three environments is a serious threat to the democratic system in Sweden. However, persons operating in these environments do subject individuals to threats or serious crimes.*

Most terrorist attacks still occur outside Europe in areas affected by conflict. Every year many civilians are hit by attacks in widely spread areas of the world such as regions of the Middle East, Africa, Asia and South America. The past decade have resulted in an increase in the intent and will among additional violent Islamists to support or commit terrorist acts. In Norway, in summer 2011 two large scale attacks that primarily had anti-Islamic overtones were carried out. The perpetrator in Norway appears to have planned and carried out the attacks on his own.

This Strategy is different than the other strategies as it uses concepts such as "violent Islamic extremism", "Islamists" with "Islam". Including those concepts used in media and political terminology also in the counter-terrorism strategy can only serve for those who make Islamophobic strategies as a part of their political strategies.

Also, the Strategy expresses that the ongoing works against Islamophobia can help to counter violent extremism: *"Government policies in other areas can help to counter violent extremism. In 2008 the Government initiated a dialogue on the fundamental values of society. The overall intention was to stimulate a dialogue on the principles of human rights and democracy, and a presentation was made in the Government Communication A dialogue on the fundamental values of society. An inquiry has been appointed to propose how work against xenophobia and similar forms of intolerance can be made more effective. One input to this inquiry is a survey of the state of knowledge and research concerning anti-Semitism and islamophobia conducted by the Living History Forum as a government assignment."*

[49] See: http://www.government.se/contentassets/68b06b9ece124c8e88df0d943ce4ecd7/swedens-national-counter-terrorism-strategy-skr.-20111273, access: 11.05.2015.

The Strategy also considers dialogue between cultures and societies as an important part of preventive work and refers to "Alliance of Civilizations": The activities being carried out for dialogue between cultures and societies can be another important part of preventive work. One example is the UN Alliance of Civilizations (UNAoC), an intergovernmental network that currently has more than 100 member countries and is engaged in open dialogue on intercultural issues.

4. COUNTER-TERRORISM LANGUAGE AND APPROACHES FEEDING ISLAMOPHOBIA

It would not be incorrect to say that the most important sources that feeds Islamophobia today as it were in the past is are the circles that expressed their opposition to Islam and political agenda through certain concepts such as Islamic extremism and Islamic fundamentalism, Islamic terrorism and radical Islam.

The Ottoman intellectual and politician Ahmed Rıza wrote in his article published in La Revue Occidental in 1896 in Paris and pointed out the following for that period: All national rebellions during the Ottoman Empire period, ranging from the first Greek rebellion to the Armenian riots, the massacres that are a shame of humanity and a violation of the rules of Islamic law are affiliated with the weakness of the government and the plots skillfully performed by certain foreign agencies. Superficial minds link those tragic acts with Islamic fanaticism *(fanatisme islamique). Religious hatred and political desires lie behind this formula that provokes the European public opinion in favor of Christian minorities but in reality against Muslims purely to disintegrate the Ottoman Empire."*[50]

Those words of Ahmet Rıza reveal that the main sources that feed Islamophobia today in the US and Europe and the reasons behind Islamophobic campaigns are the same as they were 120 years ago.

However, in reality, when acts against human dignity are committed by any individual or group in any place of the world, the phenomena that must be objected to should be extremism, bigotry, fanaticism and terrorism, etc. Extremism and fanaticism are dangerous in any religion. Acts of terrorism committed by any person of any religion or nation should be condemned. However, terrorism should not be associated to any religion, political view and ethnic group. In fact, those who resort to such actions reveal themselves to be a fanatic of a certain religion or a view and have a hidden political agenda.

As concepts related to Islam or Muslims are always uttered together with negative concepts or with incidents such as terror, bombing, violence etc. in the media, after a while people experience a classical conditioning. Thus, a conditioned individual thinks about incidents such as blood, violence and bombing imprinted in their mind when they hear about concepts of Islam and Muslim and this situation results in fear of and anger against Islam and the Muslims.[51]

According to the findings of a study by the Pew Research Center titled "Religion in Media: 2010", Islam and Muslims had the majority coverage in the news about religion in the American media during 2010. There are two important details according to the findings of the research: rapid increase in the coverage about Muslims in the American media, particularly after 9/11 attacks and more violent content in the news about Muslims compared to other faiths.[52]

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[50] İsmayl URBAIN, Ahmed RIZA, Tolérance de l'Islam, Centre ABAAD, Paris 1992, p.93.
[51] KARSLI, ibid,p. 86
[52] Melih ÖZSÖZ, 13 Dakika 51 Saniye'de İslamofobi, İKV Değerlendirme Notu, 58, Ekim 2012, p.6.

Printed and visual publications which reflect Islam as a violent and warlike religion that does not allow other religions to exist causing non-Muslims who do not have sufficient and true information about Islam to be negatively affected by those publications result in Islamophobia.[53]

However, associating Islam - which prohibits any forms of violence and aggression and defends mercy and tolerance - with terrorism, violence and blood and treating all Muslims as if they are potential terrorists just because the attackers of 9/11 were Muslim is an unfair, ill-minded, discriminating, exclusivist and biased attitude. It is expressed that the Christian Western world that identifies Islam with violence and terrorism should first face their past of violence, colonialism, the crusades and the inquisitions.[54]

The American academician Arthur F. Buehler has a very interesting view on this matter: "Islamophobia is a psychological manifestation of the West's long history of denying its own violence projected upon Islam and Muslims.[55] "It is an ungrounded fear of something/someone that does not exist in reality and which involves a psychological projection to create 'the other' as enemy. This phenomenon is a psychological defense mechanism involving the projection of what he refers to as 'the West's dark side' onto Islam and its followers".[56]

In fact, when the extent of violence happened in the past of particularly the Western researchers and politicians who practically identifies Islam with violence is compared to the violent events and devastations happened in the Islam history so far, it will be seen that the rate of Islam-violence relationship remains very low.[57]

It is obvious that questioning the consistency and motives of the organizations that resort to terrorist methods for whatever the reason might be – for example in the name of Islam, people and freedom - will help to identify and solve the problem and it is not right to characterize Islam with offending concepts. As to the number of its followers, Islam is the second largest religion in the world. It should not be forgotten that the number of Muslims who do not approve those who act in the name of Islam are in the millions.

Instead of categorizing the political, economic and military motives behind these actions, the mass media depicts all these events involving Muslims in some way as if events were conducted for religious motives. However, for example, violence in the name of religion in Israel, India, the US or Sri Lanka is rarely associated with the other members of that religion. Almost nothing is written about Hindu, Buddhist, Jewish and Christian terrorists around the world.[58]

It is the cultural heritage that the West grows up in Islamophobia. Unfortunately, associating Muslims with violence is not a phenomenon witnessed only in the West. It is spreading via the mass media like a virus.[59]

Another reason behind Islamophobia is the fact that well-known and well-trusted politicians, writers and religious figures use expressions associating Islam with terrorism.[60] And this results in spreading the perception that Muslims are potential terrorists.

European Union Agency for Fundamental Rights expresses that (…)As a result of the fight against terrorism engaged since the events of 11 September 2001, certain groups of persons, notably Arabs, Jews, Muslims, certain asylum seekers, refugees and immigrants, certain visible minorities and persons perceived as belonging to such groups, have become particularly vulnerable to racism and/or to racial discrimination across many fields of public life including

[53] KARSLI, ibid, p.86
[54] KARSLI, ibid,p. 97
[55] BUEHLER, ibid, p.138
[56] BUEHLER, ibid, p. S.23
[57] Adem ARAR, Tarihsel Tecrübe Olarak Merhamet ve Şiddet Açısından İslam, Şiddet Karşısında İslam, p. 380
[58] BUEHLER ibid, p.131.
[59] BUEHLER, ibid, p. 138
[60] KARSLI, ibid, p.87

education, employment, housing, access to goods and services, access to public places and freedom of movement".[61] The Agency suggests the relationship between fight against terrorism and Islamophobia.

CONCLUSION

Islamophobia is a new notion used to define an old fear. Today, Islamophobia poses a threat to inter-civilization dialogue, cooperation and harmony, multiculturalism and the culture of living together. It also appears as an issue related to law and in particular the law on human rights due to discriminatory actions and violence.

In this context, it is crucial for officials and the media to use an appropriate language both in the national and international arena to prevent the spread of Islamophobia which has the risk of posing a threat similar to terrorism - as a threat to civil peace and internal security, and international and regional peace and stability. Popularizing a discourse that may flame anti-Islamic sentiments in the media and public, and that may lead to racism and xenophobia is a serious problem in the context of the fight against terrorism.

It is obvious that we need efficient and integrated strategies both at international and national levels. Current international strategies discuss terrorism as a general problem and address Islamophobia indirectly through mentioning the dialogue of civilizations. Furthermore, they do not contain expressions encouraging inter-civilization and intercultural dialogue supporting the fight against Islamophobia. On the other hand, national strategies - that should be based on international strategies - solely or predominantly consider Muslim-related organizations as threats in the context of terrorist organizations and they may use notions that associate Islam with terrorism. Such strategies fail to support the fight against Islamophobia due to certain expressions associating Islam and terrorism. The national strategies of the United Kingdom and Sweden use the term Islamophobia in their national strategy documents. However, the concept is used to describe a phenomenon leading to radicalism, and comes up in a limited manner. Notions such as the Alliance of Civilizations, dialogue among cultures and beliefs - tools used in the fight against Islamophobia - cannot find coverage apart from the Swedish strategy.

The relationship between Islamophobia and terror has two basic dimensions. The first is pushing Muslims to extremisms such as violence due to discrimination and alienation. This dimension finds a place for itself in the national and international strategies to fight against terrorism and deals with preventive aspects. The second dimension concerns the terrorist actions by people under the influence of Islamophobic propaganda against Muslims or sometimes those accused of being tolerant towards Muslims. The desired level of progress in solving both the terror problem and Islamophobia cannot be achieved unless the second dimension is emphasized as well in counter-terrorism policies. Therefore, countries facing the terrorist threat are obliged to adopt an objective approach towards the issue of terrorism, and develop and implement integrated policies accordingly. In this regard, terrorism should be not be associated with any religion, ethnic group and ideology, and the values and delicate matters of faith groups. This is the only way to deplete these sources of abuse for the terrorists and to gain ground in the fight against terrorism. This will disrupt the environment leading to Islamophobic actions, and stop the expansion of Islamophobia. However the sincerity, determination and will of the Western countries are key.

While the Western countries endeavor to include the Muslim countries in the international cooperation to fight against terrorism, the same level of determination and will should be demonstrated in the fight against Islamophobia. Success in these two issues will undoubtedly prevent prejudices of the past from affecting today. This will pave the way to national, regional and international stability, peace, security and rule of law.

[61] Muslims in the European Union: Discrimination and Islamophobia", Official website of EU Agency for Fundamental Rights: http://fra.europa.eu/sites/default/files/fra_uploads/156-Manifestations_EN.pdf, Access date: 27.09.2012

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OIC-IPHRC

OUTCOME DOCUMENTS

& DECLARATIONS

OIC - IPHRC TEHRAN DECLARATION ON NEGATIVE IMPACT OF ECONOMIC AND FINANCIAL SANCTIONS ON THE FULL ENJOYMENT OF HUMAN RIGHTS BY PEOPLES OF THE AFFECTED COUNTRIES

The International Seminar on the "negative impact of economic and financial sanctions on the full enjoyment of human rights by peoples of affected countries", organized by the IPHRC in collaboration with the Government of Islamic Republic of Iran, took place in Tehran on 15-16 December, 2014.

Her Excellency Ilham Aminzadeh, Vice President of Islamic Republic of Iran, inaugurated the Seminar. Besides IPHRC Commissioners, the Seminar was attended by OIC Member and Observer States and international human rights experts who delved in detail on the utility, implications and legality of sanctions under international human rights and humanitarian law.

Based on the enriching discussions and views expressed by the participants of the Seminar, IPHRC concluded following points as the outcome of this Seminar:

• The Human Rights system is an indivisible whole. These are interrelated, interdependent and interconnected. The universality and indivisibility of Human Rights means that the realization of each category of rights is entirely dependent on the realization of the other. All rights, entitlements and privileges set forth in the Charter and in human rights international instruments for individuals, groups and States as well as international organizations are interlinked and come with obligations.

• The obligation to "respect", "protect" and "fulfill" is an indivisible concept and has a dual applicability in a global context. The corollary of this argumentation is the notion of "shared responsibility" and "mutual accountability" which are inferred from the provisions enshrined in the International Covenant on Economic, Social and Cultural rights and General Comments No. 2, 3 and 8 of the Committee on Economic, Social and Cultural Rights.

• The international community including regional organizations must consider the right to development and the development processes at the national and international level as well as the obstacles lying ahead such as "sanctions" within a multidimensional agenda.

• Article 1(2) of both International Covenants1 is of critical importance in 1 rejecting sanctions under all circumstances, unilateral or multilateral, with the effect of negative impact on human rights of peoples and individuals and on the people's ability to freely dispose of their natural wealth and resources.

• Although the Article 41 of the Charter of the UN provides for certain "measures" to give effect to its decisions, it is not, however, an unrestricted prescription to violate other parts of international law including human rights law.

• The sanctions imposed under Article 41 of the Charter will not remain legal if these lead to the infringement of human rights and fundamental freedoms in the targeted states, within a protracted period of time. Additionally, any economic, financial and commercial measure or sanction, which contravenes the obligations of the Member States in Article 55 and 56 of the UN Charter referring to Human Rights, which have the effect of the violation of "erga omnes obligations" and "peremptory norms" are considered unlawful and must be rejected.

• Unilateral Coercive Measures against States are flagrant violation of Human Rights owing to their wide-ranging negative impact on living standards of vast populations and infringement of their fundamental human rights. Such

[1] International Covenant on Civil and Political Rights and International Covenant on Economic Social and Cultural Rights.

measures are also considered illegal based on the provisions of International Covenants on Human Rights as well as the General Comments issued by the relevant treaty bodies.

• A common denominator in all relevant cases in the International Court of Justice is its emphasis on the obligation of all States and other subjects of international law to observe "human rights", "erga omnes obligations", "peremptory norms", "jus cogens" or "general principles of humanity". This obligation is applicable in all circumstances, including when there are sanctions resulting in violation of human rights imposed by a particular state or states or an international or regional organization, irrespective of states being a party to a particular Human Rights international instrument or not.

• Comprehensive sanctions and interruption of economic, trade, financial and international relations for a protracted period of time, particularly when not assessed and monitored, will cause shrinking national income, which in turn will reduce the ability of Member States to respect, protect and fulfill human rights of peoples and individuals including right to life, right to health, right to food, right to education and above all right to development.

• The international community needs to concretize its commitment to defend and realize human rights for all peoples equally and with the same vigor when it comes to sanctions imposed on targeted member states. The Seminar called upon the international community to embark on developing effective systems of assessment and evaluation of sanctions from the perspective of human rights.

• In this context the Seminar expressed support for the creation of the post of Special Rapporteur on the subject by the UN Human Rights Council, which is expected to enhance accountability within the UN on the part of Member States and international organizations in the matters relating to implementation sanctions. The Seminar also expressed appreciation for the ongoing serious efforts of the Human Rights Council in condemning and combating unilateral coercive measures and encouraged Member States to continue to actively participate in the process. The Seminar also urged Member States to extend full support to the work of Special Rapporteur.

• The Seminar observed the absence of any comprehensive sanctions monitoring mechanism to assess their negative impacts resulting in violation of Human Rights including the Right to Development. The Seminar thus recommended that the OIC Council of Foreign Ministers may consider establishing such a mechanism within the OIC General Secretariat and further proposed to the Human Rights Council to do so within the Office of the High Commissioner for Human Rights.

• The Seminar also recommended that the provision of technical development assistance to the targeted states, upon their request, in order to resist the negative impacts of sanctions could be one of the ways to assist the targeted states against the violation of human rights in this domain.

• The Seminar noted that sanctions have become extremely complex and result in dislocating social services and crippling the economies of not only the targeted States but also third countries, thus threatening regional peace and stability.

• The Seminar further observed that unilateral coercive measures /sanctions can adversely affect economies, including in non targeted states, hindering development efforts, international economic cooperation and other forms of cooperation like technology transfer that are critical to efforts to protect against environmental harms and promote sustainable development. Such measures could also result in choices, which could work adversely for human health, safety and the environment.

OIC-IPHRC OUTCOME DOCUMENT OF THEMATIC DEBATE ON COMBATTING EXTREMISM AND INTOLERANCE

At an open discussion under the theme "Combating Extremism and Intolerance", during its Sixth session, which was held at the OIC General Secretariat in Jeddah on 4th November, 2014 the Commission strongly condemned any association of extremist ideologies and intolerance with Islam - a religion that promotes compassion, coexistence, justice and peace in its teachings in all aspects of one's life.

Allah ordains in the Quran that "*And we have made you a median community / a people of moderation in order that you may be a testimony or model for humanity." [2:143]* In another Surah, Allah Almighty expresses displeasure with the people of the Book on account of the excessive stands of some of them by saying "*O People of the Scripture, do not exaggerate in your religion beyond the truth, and follow not the vein desires of folk who erred of old and led to many astray and themselves strayed off the balanced way." [5:77]*.

Prophet Mohammad (peace be upon him) said: "*This indeed is a religion of ease. None shall ever argue against it but be defeated. Do therefore endeavour for solidarity and rapprochement, Spread good tidings and help each other in daytime as well as in dusk*". He also cautioned against such attitudes by saying that "*Be cautioned against excesses in religion – Those who came before had collapsed because of excesses in religion*".

The Commission affirmed that extremism and intolerance are the opposite of balance and moderation, which are in fact two of the most prominent features of Islamic faith. It is the absence of balance provided by moderation that creates the vista for extremism to creep in. Extremism involves exceeding the legitimate boundaries in terms of belief or action. It has been cautioned against and discredited in the Scripture and the Sunnah. Islam is a religion of peace, tolerance, moderation and respect for all fundamental human rights and freedoms.

The Commission attributed some of the causes of extremism and intolerance to ignorance, poverty, underdevelopment, lack of education, political injustices as well as denial of human rights and fundamental freedoms including the right to self-determination. It urged the international community to address these underlying causes through a combination of economic, social, developmental and political solutions, rather than focusing on its external manifestations alone. Only through strong and unified actions at all levels and at all fronts, including prevention of financial and material support to extremists, would we succeed in our endeavors at combating the scourge of intolerance as well as to further promote the much needed dialogue, peace and harmony among cultures and civilizations, the Commission added.

Extremist ideologies, radicalism, intolerance and terrorism have nothing to do with Islam. Proponents of such ideologies are indeed the enemies of Islam, who wrongly associate our religion with violence and hatred that is used by Islamophobic groups to defame our noble and pristine religion and discriminate against Muslims in various parts of the world. The Commission strongly condemned all such acts that only strengthen the hands of the extremists and protagonists of terror on each side, which are threatening the social fabric as well as peace and security of affected societies. Extremists, in whatever name, who perpetrate crimes against innocent people, should be brought to justice, so as to ensure the rule of law and avoid impunity as well as to ensure peace and stability of respective societies.

Highlighting the importance of education and awareness raising in combating extremist tendencies, the Commission emphasized the crucial role of religious and community leaders as well as the Media to curb such tendencies by promoting the ideals of tolerance, moderation, mutual respect and peaceful co-existence. Member States were also encouraged to promote and strengthen existing mechanisms for inter and intra religious dialogue, which help in avoid-

ing misperceptions and promote better understanding and mutual respect.

The Commission welcomed OIC and its Member States' upright stance in condemning the acts of hatred, intolerance and extremist ideologies perpetrated by groups such as Daesh (ISIS), Boko-haram and Al-Qaeda etc. as well as their efforts to counter terrorism. It urged the international community to join OIC Member States to collectively tackle the scourge of extremism and intolerance with resolve and strength. The Commission also appreciated the OIC Convention on Combating International Terrorism and encouraged all OIC Member States to ratify it, as soon as possible. In this context, the Commission expressed its readiness to assist Member States in any manner possible.

OIC-IPHRC OUTCOME DOCUMENT OF THEMATIC DEBATE ON PROTECTION OF FAMILY AS THE NATURAL AND FUNDAMENTAL UNIT OF SOCIETY

Jeddah 23 April 2015: In line with its past practice of holding thematic debates on issues of contemporary concerns to the OIC, the IPHRC held an open discussion, on 21st April, on the theme of "Protection of Family Values". Besides Commission Members, the debate was attended by OIC Secretary General and a number of international experts who dwelt on the subject from various aspects including challenges faced both by the institution of family and its members in different contexts and situations as well as made a number of important recommendations on how to strengthen this fundamental unit of society.

Representative of OIC Member and Observer States also expressed keen interest in the debate and stressed the importance of collective action to protect, preserve and promote these values, which are considered as crucial in developing progressive, peaceful and tolerant societies that are at peace within and without.

At the end of the debate, the Commission reaffirmed the fundamental definition of family as a long-term consensual relationship between a man and a woman who are bound by the reciprocal rights and responsibilities enshrined in Islamic teachings. IPHRC reiterated that men and women enjoy equal human dignity and fundamental human rights but have different roles and responsibilities within the family and society, and that Islam nowhere implies superiority or inferiority to either of the sexes.

IPHRC further reaffirmed that as outlined in the relevant international standards such as Art 16 (3) of UDHR, family is the natural and fundamental group unit of society and is entitled to protection by society and the State. A number of core human rights documents such as ICCPR, ICESCR and CRC unambiguously oblige all States to provide such protection and support for the family, which serves as the custodian of morals and traditional values recognized by the community and society. The Commission strongly condemned the growing trend of confusing the definition with new and controversial notions of sexual orientation and LGBT families that are neither universal nor recognized by international human rights standards.

While highlighting the importance of providing protection to each member of the family, the important role and responsibility of parents was reiterated that allows them special rights in decisions about the kind of religious, moral and educational activities of their children. The meeting emphasized the need for greater awareness for children on sexual education in accordance with their evolving mental capabilities but condemned the practice of promoting divisive and non-universal rights of comprehensive sexuality education to children, which include morally unacceptable concepts, behaviours and practices to many religious communities and societies including Islam.

The Commission emphasized that every country or group of countries have the right to formulate their laws and regulations based on their value systems, including in family affairs. This right was affirmed in many provisions within international laws and international human right instruments including Section I (5) of the Vienna Declaration and Program of Action, which amply highlights the principle of due recognition and respect for cultural and religious diversity in the field and application of human rights.

The meeting stressed that family in Islam was the core unit of society which has the task and fundamental role in maintaining the social cohesion. Family in Islam refers to both nuclear and extended structures. Ideal family consists of husband and wife but single-parent family, especially woman-headed family should be acknowledged as the conse-

quence of divorce and other factors. Islam also provides guidance to protect this kind of family through different mechanisms such as inheritance, donation as well as the extended familial support system from the community and the government.

The meeting stressed that in Islam, sexual relationship between men and women was recognized and legal only within the bounds of marriage. It further stressed that a Good society can only be upheld by the healthy and stable family, which is pronounced by the Quran as"Sakina, Mawwada and rahma" (comfort, love and mercy) and can only be achieved through the marriage between man and woman as husband and wife (father and mother to their children). Any practice that potentially threathen the integrity of the family should not be seen as part of"freedom of choice.

Additionally the IPHRC affirmed that a healthy and stable family could only be accomplished when husband and wife are considered equal in dignity and fundamental human rights both in the family and society. They should be treated based on gender justice and gender equity. Mutual support and complementing each other between husband and wife, as enshrined in Islamic values, were the basis to carry out equal responsibilities and to enjoy basic rights within the families. Equal opportunities for all members of the family in developing their physical, mental, spiritual, intellectual and other human capacities must be ensured beside providing protection to members of family from all forms of physical, psychologial and sexual violence.

Recommendations:

IPHRC underlined the importance of undertaking advocacy activities at relevant forums, including working with pro-family NGOs for holding conferences and seminars with the view to promoting and advancing family values. In this context, The IPHRC invited the CFM and the OIC Social and Family Department to organize broad-based international conferences in collaboartion with like-minded geographical groups, institutions of civil Societies, particularly NGOs and NHRI in the OIC Member States.

IPHRC expressed strong concerns on the contents of a number of publications issued by various UN bodies such as UNICEF, WHO and UNFPA that elaborate on the so-called notion of sexual orientation and comprehensive sexuality education for children as disturbing and morally unacceptable to various religious values as well as potentially harmful to the very institution of family. It urged these UN bodies to refrain from using such advocacy material that has not been approved or adopted by consensus, thus undermining the spirit of the universally accepted human rights values, norms and instruments.

IPHRC called upon all Member States to support the OIC positions and resolutions on the family issue, including family values and protection of the family.

IPHRC recognized and stressed the urgent need to find ways and means to effectivily protect the family and family integration in conflict and post-confict situations as well as other emergencies and situations such as migrant and refugee families. To that end, it urged OIC Member States to ensure provision of basic human rights and legal protection to these affected families in particular the right for education and health.

IPHRC called on all stakeholders, including UN mechanisms, NGOs and national human rights institutions to put the family at the core of their agendas as well as avoid the misconceptions and controversies, which contradict the universal family values.

OIC-IPHRC JAKARTA DECLARATION ON HUMAN RIGHTS EDUCATION

OIC Independent Permanent Human Rights Commission (IPHRC), in collaboration with the Government of Republic of Indonesia held its Annual Seminar on the subject of "Human Rights Education (HRE)", in Jakarta on 12-13, October, 2015.

Her Excellency Retno Lestari Priansari Marsudi, Minister for Foreign Affairs of the Republic of Indonesia, inaugurated the Seminar and delivered the opening Statement. In her remarks she highlighted the importance of Human Rights Education as a catalyst and gave the example of Indonesia where Islam, democracy and modernity flourish together with respect for cultural and religious diversity and respect for human rights. She also outlined Indonesia's National Action Plan, which provides a solid platform both at national and sub-national levels to mainstream human rights in the works of the government inter-alia through provision of HRE at different levels.

Besides Commission Members, the event brought together experts from multilateral and intergovernmental organizations such as UNESCO, ISESCO, UN OHCHR[2] as well as representatives of OIC Member and Observer States including their National Human Rights Institutions (NHRIs).

In addition to comprehensive presentations made by the Experts and Panellists, participants of the Seminar carried out situational analysis of HRE policies in their countries and suggested appropriate solutions for various implementation gaps that could help craft long term strategies to meet international human rights obligations while safeguarding their respective religious and cultural particularities.

Based on deliberations and sharing of views among the participants of the Seminar, IPHRC concluded the following as the salient outcome of the Seminar:

Recognized the commitment of all religions to peace and Reaffirmed the commitment to uphold and promote the pristine Islamic values of compassion, tolerance and social justice which constitute the core elements of Islam's universal message to humanity. Further highlighted that it is the individual, social and collective responsibility of Muslims, according to their faith, to protect the rights of all irrespective of one's caste, colour, sex or social position.

Recognized that comprehension of human rights norms and principles promotes mutual respect for diversity, enhances tolerance and provides a basis for people-centred human, social, cultural and economic development of diverse societies. To that end, it stressed the importance of managing diversity for creating an environment conducive for resolving conflicts among peoples and nations as well as peace-building and peace sustaining.

Noted that economic integration and advancement in communication has brought the world closer in which human rights are increasingly recognized as a unifying moral force.

It is imperative than ever to make human rights known and understood through HRE through all available tools including the use of media and Information Communication Technology.
Upheld that based on common universal value system devoted to protecting human dignity and development of

[1] Organization of Islamic Cooperation
[2] United Nations Educational, Scientific and Cultural Organization; Islamic Educational, Scientific and Cultural Organization; UN Office of the High Commissioner for Human Rights

human personality, human rights education should be provided to all persons at all levels enabling all persons "to participate effectively in a free society, promote understanding, tolerance and friendship among all nations, racial, ethnic or religious groups and to further the activities of the United Nations for the maintenance of peace".

Recalled Article 1 of United Nations Declaration on Human Rights and Training which inter-alia provides "Human rights education and training is essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms for all, in accordance with the principles of the universality, indivisibility and interdependence of human rights.

Acknowledged positive historical evolution of HRE as a recognized discipline through adoption of Universal Declaration of Human Rights (Article 26), Convention of Rights of Child (Art 29), OIC Charter and its Ten Year Programme of Action as well as Cairo Declaration on Human Rights in Islam and various other conventions of UN and UNESCO that deal with objectives of education, Vienna Declaration and Program of Action 1993 that brought the States responsibility to ensure human rights education upfront and UNGA Resolutions 49/184 which provided for UN Decade for Human Rights Education and 59/113 which established the 'World Program for Human Rights Education' to augment national human rights education efforts on specific issues in three consecutive phases.

Welcomed the inclusion of the comprehensive goal on education including HRE for promotion of peaceful and inclusive societies in the recently adopted Sustainable Development Agenda by the UNGA on 27 September 2015.

Reaffirmed that full enjoyment of human rights by individuals and groups is subject to fulfilment of set of responsibilities that contribute to the promotion and protection of all human rights by all as enshrined in international and regional human rights instruments and are in conformity with their social, religious and cultural ethos.

Recognized that the need for HRE is unequivocal and emphasized the responsibility of both the States and all other stakeholders to respect, protect and promote the human rights of all human beings without distinction. Universally recognized human rights values and democratic principles should be embedded in any education system as part of quality of education.

Further recognized that comprehensive dispensation of HRE can effectively combat the existing ills of extremism, terrorism and violence based on race and in the name of religion as well as promote multicultural, tolerant and progressive societies that are at peace within and with out. To that end it underscored the role of religious leaders and the importance of engaging them.

Recalled that World Conference on Human Rights in Vienna in 1993 obligated that States and governments have the primary responsibility to promote and ensure HRE and training with a view to strengthening universal commitment to human rights.

Recognized that human rights issues are complex and multidimensional. Therefore, in dealing with issues of cultural and religious particularities, adaptation to local context, cultures and concerns should be incorporated into HRE practices.

Underlined that the human rights training has to factor in the concerns and needs of the participants, combine intellectual challenges with the development of skills and shaping of attitudes, which can only be achieved through stakeholders' active involvement.

Stressed that HRE is linked with pedagogy. HRE should be integrated in the national education curricula at all levels starting from elementary to tertiary, and human rights training programs for professionals including, teachers, officials and members of the judiciary, executive, legislative and law enforcement agencies etc.

Recognized that HRE in schools is a process which concerns not only the inclusion of human rights elements in the curriculum, but also further development of textbooks and teaching methodologies, human rights training of teachers and school administrators as well as fostering learning environments which encourage full development of human personality, mutual respect and learning to live together with appreciation of cultural diversity.

Recalling that OIC is obligated by its Charter to work for promotion of human rights and fundamental freedoms, good governance, rule of law and accountability in Member States. Also, it recognized that issues of gender equality and equity, cultural diversity, interfaith dialogue, prevention of violence, elimination of stereotypes (based on race, religion, ethnicity, colour or sex) constitute indivisible components of HRE. IPHRC, therefore, endorses that active and responsible citizens need support and information, through HRE to make informed moral choices and take principled positions on all issues, and uphold human dignity.

Further highlighted that IPHRC, since inception, has kept HRE as one of the cross cutting themes that must be promoted and pursued while performing its mandated tasks and activities. Article 14 of its Statute also mandates it to 'provide technical cooperation in the field of human rights and awareness-raising about these rights in the Member States". HRE, therefore, could become an area of cooperation among the OIC, relevant international organizations and civil society to strengthen HRE in the OIC Member States at all levels to promote an inclusive human rights system consistent with their religious and cultural ethos.

Recommended that Member States should undertake education sector reforms that include action plans and programmes in accordance with the guidance given in Plans of Action for each phase of the World Program on HRE and work for its effective implementation through its integration into school and training curricula. Furthermore States must engage and consult all relevant actors and stakeholders to have an inclusive HRE strategy that aptly covers all issues of concern to the country.

Highlighted the crucial role of NHRIs in influencing the integration of HRE into national action plans through participatory tailoring exercise, which reflects international human rights obligations and appropriate emphasis on monitoring and accountability. It reinforces the need for governmental and non-governmental actors to enhance partnership to this end.

Identified the need for building collaborations among Member States, their NHRIs and relevant international organizations for exchange of knowledge and sharing of best practices with a view to advancement of professional and social competencies and identification of commonalities of action in the field of HRE as a starting point for formulation of a holistic and coherent strategy.

Suggested that Member States may consider creating network of universities or recognized academic institutions to conduct Masters courses / diplomas on HRE with a view to promoting moralistic and universal human rights values. IPHRC together with OHCHR, ISESCO and UNESCO could offer technical expertise in this regard.

Recognized that intrinsic strength of religion in promoting tolerance, respect for others and good moral behaviour needs to be highlighted and linked to human rights values. To that end, the vital role of religious discipline education (religious schools) was acknowledged. These institutions must also be brought into the mainstream educational fold through formal linkages with the relevant departments/institutions of religious affairs and education.

Appreciated the active involvement of OIC Member States in the Global Platform for HRE as well as presenting of national reports on implementation of HRE strategies. Encouraged all Member States to participate in this exercise and strengthen their HRE strategies by making use of the available empirical evidence and situational analysis as well as best practices shared by different countries.

Stressed the need to design a matrix/guidelines of best practices for harmonization of national educational strategies of Member States from HRE perspective in line with Plans of Action of each phase of the World Program. To that end, it recommended to the OIC Secretary General to establish a broad based Working Group consisting of IPHRC and ISESCO to coordinate efforts, with the support of UNESCO and UN OHCHR, for formulation of suggested matrix as well as to provide technical expertise to the requesting Member States to strengthen their national HRE infrastructures.

Recognized the desirability of including HRE as a component of national human rights plans of action, development plans and other relevant national plans of action to foster universally recognized human rights values, culture of peace, democratic citizenship and to achieve sustainable development.

At the end, all participants expressed gratitude to the Ministry of Foreign Affairs of the Republic of Indonesia for hosting the IPHRC Seminar on HRE as well as for extending cordial hospitality.

Issued at Jakarta
13th October 2015

OUTCOME DOCUMENT OF THEMATIC DEBATE ON FREEDOM OF EXPRESSION AND HATE SPEECH

The OIC Independent Permanent Human Rights Commission (IPHRC) held a thematic debate on **"Freedom of Expression and Hate Speech"** during its 8th Regular Session, on 23rd November 2015. H.E. Iyad Ameen Madani, Secretary General of OIC and IPHRC Chairperson Amb. Ilham Ahmed inaugurated the debate. Key panelists for the thematic discussion were Dr. Abdul Salam Al Abadi, Secretary General of International Islamic Fiqh Academy (Fiqh Academy), Mr. David Kaye, UN Special Rapporteur on Freedom of Expression (participated through video link) and Mr. Doudou Diene, former UN Special Rapporteur on Racism. Ms. Pansy Tlakula, Special Rapporteur on Freedom of Expression from the African Commission on Human and Peoples Rights also sent a special message for the debate that was read by one of her colleagues. Besides Commission Members, representatives of OIC Member and Observer States actively participated in the debate.

After going through a rich, intense and inclusive discussion among panelists, Commission Members and Member States on the subject that covered almost all aspects of this important debate including its philosophical and legal basis, importance of its promotion and strengthening in all societies (religious and secular alike), differing views on how best to identify incitement to hatred and hate speech as well as possible measures to combat its misuse through legal and non legal measures including role of various stakeholders in this regard, the Commission adopted the following:

Acknowledged that freedom of expression is a key human right, which is vital for development of stable, peaceful and progressive democratic societies. However, the scope of freedom of expression as provided in the Holy Quran, Article 22 of the Cairo Declaration on Human Rights in Islam, Article 19 of Universal Declaration of Human Rights (UDHR), Article 10 of European Convention on Human Rights, Article 13 of American Convention on Human Rights, Article 9 of African Charter on Human and Peoples' Rights and Articles 19 & 20 of the International Covenant on Civil and Political Rights (ICCPR) stipulate that this human right is not '*absolute*' rather its exercise is subject to '*special duties and corresponding responsibilities*' based on '*avoidance of harm to others*' to ensure societal cohesion.

Highlighted that freedom and equality are fundamental precepts of Islam wherein it recognizes humans (both men and women) as free and equal beings. Islam, guarantees freedom of expression and like other religions recognizes the role of critical thinking. However, it makes distinction between criticism or constructive discussion and sheer disrespect, defamation, insult and negative stereotyping that fall into the category of inciting religious hatred.

Further highlighted that whereas freedom of expression has been one of the key factors for creation of modern day inclusive, tolerant and multicultural societies, the hate speech motivated by racism, xenophobia and intolerance, coupled with impunity for perpetrators create a climate of fear and social exclusion of the targeted persons and groups, which is anathema to the ideals of pluralism and democracy. Hence, the need for responsible use of freedom of expression to ensure protection of the right of others, respect the right of privacy and personal dignity and maintenance of socio-cultural harmony.

Recalled that although not all hateful messages result in actual hate crimes, these crimes rarely occur without prior stigmatization and dehumanization of targeted groups and incitement to hatred fuelled by religious or racial bias. Hence the promotion and protection of freedom of expression must go hand in hand with efforts to combat intolerance, discrimination and incitement to hatred. To this end, it also called upon UN Special Procedures to present balanced reporting by paying equal attention to both issues.

Expressed serious concerns over the rising trend of violence using incitement to hatred and discrimination based on race or religion and squarely condemned all related acts of violence that resulted in killing and maiming of thousands of innocent people. It also condemned acts of incitement to hatred resulting in devastating and despicable killing of non-Muslims by terrorist groups such as Daesh and Boko Haram etc.; printing of senseless caricatures of Prophet Mohammad (PBUH); appalling treatment of Rohingya Muslims in Myanmar; desecration of holy scriptures and sites in different parts of the world, that have all resulted in promoting a culture of discrimination and violence leading to loss of innocent lives and wider sense of alienation, rejection, and polarization among affected communities.

Further expressed concern over the growing incidents of Islamophobia that are clear manifestations of incitement to hatred and discrimination against Muslims and their pristine religion Islam. Appreciated the role of Islamophobia Observatory of the OIC General Secretariat and encouraged it to continue working in close cooperation with relevant regional and international organizations to aptly highlight the blight of Islamophobia.

Reiterated its position on freedom of expression, which provides limitations in accordance with Articles 19 & 20 of the ICCPR, including the duty of the State to prohibit, by law, "*any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence*". It was explained that the need to protect the sanctity of religions and their symbols is not to accord exceptional protection to the particular set of values but to avoid defamatory stereotyping and insults that result in negative profiling of their adherents leading to undue discrimination, hostility and violence against them. Hence, the beneficiary remains the individual of targeted religion, a legitimate subject of international human rights law.

Further expressed confidence in OIC sponsored HRC Resolution 16/18 (entitled Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against persons based on religion or belief), repeatedly adopted by the Human Rights Council and UN General Assembly by consensus, which includes substantive, administrative, political and legislative actions to be taken at the national and international levels to address the concerns relating to incitement to religious hatred and discrimination. To this end, urged Member States to address the implementation gaps and provide regular reports on its implementation to the Human Rights Council as well as rededicate to the agreed ideals in a comprehensive manner involving inclusive approaches provided in '*Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence*'.

Observed that there is a need to build consensus on the threshold of freedom of expression where it converts into hate speech and incitement to hatred needing criminalization as provided in Article 20 of the ICCPR and para 7(f) of the Res.16/18, which calls for "*adopting measures to criminalize incitement to imminent violence based on religion or belief*". To this end it referred to the well established legal provision based on Article 29 of UDHR, which provides that the *exercise of all rights and freedoms is subject to limitations set by law that include purposes such as recognition and respect for the rights and freedoms of others* as well as General recommendation No. XV on Article 4 of International Convention on the Elimination of All Forms of Racial Discrimination by ICERD Committee clearly stating that "*prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression*".

Stressed the need to avoiding double standards in application of universal standards of freedom of expression and while working to find common ground to define hate speech, suggested that existing legal practices used by different countries to address hate crimes, incitement to hatred, discrimination and violence based on race or religion must be applied universally to provide equal protection to all targeted groups and individuals.

Upheld that while legal response involving affirmative punitive action is of key importance, a '*multilayered approach*', which promotes human rights and tolerance, encourages dialogue and understanding among different groups and builds the capacity of national authorities, including security officials as well as media, thus creating an environment conducive to preventing acts of incitement to hatred, is of vital significance.

Underlined the need to depoliticize the international discourse on the subject by moving away from an ideological debate to a legal, moral and ethical discussion within the human rights framework. To that end urged adoption of an intellectual, moral and ethical strategy in both the West and the Muslim world to bridge the gulf of misunderstanding or '*clash of ignorance*' by countering the increasingly negative political rhetoric and biased media coverage.

Further underlined the importance of human rights education as an effective tool to combat hatred and promote better understanding of diversity, hence the need for its wider application and integration into national human rights plans of action, educational plans and other relevant national plans of action to foster universally recognized human rights values and to promote a culture of peace that helps achieving sustainable development.

Noted the crucial role of religious leaders in (i) speaking out against acts and expressions of inter and intra religious hatred and intolerance, (ii) defeating intolerance, discrimination and violence committed in the name of religion by providing a counter-narrative that highlights the correct religious teachings of tolerance and peaceful co-existence thus strengthening the resilience of societies against extremist and intolerant views; (iii) raising awareness among masses on their right to seek legal recourse against religious intolerance and discrimination and (iv) promoting religious norms and values that strengthen socio-cultural and religious understanding among various segments of society.

Further noted the important role being played by young people in every field of human endeavour and the fact that they are the future of mankind, encouraged Member States to invest in capacity building of their youth through comprehensive strategies that would help them know, respect and develop the cultural heritage of their own and that of all mankind, thus promoting a culture of peace, mutual respect and understanding that would help combat culture of intolerance and strengthen peace and security.

Acknowledged the strength of social media in quickly disseminating views and forming opinions as well as its misuse by terrorist and extremist groups for fomenting hatred and intolerance as well as new recruitment in their ranks. Encouraged Member States to pay special attention and raise awareness about this phenomenon as well as monitor its misuse for incitement to hatred, discrimination and violence.

Called upon media to (i) abide by the standards of responsible journalism, (ii) avoid biased and unfounded reporting leading to stereotyping and incitement to hatred against specific groups and communities and (iii) promote respect for diversity and socio-cultural and religious sensitivities of different segments of society that are vital for building inclusive, peaceful and pluralistic societies.

Further called upon all States to take firm actions to avoid misuse of religion for inciting hatred, discrimination and violence and to pursue introspective approaches on improving/ repealing laws with regards to rights of religious and other minorities to bring in conformity with their respective international human rights obligations.

Recommended that OIC may commission a study that analyzes the existing legal practices used to combat hate speech and incitement to hatred in different parts of the world with a view to suggesting parameters for hate speech

and incitement to hatred based on one's race or religion as well as practical steps, in accordance with international human rights law, to combat such hateful expressions that include both legal action such as proscription when needed and other inclusive approaches as defined in Res 16/18 and Rabat Plan of Action.

Further recommended full and effective implementation of Res. 16/18 and the Rabat Plan of Action at all levels and in this context stressed the importance of political commitment at the highest level. It also encouraged States to strengthen and rationalize numerous expert mechanisms working on the issue of incitement to hatred to better interpret and implement existing international obligations including the use of Universal Periodic Review, relevant Treaty Bodies and UN Special Procedures as well as establishment of a mechanism under the Office of the High Commissioner for Human Rights to follow up its implementation.

Recognized the commendable scholarly work done by the Fiqh Academy in the field of human rights and emphasized the need to develop collaborative linkages among the OIC, IPHRC, Fiqh Academy and ISESCO for promoting better understanding of human rights perspective of Islam in a coordinated manner including through the use of media.

OUTCOME DOCUMENT OF THEMATIC DEBATE ON IMPACT OF WOMEN EMPOWERMENT ON SUSTAINABLE DEVELOPMENT OF MEMBER STATES

Jeddah 04 May 2016: The OIC Independent Permanent Human Rights Commission (IPHRC) held a thematic debate on "*Impact of Women Empowerment on Sustainable Development of Member States*" during its 9th Regular Session, on 04 May 2016. H.E. Iyad Ameen Madani, Secretary General of OIC and IPHRC Chairperson Amb. Abdul Wahab inaugurated the debate. Key panelists for the thematic discussion were Dr. Abdul Salam Al Abadi, Secretary General of International Islamic Fiqh Academy, Amb. Ismat Jahan, Member of the UN Committee on the Elimination of Discrimination Against Women (CEDAW), and Dr. Suhair Hassan Al Qureshi, President/CEO of Dar Al-Hekmat College, KSA.

The Commission Members, OIC General Secretariat, panelists and representatives of Member States had an exhaustive and fruitful discussion that covered the conceptual, institutional and practical aspects of the subject. Besides making valid observations on the existing state of women empowerment, the participants made valuable recommendations for integration of women and girls into sustainable development strategies within existing programs as well as ensuring their effective participation in all future national action plans of Member States.

Based on the comprehensive discussion and specific discussion made in the thematic debate the Commission adopted the following pronouncements on the subject!

Guided by equal rights and inherent human dignity of women and men, as enshrined in the Holy Quran, Cairo Declaration of Human Rights in Islam (CDHRI), United Nations Bill of Rights and other international human rights instruments, including the CEDAW, the Commission affirmed that women's rights are human rights and their empowerment and full participation in decision-making process and access to power and resources are fundamental not only for fulfillment of their moral, ethical, spiritual and intellectual needs but also achievement of equity, equality, development and peace within each society. It accordingly urged full realization of the human rights of women and girls at all levels. The IPHRC also:

Recalled that the advent of Islam heralded an unprecedented era of women emancipation and empowerment where in status of women was exalted to claimants of codified rights to own and inherit property, take part in economic activities, choose life partner and seek and transmit knowledge. In the development paradigm too, Islam's concept of development provides for substantive equality, equity and distributive justice according to the needs and circumstances of every segment of population including women who are seen as complementing rather than competing forces in building progressive and peaceful societies.

Underlined the important role of women (who in most countries constitute more than 50% of the total population) in the development of their countries, in particular ensuring the sustainability of social, economic and ecological development. Hence, the need for adopting gender[1] sensitive approaches to sustainable development by taking into account women's needs, concerns, knowledge, enterprise and skills to enable policy makers develop appropriate policy actions to ensure equitable distribution of resources for just and inclusive societies.

[1] For the purpose of this document, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

Noted that gender sensitive development strategies register stronger economic growth than gender-neutral strategies. Also, women participation in public policy arena has resulted in more allocation of resources to human development priorities including child health, nutrition and access to civic amenities.

Reiterated that as described in Art 16 of UDHR, family is the basic unit of society, which should be respected, protected and promoted by States. Islam has emphasized women's empowerment in raising a strong and integrated family through harmonious partnership with other family members, which is not at the cost of some one's disempowerment but for the overall betterment and sustainable development of all societies. It, therefore, necessitates access to all opportunities in every field enabling them to contribute effectively in building prosperous and sustainable societies.

Welcomed international commitment to empowerment of all women and girls through full and effective implementation of the internationally agreed development goals contained in Beijing Declaration and Platform for Action and its follow up through Beijing +20, UN's Sustainable Development Goals (SDGs), UN Conference on Sustainable Development, entitled '*The future we want*' and the Agreed Conclusions of the 60th Session of Commission on Status of Women through a gender sensitive approach.

Appreciated OIC's commitment to women empowerment as reflected in its revised Charter, 2nd Ten Year Program of Action (TYPOA), OIC Plan of Action for the Advancement of Women (OPAAW) with its comprehensive implementation mechanism as well as establishment of Independent Permanent Human Rights Commission (IPHRC) and 'Women Development Organization (WDO)' for enhancing the role of women in the development of Muslim societies. In this regard, once again, Member States are urged to expedite ratification with a view to its entering into force.

Identified some of the key underlying drivers of women disempowerment as (i) regressive and discriminatory socio-cultural mindset, norms and laws that restrict women and girls' access to opportunities, resources and power (ii) gender insensitive chronic under investment in social sectors of health and education (iii) asymmetry in awareness and access to information (iv) exclusion and non-participatory planning, decision making and resource allocation; and (v) violence against women. Member States were urged to address these concerns, on priority.

Reaffirmed that violence and discrimination against women is an obstacle to the achievement of the objectives of equality, development and peace and accordingly urged Member States to adopt or implement and periodically review legislation to ensure its effectiveness in eliminating all forms of discrimination against women.

Recognized the important role and contribution of all actors of civil society, media, human rights institutions, other non-governmental and community-based organizations in realization of objectives of empowerment of women and girls and their full integration into the development process.

While welcoming the progress made by Member States towards gender equality and women empowerment over the past decades, the Commission expressed concern that the progress remains slow and uneven with glaring inequalities and deficiencies in terms of (i) low literacy and labor participation rates (ii) high maternal mortality and morbidity rates, (iii) inadequate laws to prevent and prosecute domestic violence; and (iv) feminization of poverty, which continue to pose serious threats to the well-being of these societies. Also, many women and girls continue to experience vulnerability and marginalization due to multiple forms of discrimination and lack of access to resources throughout their lifecycle. In this regard, the Commission made following specific recommendations:

- Build high-level political commitment and ownership from Member States for the OIC and international transformative initiatives on gender equality and women empowerment including by repealing or amending discriminatory laws, as and where required.

- Adopt gender-sensitive, rights-based and inclusive national action plans, laws, and policies that respect, protect and fulfil the human rights of women and girls in Member States. Such measures may include, reserved quotas and other incentives to strengthen women's representation in political processes, all government institutions, economic enterprises and social organizations;

- Cognizant of prevailing low literacy rates in Member States, the Commission identifies investment in women's' and girls' education as one of the most potent ways to reduce poverty and promote sustainable development. The Member States should endeavour to allocate at least 5 percent of their respective Gross Domestic Product to education with positive discrimination for skill oriented vocational trainings to women and girls including science and technology to enable women and girls to actively participate in economic, social and cultural development on equal footing;

- Close data gaps by investing in national statistical capacity to systematically collect, analyse and use gender sensitive indicators and sex-disaggregated data in policy, program design and monitoring frameworks that will help governments in preparing and implementing informed policies and plans for the sustainable development of their societies;

- Benchmark progress on (i) assessment of national legislative developments concerning women rights in the Member States; (ii) assessment of the role and contribution of the civil society and media in the advancement of women's rights in Member States; (iii) revision of OPAAW to bring it in conformity with the relevant international human rights instruments and to create linkages with the 2nd OIC-TYPOA; (iv) adoption, review and effective implementation of laws that criminalize violence against women and girls, as well as comprehensive, multidisciplinary gender sensitive preventive, protective and prosecutorial services to prevent all forms of violence against women and girls by Member States;

- OIC General Secretariat, IPHRC, Islamic Development Bank and SESRIC[2] to explore ways and means to fund self-sustaining community based pilot studies and projects to support women entrepreneurs for women empowerment through private public partnership;

- Member States may avail expertise of relevant UN and OIC institutions including IPHRC in capacity building and training of policy makers for formulation of gender sensitive policies and programs for greater involvement of women in the fields of political, social, economic and cultural development;

- Undertake concrete steps including legislative policies to create enabling environment and ensuring women's full and equal participation in decision-making including in conflict resolution, peace-making and peacebuilding processes that will ensure sustainable progress;

- Importance of gender equality and avoiding stereotyped role of women is a process that needs to be addressed at all levels through appropriate training and education. Member States may integrate women empowerment and importance of family into their Human Rights Education plans at all levels;

[2] Statistical Economic and Social Research and Training Centre for Islamic Countries

- Engage religious leaders and scholars in public advocacy and consensus building to challenge social taboos, change mind set and mobilize support for women related issues.

- Engage men and boys as agents and beneficiaries of change in the achievement of gender equality and the empowerment of all women and girls as allies in the elimination of all forms of discrimination and violence against women and girls, as well as in the full, effective and accelerated implementation of gender sensitive policies and programs.

The Commission also appreciated the Secretary General of OIC for his active role towards empowering women in the OIC General Secretariat and Member States and commended his efforts to accelerate progress in the implementation of OIC and other internationally agreed instruments on the subject.

The Commission also welcomed the commitment of the Member States given in the 2nd OIC TYPOA that was adopted during the 13th Islamic Summit in Istanbul (14-15 April 2016) to reinvigorate their joint efforts for reduction in the maternal mortality rate, enhancement of literacy rates and labor force participation among female population by 2025. To this end, the Commission recommended that the upcoming '*6th Session of the OIC Ministerial Conference on Women's Role in the Development of the OIC Member States*', should include these commitments as well as above made suggestions as recommendations for sustained follow up and implementation.

OIC-IPHRC ABU DHABI DECLARATION ON THE RIGHT TO DEVELOPMENT

OIC Independent Permanent Human Rights Commission (IPHRC), in collaboration with the Government of United Arab Emirates (UAE) and the Office of the UN High Commissioner for Human Rights (OHCHR) held its Annual Seminar on the subject of "Right to Development (RtD)", in Abu Dhabi on 12-13, October 2016.

Besides Commission Members, relevant international experts from United Nations, OHCHR as well as representatives of OIC Member and Observer States including their National Human Rights Institutions (NHRIs) participated in the Seminar. In addition to comprehensive presentations made by the experts/ panellists, participants of the Seminar had in-depth discussion on various aspects of the RtD to identify conceptual and implementation gaps including various limiting factors and suggested ways and means for its full and effective realization both at national and international levels. Based on the comprehensive deliberations and concrete recommendations during the Seminar, IPHRC concluded the following as the outcome of the Seminar:

Welcomed the opportunity of the 30th anniversary of adoption of the historic "Declaration on the Right to Development (DRtD)" for a renewed reflection and joint action by all stakeholders including States and Non-State actors, regional and international organizations, civil society and corporate sector to ensure that all people have equal opportunity to participate in, contribute to and enjoy economic, social and cultural rights that also lead to establishment of inclusive, equitable, just and peaceful societies.

Acknowledged that the adoption of DRtD is a milestone achievement in the quest to realize the promise of 'freedom from fear and want' guaranteed in the International Bill of Rights and aptly highlighted in various other regional and international human rights instruments such as OIC Charter and Ten-Years Program of Action, African Charter on Human and Peoples' Rights, Arab Charter on Human Rights, the 1992 Rio Declaration on Environment and Development, the 1993 Vienna Declaration and Programme of Action, the Millennium Declaration, the 2002 Monterrey Consensus, the 2005 World Summit Outcome Document, the 2007 Declaration on the Rights of Indigenous Peoples, the Addis Ababa Action Agenda, and the 2030 Agenda and Sustainable Development Goals (SDGs). These instruments affirm that the RtD is a human right on a par with all other human rights.

Expressed concern that, despite passage of three decades and umpteen reaffirmations of this right in international instruments, the goals of the DRtD have not been achieved. Also supported the call made by most developing countries to transform the Declaration into a binding International Convention on the Right to Development.

Highlighted the Islamic concept of development and social protection based on the egalitarian principles of compassion and solidarity with fellow Muslims and humanity. Also, reaffirmed that the teachings of Holy Quran and traditions of Holy Prophet Muhammad (PBUH) categorically forbid exploitation, concentration of wealth and oppression in all its forms and manifestations.

Affirmed that the RtD is an indivisible and interdependent, interrelated and mutually inclusive individual and collective right, which belongs to all individuals and peoples in all countries without discrimination on any grounds, including foreign and colonial occupation.

Further reaffirmed that States have obligations at three levels for effective implementation of RtD: (a) internally, through the formulation of national development policies and programs affecting persons within their jurisdictions; (b) internationally, through the adoption and implementation of policies extending beyond their jurisdictions; and (c)

[1] Organization of Islamic Cooperation

collectively, through global and regional partnerships. Furthermore, all human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms, as well as their duties to the community, which alone can ensure free and complete fulfilment of the human being."[2]

Recalled (a) the importance of fighting against corruption, which continues to plague countries across all geographical regions and seriously undermines as well as adversely affects people's human rights including the RtD; (b) the importance of good governance and active, free and meaningful participation in the development, realization, and the assessment of the RtD policies.

Urged all Member States and other stakeholders to uphold policy coherence and to follow a human rights-based approach in all development processes ensuring participation, accountability, non-discrimination, equality and equity in consistency with international human rights standards at national, regional and international levels.

Reiterated that while development is a State led process, global interconnectedness and contemporary challenges warrant international cooperation in the spirit of "the collective responsibility of the international community to ensure the attainment of the minimum standards of living necessary for the enjoyment of human rights and fundamental freedoms by all persons throughout the world". The General Comment No.3 of the UN Committee on Economic Social and Cultural Rights obligates State Parties to international cooperation for development for the realization of economic, social and cultural rights for all at all levels.

Further reiterated that the Declaration's mandate for international cooperation and equitable distribution of development benefits, including those resulting from globalization, also require that technology and scientific innovation which can play a role in the fulfilment of human rights should be equitably shared in a manner that takes into account the needs of the most vulnerable. SDG 17 on the global partnership for sustainable development is essential to realizing all the SDGs. Its effective implementation must be on the RTD approach, which is anchored in the duty to cooperate.

Noted that developing countries including many OIC Member States, as part of a globalized world, are confronted with unprecedented challenges in the scientific, climatic, technological, political, security, demographic and socio-cultural arenas, which require them to "cooperate with each other in eliminating obstacles to development and ensuring broad based sustainable development" for all.

Reaffirmed that the RtD remains a priority area both for the OIC and OIC-IPHRC. Undertook to continue to work for wider acceptability, implementation and realization at national, regional and international levels to ensure the full enjoyment of human rights both by the individuals and peoples in all countries without discrimination on any grounds.

Appreciated the on-going OIC initiatives of Strategic Health Programme of Action 2014 – 2023; establishment of Islamic Organization for Food Security (IOFS) as well as on-going projects of Islamic Solidary Fund (ISFD) and Islamic Development Bank (IDB) that have contributed meaningfully in complementing the efforts of many Member States in promoting sustainable development. Also, urged ISFD to scale up the impact of interventions through micro-finance support, vocational training and food security to vulnerable segments of the society. At the same time urged OIC Member States to redeem their pledges and announce new commitments in favour of ISFD. Furthermore, urged

[2] DRtD Article 2

relevant OIC Organs, including IDB, to take full advantage of IPHRC's advisory expertise and explore avenues for developing joined projects and cooperation, including in the field of the RtD.

Expressed concern that despite overbearing importance of the RtD and availability of combined financial and human resources, emphasis on practical implementation of the RtD among most OIC Member States remains less pronounced. The challenges of terrorism, illiteracy, poverty, pandemics and environmental disasters remain omnipresent threats.

Urged the OIC Member States to take concrete and urgent actions to (a) reinvigorate political will and to raise the level of commitment and support from all stakeholders for unhindered implementation of the RtD; (b) mainstream human rights and the RtD norms into development plans and ensure system wide coherence to bridge implementation gaps; (c) strengthen inclusive and transparent institutional framework, which responds coherently and effectively to current and future development challenges at all levels; (d) strengthen international cooperation with multilateral development institutions to address persistent challenges and create linkages with the on-going international initiatives like SDGs taking into account national circumstances and priorities; (e) institutionalisation of universal access to social services to address and reduce inequality and social exclusion which are essential for eradicating poverty and advancing development goals; (f) work for peaceful resolution of disputes, combat terrorism, invest in social development, create inter-linkages and mainstream human rights and the RtD consistently in respective national development plans; (g) concrete measures in order to widen civil society space and their engagement in development process and in ensuring the effective implementation of the RtD.

Further recommended to OIC Member States to undertake coordinated and accelerated actions, in accordance with the commitments made in the revised OIC Charter and the 2nd Ten Year Plan of Action 2025 to promote human rights and fundamental freedoms, good governance, rule of law, democracy and accountability in their countries; (b) create sound policy frameworks, at national, regional and international levels, based on pro-poor and gender-sensitive development strategies to support accelerated investments in poverty eradication programs; and (c) promote cooperation among Member States to achieve sustained socioeconomic development and effective integration in the global economy, in conformity with the principles of partnership and equality.

Underscored the importance of full access to quality education at all levels as a pre requisite for the attainment of the internationally agreed development goals, and for full participation of all people, in particular the youth, persons with disabilities as well as ethnic minorities and people living in rural areas, and other vulnerable groups in national development plans and strategies. The need to promote gender equality, equity, and women empowerment through their full and effective participation in sustainable development policies, programmes and decision-making at all levels which was also stressed as a contributing factor towards meaningful realization of RtD.

Recognized that the efforts to achieve the RtD are not merely a charitable work, but the empowerment initiatives and inclusive engagements through transfer of knowledge and skills. Also recognized the critical role of innovative technologies and media and encouraged States to foster collaboration among the academic, scientific and technological community to bridge the technological gap and establish knowledge based economies to avoid the vicious poverty trap.

Emphasized the need for enhanced capacity-building and skill development, exchange of experiences and expertise as well as transfer of knowledge, technology and technical assistance for capacity-building among the Member States and with multilateral partners.

Welcomed creation of the mandate of UN Special Rapporteur on the RTD during the 33rd Session of Human Rights Council and urged the mandate holder to work for system wide mainstreaming of the RtD and its fulfilment in the

context of 2030 SDGs especially in the context of implementation of common but differentiated responsibilities reaffirmed in section 12 of the SDG Declaration. The mandate holder may also review the Final List of proposed Sustainable Development indicators to conduct impact assessment of various development policies and strategies on the realization of the right to development.

Recalled the importance of using indicators for measuring the disparities at the national, regional and international levels against the implementation of the DRtD with a view to taking corrective measures to removing obstacles and ensuring development at all levels without discrimination. Encouraged OIC member States to develop these indicators in cooperation with the OIC General Secretariat for appropriate use.

Recommended that all countries to pay particular attention to and integrate the principles and norms of the RtD as stipulated in the DRtD in their implementation of the SDGs and follow-up to the 2030 Development Agenda. Countries may also include a section on the implementation of the RtD in their national report to the follow-up to the 2030 Agenda as well as to the UPR of the HRC.

Recognized the contribution and important role of the OHCHR in promotion and realization of the RtD and accordingly requests the OHCHR to develop targeted capacity building programs for policy makers, corporate sector and civil society to raise awareness about its utility as a mutually beneficial right as well as to mainstream the concept at all levels.

Encouraged OIC countries to support the work of the OHCHR including through dedicated / earmarked financial contributions to its work in integrating RtD considerations in the work of the UN human rights mechanisms, UN system agencies and in the efforts of Member States to implement the 2030 Development Agenda.

Appreciated the ongoing work done by the HRC Intergovernmental Working Group on the RtD but expressed concern on the continued lack of progress due to intransigence of some Member States to recognize the well-established linkage of RtD with actions taken at international level as well as its scope that covers both the individual and collective rights.

Recommends all stakeholders to adopt a practical and realistic approach to the issue of development, which should focus on overcoming the involved challenges and obstacles in a gradual manner starting from immediate implementation of universally accepted core development goals, such as overcoming poverty, hunger and the scarcity of water, and promoting housing, education and gender equality.[3] To this end took note of the standards proposed for each of these development goals in the report of the Chair-Rapporteur of the IGWG on the RtD which should be given serious considerations as a framework for action for achieving these goals. Meaningful results on each of these goals would pave the way for eventual achievement of the broader goals of the global development agenda.

Urged the International community to take firm steps to overcome the political hurdles involved in the full and effective realization of the RtD. States must make best efforts individually and collectively to implement the RtD in line with the UN Charter provisions of international cooperation for meaningful promotion of socio-economic progress for all. Also urged to maintain the RtD as a permanent item in its program of work. All participants expressed gratitude to the Government of the UAE for hosting the IPHRC Seminar on the RtD as well as for extending cordial hospitality.

Issued at Abu Dhabi
13th October 2016

[3] Article 8 of DRtD

OUTCOME DOCUMENT OF THEMATIC DEBATE ON PROTECTING AND PROMOTING RIGHTS OF CHILDREN DURING SITUATIONS OF ARMED CONFLICT, FOREIGN OCCUPATION, EMERGENCIES AND DISASTERS

Jeddah 01 December 2016: The OIC Independent Permanent Human Rights Commission (IPHRC) held a thematic debate on '*Protecting and Promoting Rights of Children during situations of Armed Conflict, Foreign Occupation, Emergencies and Disasters*' during its 10th Regular Session held on 29 November 2016. H.E. Dr. Yousef A. Al Othaimeen Secretary General of the OIC, H.E. Dr. Abdul Salam Al Abadi Secretary of International Islamic Fiqh Academy (IIFA) and IPHRC Chairperson Amb. Abdul Wahab inaugurated the debate. Representative and Member from the UN Committee on the Rights of the Child, UN Human Rights Council Advisory Committee, Islamic Development Bank (IDB) and UNICEF participated as key panelist during the discussion. Both the Special Representatives of the UN Secretary General on Children and Armed Conflict and Violence Against Children also participated in the debate through video messages.

Based on the comprehensive discussion, the Commission adopted following:

Underscored that Islam regards protection and promotion of child rights as obligatory as human life is sacred to Allah. All children, particularly orphans and destitute, are regarded as vulnerable and deserving of care. It is the primary responsibility of parents, and shared responsibility of family members, civil society and governments to ensure that children rights are respected, protected and fulfilled in all settings. The rules of engagement during armed conflict/wars, as enshrined in the Islamic teachings, disallows voluntary or forced participation of children in the wars and armed conflicts and ordains that children should be moved away from the conflict zones to ensure their safety and protection[1];

Guided by the '*Covenant on the Rights of the Child in Islam*', OIC Resolutions of four Ministerial Conferences on Childhood, OIC's revised Charter and Ten Year Program of Action 2025 (TYPOA), United Nations Convention on the Rights of the Child (CRC)[2], the Optional Protocol on the Involvement of Children in Armed Conflict and relevant UN Security Council Resolutions[3] and Children's Charter for Disaster Risk Reduction (DDR)[4], Universal Declaration on Human Rights, Vienna Declaration and Program of Action, recently adopted Sustainable Development Goals (SDGs) and relevant IIFA Resolutions;

Welcomed ratification of the CRC and endorsement of the SDGs by OIC Member States[5], which interalia outline measures to bring an end to abuse, exploitation, trafficking and all forms of violence against and torture of children;

Highlighted that while transformation of domestic laws and legal frameworks is the most effective and sustainable way of changing traditional values, family, society, and state responsibilities continue to influence child rights in many countries and communities;

Reaffirmed that States have the primary responsibility to undertake all appropriate measures in the best interests of the child, including strengthening international cooperation, to protect and promote the right of the child to the enjoyment of the highest attainable standard of physical and mental health without discrimination of any kind;

Further Reaffirmed that violence against children is never justifiable and that it is the duty of the State to protect children through effective legislative, administrative and judicial means, including those in situations of armed conflicts and other natural/manmade emergencies from all forms of violence and human rights violations. States must

[1] IIFA position paper prepared by Dr. Abdulqahir Muhammad Qamar
[2] (Articles; 37, 38, 39)
[3] UN Resolutions; 1261, 1314, 1379, 1612, 1820
[4] DDR developed by UNICEF in collaboration with Plan International, Save the Children and World Vision
[5] Article 16.2

exercise due diligence to prohibit, prevent and investigate acts of violence against children, eliminate impunity and provide assistance to the victims in all settings;

Recognized that the roots of violence against children are multifaceted and its prevention and elimination requires an integrated multi-sectorial approach. Achieving all the targets of the SDGs, especially those related to ending poverty and child labor; addressing gender inequality and harmful practices; promoting health and education as well as access to justice through accountable and inclusive institutions will help reduce the risk of violence in children's lives and provide effective responses for victims;

Further Recognized that the child, for full and harmonious development of his or her personality, should grow up in a family environment and that the best interests of the child shall be the guiding principle for those responsible for his/her upbringing and protection. Efforts should be made to build the capacities of families' and caregivers' to provide the child with appropriate care and a safe environment;

Highlighted that full access to inclusive and equitable education and promotion of lifelong learning at all levels and in all situations is an essential precondition for full realization of child's rights;

Underscored that the situation of children remains critical as a result of the persistence of poverty, inadequate social and economic conditions, pandemics, communicable and non-communicable diseases, climate change, natural disasters, armed conflicts, foreign occupation, displacement, violence, terrorism, abuse and inadequate legal protection in different parts of the world;

Expressed concern that OIC Member States, generally, have not been able to benefit from 'demographic dividend' due to lack of specific focus and chronic under investment in the social sectors of health and education. The share of the OIC countries in the worldwide conflicts have increased[6] and the impact of climate change has amplified the vulnerabilities of these countries to natural calamities;

Underlined that armed conflicts, disasters and fragility have devastating effects on children's lives wherein they may become separated from families during these crisis periods or exposed to violence, abuse and child labor including being forced to join armed forces or groups. Accordingly, all humanitarian actions should give adequate priority to child protection during events of crises;

Condemned persistent denial and violations of rights of innocent children living under foreign occupation and brutalities suffered in the hands of security forces causing severe bodily harm and psychological trauma. Inter-alia, urged the Member States to make every endeavor to provide necessary aid to these violence-stricken children and called on the international community to condemn the criminal practices as acts of war crimes and crimes against humanity;

Considering the situation of child refugees, internally displaced children and child asylum seekers, in particular those unaccompanied or separated from their parents; affirmed the need to promote and protect effectively human rights and fundamental freedoms of all vulnerable children, regardless of their status and to provide for their health, education and psychosocial development in all settings; Called upon all OIC Member States to:

a. Ensure universal, effective and simple birth registration procedure of all children immediately after birth as a matter of basic child right;
b. Review and reinforce national legal frameworks and military recruitment procedures to ensure that no individual

[6] Share of OIC in the global conflicts rose from 32% in 2003 to 48.9% in 2011. SESRIC report on the "The State of Children in OIC Countries"

under the age of 18 takes part in hostilities and accordingly delineate the concepts of '*direct participation*' and '*hostilities*' in relevant legislations;

c. Criminalize the recruitment and use of children in armed conflicts;
d. Undertake administrative and social measures to safeguard every child's fundamental rights including their protection from all forms of violence and harmful practices in all settings as well as to develop relevant implementation mechanisms;
e. Fulfil their international obligations 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;
f. Address the gender dimension of all forms of violence against children, particularly against girlchild, and incorporate gender perspective in all policies and actions;
g. Make Early Childhood Development (ECD)[7] interventions an integral part of national policies and educational and health systems by addressing childhood issues within an integrated approach;
h. Implement evidence-based programs and measures that provide children with special protection and assistance, including access to inclusive, non-discriminatory and equitable health care, quality education and social services;
i. Ensure that elimination of all forms of violence against children must be a priority in the national development plans and accordingly be reflected in the Member States' national reviews of their implementation of SDGs;

Further Called upon all parties to armed conflict to: (a) fully respect international humanitarian law (b) refrain from actions that impede the children's access to health, education and social services and to ensure that they receive timely and effective humanitarian assistance (c) refrain from enrolling children as soldiers or employ them in any job that risks their lives to any form of danger;

Expressed its deep concern and condemned militias, armed groups, terrorist organizations, for targeting children, and recruiting them in armed conflicts.

Underlined that the responsibility to fulfill the right to education in emergencies 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 should assist and affected country to ensure that the right to education is universally fulfilled[8];

Recommended that the Member States may consider:

(a) Developing national child rights policy and legislative actions in accordance with the international human rights obligations and humanitarian principles for protection from all forms of violence and ensuring that they grow up in safe, caring and enabling environment with the goal to make children, families, and communities less vulnerable, more resilient and safe;

(b) Developing integrated multidimensional national disaster management plans with focus on child protection systems and disaster risk reduction, which is able to cope with emergencies and fragile situations based on principles of *predicting*, *preparing* and *preventing* emergencies. These plans inter-alia, may focus on:

i. Ensuring provision of timely, effective humanitarian assistance to meet basic survival needs (food, health, water and sanitation) and provide them with a protective environment conducive to their physical, emotional and mental development;

[7] ECD: The years from conception through birth to eight years of age are critical to the complete and healthy cognitive, emotional and physical growth of children.

[8] In accordance with article 4, para. 2 of the CRC

ii. Ensuring co-ordination among government bodies and civil society organisations and identifying specific roles and responsibilities of all agencies in times of emergency;
iii. Use of information/smart technologies for registering all affected children especially the unaccompanied and integrating it with family-tracing systems to reunite the families;
iv. Providing immediate optimal therapeutic space by developing safe areas on the pattern of UNICEF's 'Child Friendly Spaces';
v. Taking safety measures to thwart child trafficking;
vi. Promoting child's recovery and rehabilitation through education, health care, and psychosocial support to strengthen resilience;
vii. Empowering local communities and children in disaster prone areas with easily understandable information about their rights and responsibilities and ways and means of emergency preparedness;
viii. Building a workforce that is able to protect children and also provide systematic training for members of armed forces and law enforcement officials on human rights and international humanitarian law to be able to respond better during times of crises;
ix. Ensuring adequate coordination among relief agencies and different sectors to prevent gaps or duplication and ensuring that need based humanitarian assistance is carried out in accordance with agreed minimum standards;
x. Incorporating children's education as a strategic intervention in the disaster recovery process;
xi. Establishing child complaints and reporting mechanisms to address any incidents of violence or other grievances on priority;
xii. Ensuring full recovery and reintegration of victims of conflict into society through effective counselling, education, health support and appropriate vocational opportunities;
xiii. Follow up immediate recovery with long term rehabilitation and reintegration strategy/plan, which includes poverty reduction strategies and holistic human resource development.

Proposed that the IDB establishes a consortium of relevant UN and multilateral agencies to intensify cooperation in disaster preparedness and management programs through provision of integrated and multifaceted assistance based on sharing of good practices, upon the request of and in accordance with the priorities of the States concerned. Also proposed that IPHRC and IDB may 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 the vulnerable groups such as women and children.

Also proposed establishing a focal point within the Humanitarian Affairs Department of the OIC General Secretariat to:

i. Develop disaster management guidelines with focus on increased use of evidence-based impact, disaster management technologies during disasters, natural calamities, armed and complex humanitarian emergencies;
ii. Sensitise relevant government agencies on the application of the CRC in emergency situations vis-à-vis vulnerabilities of children during disasters;

iii. Publish an annual review of good practices to safeguard child rights during emergencies and afterwards; and

iv. Act as a catalyst to coordinate child rights interventions through broadening and deepening of cooperation between States and relevant non-governmental actors to implement targeted projects and programs.

OUTCOME DOCUMENT OF 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 impor-

tant 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.

OIC-IPHRC RABAT DECLARATION ON ROLE OF MEDIA IN COMBATTING HATE SPEECH

OIC Independent Permanent Human Rights Commission (IPHRC), in partnership with the State Ministry of Human Rights in Morocco, and in collaboration with Office of the UN High Commissioner for Human Rights (OHCHR) held its Annual Seminar on the subject of "Role of Media in Combatting Hate Speech" in Rabat on 23-24 October 2017. Besides Commission Members, the event brought together experts from organizations such as the UNESCO, ISESCO, OHCHR as well as from OIC Member and Observer States including their NHRIs.

After going through an in-depth and inclusive discussion among participants, the Commission concluded with the following as the salient outcome of the Seminar:

Affirmed that Islam guarantees freedom of expression and recognizes the role of critical thinking. However, it makes a distinction between criticism or constructive discussion and sheer disrespect, insult and stereotyping that lead to incitement to hatred and discrimination.

Acknowledged that freedom of expression is a key human right, which is vital for development of stable, peaceful and progressive democratic societies. However, hate speech does the opposite. It dehumanizes individuals and communities on the basis of stereotypes /misperceptions relating in most cases to their race, ethnicity, origin or religion.

Recalled that the Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR) clearly stipulate the importance, scope and bounds of the right to freedom of expression including expressions that need to be prohibited by law. This affirms the principle stated in Article 29 of UDHR, which provides that the exercise of all rights and freedoms is subject to limitations set by law that include purposes such as recognition and respect for the rights and freedoms of others. Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and corresponding General Comment No. XV also dwell on the importance of combating and proscribing hate speech.

Further recalled the important contributions made by UN Human Rights Council Resolution 16/18 and *Rabat Plan* of Action in promoting the values of freedom of expression and steps needed to evaluate and combat incitement to hatred, discrimination and violence resulting from negative stereotyping, xenophobia, stigmatization and hate speech.

Highlighted that the hate speech motivated by racism, xenophobia and intolerance, coupled with impunity for perpetrators creates a climate of fear and social exclusion of the targeted persons and groups, which is anathema to the ideals of pluralism and democracy. Hence, the need for responsible use of freedom of expression to ensure protection of the rights of others, in line with the parameters set forth in Articles 19 and 20 of ICCPR.

Expressed deep concern that, hate speech has become an epidemic and a real danger to the foundations of democratic order and the values of multiculturalism in modern societies. Growing incidents of Islamophobia across the world are clear manifestations of incitement to hatred and discrimination. Refugees and migrants, in particular, bear the worst of incitement to hatred and stereotyping.

Recognized that the rapid development of mass and social media and communications technology has exponentially enlarged access to all sorts of information, resulting in a struggle to regulate or reprocess the content by State and non-State actors. Public opinion on a variety of important subjects across the world is largely shaped by the way these

subjects are portrayed on mass media, internet and social networks.Words and expressions used have consequences as rhetorical excesses can give rise to a climate of prejudice, discrimination and violence.

Acknowledged the strength of media especially the new social media networks in quickly disseminating views and forming opinions as well as its misuse by terrorist and extremist groups for fomenting hatred and intolerance as well as new recruitment in their ranks. Hence, the need to effectively use the strength of media in promoting freedom of expression and combatting hate speech cannot be over emphasized.

Stressed that the crucial role of media in combatting hate speech should prioritize advocating respect for human rights, preventing hatred, discrimination, inequality and violence while building trust and promoting reconciliation. The media must work to counter hate speech and discrimination in all media frameworks, both on and offline, by promoting ethical standards, while maintaining respect for freedom of expression.

Further stressed that all media stakeholders must work to reduce the stimulus that incite hate speech and play a positive role in the overall promotion of mutual respect and understanding by taking strong positions against all instances of hate speech.

Reaffirmed the principles of the Rabat Plan of Action especially the responsibility of the media to ensure that acts of incitement to hatred are spoken out against and acted upon with the appropriate measures in accordance with international human rights law. Also reaffirmed the principles of the Fez Declaration on the role of religious leaders in combating incitement including through the use of the media. Furthermore, States should have in place a public policy and regulatory framework which promotes pluralism and diversity of the media, including new media; which promotes universality and non-discrimination in access to and use of means of communication.

Urged all States to: (i) dedicate necessary human and material resources to reduce the digital divide between the developing and developed countries; (ii) encourage the media to develop codes of conduct so as to effectively counter the hate speech; (iii) develop comprehensive strategies to make freedom of expression and the right to information primary weapons against those who violate, or seek to violate, basic human rights through their exploitation of those same freedoms; (iv) take firm actions to prevent the use of religion in their media outlets for inciting hatred, discrimination and violence against minorities and to improve/repealrelevant laws in conformity with their respective international human rights obligations; (iv) counter hate speech with positive messages of inclusivity through media pluralism by allowing racial, religious and ethnic minorities to freely access media and information technologies for presenting their view point;(v)create legal and social conditions for promotion of free media with self-regulatory accountability mechanisms in the form of best practices and guidelines to ensure implementation of ethical standards across all media platforms; (vi) create spaces for interreligious and intercultural dialogue as means to counter hate speech; and (vii) focus on interfaith and intercultural education in particular to the youth who are primary users of social media to develop critical thinking that helps in combating hate speech and ignorance about others as well as to support dialogue, diversity and living together.

Encouraged Member State to involve religious leaders, agencies, institutions and followers as well as civil society in combating hate speech, support and build their internal capacity to constructively engage to address the negative use of media and create spaces for interreligious and intercultural dialogue as a necessary step to countering hate speech through religious education and use of social and educational media.
Urged all Member States to use the laudable teachings and traditions of Islam to promote tolerance, moderation, respect for the dissent and diversity of opinions as well as rights of minorities as part of their education curricula in order to promote critical thinking, combat hate speech and to promote peaceful progressive and pluralistic societies.

Called upon the Media to: (i) abide by the standards of responsible and ethical journalism based on independent, accurate and fact based communications meeting the criteria of fairness and objectivity; (ii) avoid biased and unfounded reporting leading to stereotyping and incitement to hatred against specific individuals, groups, minorities and communities; and (iii) promote respect for socio-cultural and religious diversity for building and strengthening inclusive, peaceful and pluralistic societies.

Further called upon all media institutions to consider taking the following measures:

- All media agencies and concerned authorities should invest in providing resources to raise awareness about the impact of hate speech in their respective societies. Despite existing good journalism practices, additional training and resources for media professionals and media organizations should be expanded to strengthen ethics and self-regulation, and build capabilities on how to investigate, analyze and report on hate speech and hate crime;
- Media must not only educate others but also educate itself about different cultures, traditions and beliefs to bring down stereotypes within the media, which reinforce xenophobic attitudes;
- Promote education on media ethics with a special focus on the rights and responsibilities of journalists and their role in creating and promoting peaceful societies. Awareness must be raised on the political, social and cultural rights of individuals and groups, including freedom of speech and the corresponding responsibilities and social implications;
- All media stakeholders should consider countering the dissemination and impact of hateful messages both online and offline as part of their mission. They must be alert to the dangers of hate speech and the risk of manipulation;
- Journalists should play a crucial and constructive role in forming both policy and societal opinion regarding hate speech and its negative effects on society. Journalists must be equipped with the knowledge and skills to identify hate speech and to counteract hate speech messages;
- Media institutions should encourage conflict sensitive reporting and multicultural awareness to help dispel the ‘us’ against ‘them’ fallacy. Multicultural awareness campaigns should take into account the respect for the diversity of cultures and traditions.
- Encourage victims and witnesses to report hate speech related crimes to help end impunity against hate crimes. Impunity against hate crimes can be tackled by establishing monitoring and evaluation units in news-rooms. These units would then be tasked with monitoring hate speech trends, compiling reports and bringing these to the attention of key institutions and the civil society.
- Creation of Media Early Warning Mechanisms through use of modern information and communication technologies to note any increase in the hate speech, which could then be used to contain or prevent the violence.

Called upon States to politically commit at the highest level to strengthen international efforts to building a shared framework and mutual understanding to differentiate between freedom of expression and hate speech, in line with international human rights law.

Further called upon States to formulate a comprehensive information strategy in close cooperation and partnerships with relevant information centers and institutions to identify and counter the hate speech including by developing a code of conduct to monitor and address the hate content; receive and impart culturally sensitive professional training for unbiased reporting of the events; as well as to help modernize media infrastructure to identify hate contents and develop effective counter narratives to combat incitement to hatred and discrimination.

Urged the international community to intensify its efforts to help break the impasse in ongoing discussions about how to effectively combat hate speech at the UN and at the Istanbul Process, as well as to contribute positively to the effective implementation of the UN Human Rights Council Resolution 16/18 and the Rabat Plan of Action at all levels. States may consider establishing an Open-ended Working group within the Human Rights Council to discuss effective implementation of HRC Res 16/18 and to establish an observatory within OHCHR to monitor and report on incidence of hate speech and incitement to hatred including in the Media as an early warning mechanism.

Encouraged States to create and strengthen national mechanisms to combat hate speech in close cooperation with media, religious institutions and civil society and to report on their efforts to relevant UN Human Rights Treaty Bodies through periodic reports as well as during their Universal Periodic Review in the Human Rights Council.

Appreciated the notable role played by the Kingdom of Morocco in organizing and promoting activities that contribute to better understanding of the right to freedom of expression, its scope and limitations such as hate speech and tools available to combat it in accordance with international human rights law.

OUTCOME DOCUMENT OF THEMATIC DEBATE ON IMPORTANCE OF CULTURAL DIVERSITY IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Jeddah 23 November 2017: The OIC Independent Permanent Human Rights Commission (IPHRC) held a thematic debate on '*Importance of Cultural Diversity in the promotion and protection of human rights*' during its 12th Regular Session on 21 November 2017. IPHRC Chairperson Mr. Med S. K. Kaggwa and Amb. Samir Bakr, representing the OIC Secretary General inaugurated the debate, which was also attended by the Commission Members, OIC Members States and their National Human Rights Institutions, experts in the field of human rights and representatives of media.

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

Underscored that Islam accepted and promoted human diversity as 'Divine Order' within the concept of Unity in Diversity. It laid the foundation of a new culture steeped in the principles of equality among all human beings regardless of caste, color, creed or religious beliefs. Unlike, other civilizations in history, it did not look upon human cultures in terms of black and white nor divide human societies into spheres of absolute good and absolute evil. Its acceptance / respect for cultural pluralism is not based on any expediency or opportunism but it comes from its pristine universal teachings to all mankind.

Further underscored that Islam's success as a global religion/civilization is linked to its ability to adapt and embrace positive cultural traits of distinct peoples and diverse places. However, while fully respecting the beneficial values of other cultures, Islam sought to alter only those practices which prove to be detrimental for creation and sustainability of peaceful, progressive and welfare states and societies.

Highlighted the cultural zenith of medieval Muslim societies and their contributions in the field of scientific discovery, development of education and different cultures, which contributed to the steady journey of the world out from the Dark Ages into the era of Renaissance.

Guided by the 'Pact of Medinah', the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, UNESCO's *Universal Declaration on Cultural Diversity, Convention on the Protection and Promotion of the Diversity of Cultural Expressions* and ISESCO's[1] *Islamic Declaration on Cultural Diversity and Cultural Strategy for the Islamic World*, which guaranteed the right of everyone to participate in the cultural life including the persons belonging to ethnic, religious or linguistic minorities the right to enjoy their own culture and to profess and practice their own religion.

Recalled the *Vienna Declaration and Program of Action* which, acknowledges the presence of cultural heterogeneity, the recognition of the significance of the national and regional particularities and acceptance of the right of everyone to have different cultural identities, while reaffirming the solemn commitment of all States to fulfill their obligations to promote universal respect for and observance and protection of all human rights and fundamental freedoms for all.

Further recalled the UNESCO Declaration on *Cultural Diversity, which affirms that "Culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary*

[1] Islamic Educational Scientific and Cultural Organization

for humankind as biodiversity is for nature[2]". Hence the full realization of human rights requires respect for and promotion of cultural diversity guaranteed by universally recognized human rights instruments.

Welcomed the adoption of Sustainable Development Goals 2030 and its recognition of respect for cultural diversity as an integral element for ensuring sustainable development of nations and cultures through promotion of a culture of peace and non-violence, tolerance, mutual respect, inter-cultural understanding and global citizenship and shared responsibility.

Further welcomed the holding of the 10th Islamic Conference of Cultural Ministers in Khartoum, Sudan organized by the Organization of Islamic Cooperation (OIC) and its specialized agency ISESCO to bench mark the progress made in achieving the goals of the Islamic Cultural Strategy and respond to the challenges of diversity in a coordinated manner through joint Islamic action.

Affirmed that cultural diversity, a defining characteristic of humanity, is reflected in the rich tapestry of cultures, traditions, philosophies and arts. Despite existence of cultural differences, the homogenizing effect of globalization has led to the emergence of common cultural and ethical values and behavioral patterns common to humanity, which has helped to bring people closer and eliminate harmful traditional practices. Hence, the respect for cultural diversity represents respect for the shared human principles that form the bedrock of the universality of human rights and fundamental freedoms proclaimed in the universally recognized human rights instruments.

Identified the global challenges emanating from diverse demographic and geopolitical realities among developing and developed world resulting into unequal economic and social exchanges, which have the potential to deepen the existing cultural differences between communities and generate conflicts.

Underscored the importance of leisure activities like sports or artistic expressions in the form of music, drawing, and similar performances to promote cross-cultural understanding through identification of similarities within and among cultural groups for creation of a pluralistic society;

Regretted that, lately, the signs of intolerance and failure to accept the diversity are ominous in the form of growing tide of xenophobia, hatred and discrimination based on one's race, religion, origin and ethnicity, which has resulted in blatant human rights violation of affected communities. Unfortunately, these acts of intolerance are not only prevalent in developing or societies facing conflicts but are equally affecting the developed world, where the politics of far-right is breeding the seeds of discord and promoting xenophobia on the pleas of cultural differences and demonizing of migrants, refugees and other minorities. Truly such a culture of hate and intolerance is not conducive for creation of peaceful societies and continues to constitute a threat to global peace and security.

Further regretted that in spite of the fact that Islamic values are fully compatible with the universally accepted norms of democracy, social justice and non-discrimination, Islamophobia and its articulation by the far-right groups is leading to hatred and discrimination against Muslims and creating a false sense of an impending clash between civilizations.

Denounced the misguided attempts of certain quarters to distort the institution of marriage and family by introducing slanted narratives of "sexual orientation" as part of human rights and LGBT relationship as an 'alternative form of

[2] UNESCO Declaration on Cultural Diversity

family' in the garb of diversity. To this end, reiterated the fundamental role and contributions of the institutions of marriage and family, which have contributed in promoting ethical and spiritual values as well as strengthening the socio-economic progress in all societies.

Appreciated the timely initiatives of the OIC which include consensus adoption of the UN Human Rights Council Resolution 16/18 that conveys global resolve to combat all forms of discrimination, hatred and violence based on one's religion or belief to avoid clash among cultures. Also lauded the OIC's efforts to actively collaborate with the UN Alliance of Civilizations and UNESCO to bridge 'perception gaps' on issues of freedom of religion, freedom of opinion and expression as well as combating racism and racial discrimination and for protection of cultural heritage, access to quality education, information and communication and advancement of science and technology that serve to strengthen the implementation of universal human rights standards among all cultures and societies.

Emphasized that in order to promote a constructive understanding of cultural diversity, a threefold comprehensive strategy must include intellectual, political, and legal and human rights dimensions. On the intellectual front, cultural diversity should mean recognizing the value of pluralism and multiculturalism as a cornerstone of modern societies. On the political front, cultural diversity should be translated into policies of social inclusion of various cultural components of society and strengthening the socio-economic and cultural visibility of diverse communities. On the legal and human rights front, cultural diversity must be recognized through respect and protection of the right to differ as an indispensable component of universal human rights.

Emphasized further that IPHRC, as one of the principal organs of the OIC, has an important role in consolidating respect for Islamic culture and noble values and promoting inter-civilizational dialogue, consistent with the OIC Charter. In this regard, it urged the OIC institutions to take advantage of the human rights expertise of the Commission in pursuing the human rights based approaches towards implementation of the Islamic Cultural strategy.

Underscored that States have the sovereign right to adopt measures and policies to protect and promote the diversity of cultural expressions within their territory and to undertake appropriate measures in the best interests of their respective societies while ensuring non-discrimination and upholding the observance and protection of all human rights and fundamental freedoms for all segments of society.

Further underscored that while transformation of domestic laws and legal frameworks is an effective mean to embrace diversity, the role of traditional ethical and family values and particularly the role of women and civil society remains paramount in brining sustainable cultural integration among various groups.

Recognized the importance of information and communication technologies including the social media, which has broadened the scope of interactions for innovation and creativity and exchange of knowledge and ideas among the young minds to foster people to people development and cooperation with the potential to bring communities closer. To that end also emphasized the implementation of the recommendations made in the recently concluded IPHRC Seminar on Role of Media in combating hate speech, to create conducive environment for inter-civilizational dialogue and to demystify the notion of any clash of civilization or cultural relativism.

Highlighted that while utmost respect for diversity is emphasized, it must not become an excuse to perpetuate harmful cultural practices, which run against the fundamental/universal human rights. The respect for cultural diversity must not stop the societies to introspect and evolve. The process to alter these harmful practices must be carried out by proponents within the respective societies or communities through a process of an informed and open dialogue that is based on true understanding of the religious and cultural teachings and the obligations of universal human rights law.

Further highlighted that there is a need to understand that changing deep rooted cultural convictions of certain communities is a time-consuming process, which requires patience and understanding by all stakeholders. Although formal legislations in accordance with the international obligations of Member States prohibiting harmful practices may be the first step but a holistic approach especially through education and community participation are the preferred means to ensure viability and sustainability of the change process. Imposed solutions from outside are counterproductive and evoke resistance.

Underlined the need to develop a culture of peace through inter-civilizational dialogue to bridge ignorance and misunderstanding and allow each culture to learn and improve itself through positive, respectful, constructive and informed interactions. The promotion of intercultural/civilizational dialogue should focus on the three principal dimensions of culture; aesthetic, ethical, and spiritual components[3].

Highlighted the need to manage diversity at the political and constitutional level (which sets the foundation for the acceptance of diversity as a corner-stone of the national identity of the nation/ state); at the cultural and intellectual levels (which involves cultural mapping of various cultural components of the society, including cultural activities, cultural heritage, cultural practices, cultural products and artifacts to be included in the curricula to educate younger generations) and the educational and information levels (to be executed through media and technological applications);

Urged the international community to:

(a) follow up on the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* to deepen the international debate on cultural diversity, particularly in respect of its links with development and its impact on policymaking and implementation;
(b) encourage the production, safeguarding and dissemination of diversified contents in the media and global information networks to promote harmony between different cultural groups within and among nations and to embrace cultural diversity as a unifying force for creation of resilient societies;
(c) ensure respect for and protect traditional knowledge, in particular that of indigenous peoples and fostering synergies between modern science and local knowledge;
(d) encourage mobility of creators, artists, researchers, scientists and intellectuals and the development of international research programmes and partnerships, while striving to preserve and enhance the creative capacity of developing countries;

Urged the OIC Member States to:

(a) mainstream respect for cultural diversity in all relevant national legislations/ policies/national action plans in conformity with their international human rights obligations;
(b) develop appropriate regulatory frameworks designed to promote the principles enshrined in the Cultural Strategy for the Islamic World and other relevant universally recognized human rights instruments;
(c) incorporate the respect for cultural diversity as a tool and engine of sustainable development in relevant policies and programs;

[3] a) the aesthetic dimension is represented by the physical expressions in the form of buildings, folklore, food and dresses etc. and it is under this dimension of culture that intercultural dialogue is usually practiced and perceived; b) the ethical dimension of culture is about the values that define the humanity of each people, community or group, and it is the dimension that gives sense, substance, and strengthen to each culture. It is expressed through human relations and structures of society, and also through the aesthetic expressions and perceptions; c) the spiritual dimension is although intangible yet primary source of culture, which explains and gives meaning to life and all human expressions.

(d) intensify international cooperation through cross cultural fertilization of knowledge and ideas and exchanges of best practices in regard to cultural pluralism;
(e) involve all sectors of civil society including religious leaders, minorities, ethnic groups and media in framing of public policies aimed at safeguarding and promoting cultural diversity and to that end facilitate the establishment of forums for dialogue among these groups;
(f) redesign national curricula to integrate human rights education into formal curriculum to create awareness about positive value of cultural diversity;
(g) remodel teachers' education/training as well as the curriculum with an aim to impart 'Global Citizenship Education'4 to younger generations to sensitize them about "rights, responsibilities and duties that come with being a member of the global entity as a citizen of a particular nation or place"5;
(h) establish cultural institutions and facilities and ensure provision of requisite human and financial resources for cultural and institutional development.

Proposed establishing an independent Observatory within the ISESCO to:

(a) follow up implementation of the Cultural strategy for the Islamic world that can act as a catalyst to broaden cooperation between States and relevant non-governmental actors to implement targeted projects and programs;
(b) collect, compile and widely disseminate data and statistics on cultural diversity to help in the implementation of the Cultural Strategy;
(c) develop methodologies and tools for assessing and monitoring respect for cultural diversity that are adaptable to national or local conditions by governments and public and private institutions;
(d) help establish Member States national observatories to monitor policies and advise on appropriate measures for the promotion of cultural diversity as a mean to further the respect for and promotion and protection of human rights within their respective societies.

[4] GCD nurtures respect for all, building a sense of belonging to a common humanity and helps learners become responsible and active global citizens. https://en.unesco.org/gced
[5] https://en.wikipedia.org/wiki/Global_citizenship

OIC-IPHRC

FIELD VISIT REPORTS

OIC - IPHRC FIELD VISIT REPORT ON THE HUMAN RIGHTS SITUATION IN THE CENTRAL AFRICAN REPUBLIC MAY 2014

I. INTRODUCTION

At the end of its Expanded Emergency Meeting at Ministerial Level on the Situation in the Central African Republic on 20 February 2014, the Executive Committee deliberated on the escalating violence, cleansing of Muslims, destruction of mosques and mass exodus of Muslims in the Central African Republic – an Observer State in the OIC. In order to stem the tide of the violence, sufferings, gross violation of human rights, as well as to assist in the effort to return the country to stability and peaceful co-existence between the various ethnic and religious communities in the country, the Executive Committee made several recommendations, one of which was:

> "*IPHRC to examine the human rights situation in the Central African Republic and present concrete recommendations to the Council of Foreign Ministers towards addressing the issue in an effective manner*[1]"

In response to the request by the Executive Committee, Dr. Cheikh Tidiane Gadio, a former minister in Senegal, was appointed OIC's Special Representative to CAR. The Special Representative led an OIC Ministerial delegation to the Central African Republic on solidarity and assessment mission from 28 April – 1 May 2014 in which the IPHRC was supposed to be represented, but the IPHRC representative could take part owing to administrative and logistical difficulties. In the circumstance, the facts on which the Commission's based its observations and recommendations in this report, were not from primary sources, but reliable reports from the UN Secretary-General, Office of the UN High Commissioner for Human Rights, the African Union, various UN humanitarian agencies, as well as on-the-spot report of international NGOs like Amnesty International and Human Rights Watch. As at 18 March 2014, there were "more than 50 humanitarian organizations working in CAR with offices in Bangui[2]" and most of these organizations rendered similar reports of massive human rights violations in the country, especially targeted killings of Muslims since January 2014.

II. BACKGROUND

The Central African Republic is a landlocked country in Central Africa. It is bordered by Chad Republic in the north, Sudan in the east, South Sudan in the east, the Democratic Republic of Congo and the Republic of Congo in the south, and Cameroon in the west. CAR has an area of about 620,000 square kilometres and a population of about 4.5 million people. 80% of the people in CAR are Christians, some of whom practice traditional religion. About 15% of the population before the current crisis in the country was Muslims.

Since its independence in 1960, CAR has never had a prolonged period of political stability. The country's first President, David Dacko was in office for only six years before he was ousted by his military chief, Jean-Bedel

Bokassa – who declared himself an Emperor – with the blessing of France, and used one-third of the country's budget for the coronation ceremony. Bokassa's regime was that of absolute dictatorship, characterized by widespread torture and extrajudicial killings. At the height of his dictatorship, he became an embarrassment to even the colonial power

[1] Paragraph No. 8 of the Final Communiqué of the Expanded Emergency Meeting of EXCOM, 20 February, 2014
[2] Central African Republic: Who has a Sub-Office/Base: OCHA Report 20140318

that made him president, and in 1979 he was toppled and replaced by his predecessor, David Dacko, who was in turn ousted by Gen. Andre Kolingba in 1981. Gen. Kolingba remained in power until 1993 when Felix Patasse replaced him in the country's first multi-party democratic elections.

Patasse was in office until 2003 when Gen Francois Bozize seized power in 2003. Unfortunately, these coups and counter-coups did not only increase the political instability in CAR, but also the country's state of extreme poverty. The country has considerable natural resources, such as uranium, gold, diamonds and timber, as well as huge potential for hydropower, but all these remain unexploited, leaving the government with no funds to provide even the most basic services to the citizens.

"Political instability and administrative weakness have been permanent features of the Central African Republic since independence[3]". All previous governments of the Central African Republic relied almost entirely on foreign assistance for more than 70% of their budgets, but donors reduced their assistance substantially with the country's growing human rights violations. However, it was mainly owing to massive corruption and the inability of the state to pay the salaries of workers, including the military soldiers under President Bozize, led to the emergence of several factions that took arms to violently topple his regime.

III. THE SELEKA ALLIANCE

The Seleka Alliance, led by Michel Djotodia comprised three former rebel factions, which started an armed campaign against Bozize in 2012. The origin of the Seleka fighters has always been shrouded in controversy, with the former government of CAR accusing the alliance of harboring "foreign provocateurs" – ex-rebels from Chad, Sudan and Islamists from Nigeria, which the Seleka leadership strongly denied. For the one-year of its military campaign, which resulted in the toppling of Bozize, there were no sectarian cleavages in the operation of the Seleka Alliance. The main grievances of the Alliance were initially about payment of salaries, but as they gained territories they began to put forward political grievances like the freeing of political prisoners and ending of corruption, which was rampant under Bozize. There was no doubt that at the beginning, the Seleka Alliance had the support of Central African citizens across the board, which was helpful in their military campaign. However, immediately the Alliance over-ran Bangui the French media started to refer to them as "Muslim-Led-Rebels". Michel Djotodia, a Soviet-trained economist, though a Muslim, has never haboured any Jihadist ambition, but the specter of Mali was mischievously created to portray the Seleka Rebels as a "Muslim army".

Djotodia might have good intentions when he put together the Seleka Alliance, but either he had no idea how to move beyond overthrowing Bozize, or he was overwhelmed by the impecunious state of the country's economy. When he took over as Interim President in April 2013, government workers including the military had not been paid for months. Caught in this circumstance the Seleka Alliance militias committed several serious human rights violations against the civilian population, especially in the capital, Bangui. However, it was on record that Djotodia's government never condoned the criminal activities of the ex-Seleka "rogue" soldiers, some of whom had been declared wanted for various crimes including murder. Eventually, the Seleka Alliance had to be officially dissolved, but it was too late as some of the rebels had already carved out little fiefdoms in the countryside, as well as in the capital, Bangui.[4] Although the Seleka rebels terrorized almost every civilian in CAR, Christians, who formed the single largest religious group in the country, the largest victims – it might be said - proportionate to their population. Unfor-

[3] "Central African Republic: history of a collapse foretold"? By Morten Boas, Norwegian Institute of International Affairs, Jan 2014
[4] A/HRC/24/59 (UN HRC REPORT TO GENENAL ASSEMBLY 12/9/13)

tunately, a purely criminal action by renegade soldiers, was mischievously and with dreadful consequences, dubbed by the French media as a Muslim pogrom against majority Christians in CAR. The term "Muslim-led Rebels", inciting as it was became the new buzzwords for the French media when referring the Seleka militia. It certainly fanned the amber of bitterness, culminating into the barbaric sectarian murders and ethnic cleansing that followed. The Seleka militias were not a regular army and the indiscipline exhibited by them was consistent with the misbehavior of similar rebel soldiers in Africa and other parts of the world, and certainly that had nothing to do with Islam, or it shouldn't have affected innocent Muslims who were not members of the militia.

IV. THE ANTI-BALAKA MILITIA

The Anti-Balaka Militia was formed in the 1990s as village self-defense forces. Their main reason for their establishment was to fight against bandits, cattle-raiders and poachers, and being a rural-based militia; its members were mostly animist, identified by the lucky charms and other fetish symbols they wore around their necks. How did the Anti-Balaka militia transform itself overnight from community-based outfit for combating cattle raiding and poaching, into a nation-wide Christian Militia, whose goal is to cleanse CAR of all Muslims? Who are the leaders of the anti-balaka militia? A very intriguing thing is the more questions asked about the Anti-Balaka, the less answers one gets from all quarters. Imam Omar Kabine Layama, confirmed the obvious to Chatham House that, "The anti-balaka originally started as a self-defense group. However, this militia now has thousands of ex-presidential guards vying to get back into power".[5] According to the Imam, unlike Rwanda which has two dominant ethnic groups, and therefore, easy to stoke up ethnic conflict, it is much more difficult to use ethnicity in CAR which has about 80 different ethnic groups. The Imam was convinced that religion was deliberately used to achieve a political objective. The views expressed by Imam Layama were shared by the "Vatican News", which under the caption, "CAR – Are the Anti Balaka really "Christian Militia"?, stated as follows:

> '*The clashes between former Seleka rebels and anti-Balaka militia that are ravaging the Central African Republic are often described as "interfaith", being that the Seleka are Muslims and the anti- Balaka Christians. The reality is more complex, because not all Members of Seleka are Muslims and above all the majority of the anti-Balaka militia are not Christians*".[6]

While even a cursory look at the dynamics of the CAR conflict will easily give credence to the fact that neither Seleka nor anti-Balaka were motivated or united by religion, the question of who is behind the anti-Balaka and their genocidal agenda remains unanswered. The general belief in CAR is that former president Bozize is funding the militia, with the active support of a foreign power. Most Muslims in CAR are suspicious of the French military, which they derisively refer to as the "White anti-Balaka". As a former colonial master and with 1600 troops in CAR, mainly in Bangui, most Muslims in the country could not comprehend how the anti-Balaka rag-tag militia could carry out such horrendous massacres, especially in Bangui, without being reined-in by the peacekeeping troops. Amnesty International raised the same concern when it reported, "The anti-Balaka militia are carrying out violent attacks in an effort to ethnically cleanse Muslims from Central Africa, and the international peacekeeping troops have failed to stop the violence. They have acquiesced to the violence in some cases by allowing abusive anti-Balaka militia to fill the power vacuum created by the Seleka's departure".[7] However, the most damning evidence about the French Sangari's lackadaisical and half-hearted desire to stop the anti-Balaka militia's targeted killings of Muslims, at least

[5] "Conflict in the CAR: Religion, Power and Prospects for Reconciliation. Statement by Imam Omar Kabine Layama, President of CAR Islamic Community, at Chatham House, London, 27 January 2014

[6] "The Boganda Journal: Observations on Central Africa", 25/02/2014

[7] Amnesty International Report; "CAR: Ethnic Cleansing and Sectarian Killings", 12/02/14

between January and February 2014, came from a statement made by General Francisco Soriano, Commander of the French Sangari forces. When asked about the identity of the anti-Balaka, the General replied: 'We don't know: their chain of command and their political programme are all unknown".[8] If the French troops did not know, or did not care to know who were members of the anti-Balaka, their command structure and political programme, then it shouldn't be surprising that they were also unable to stop the barbaric massacres and coordinated cleansing of innocent Muslims by the anti-Balaka militia, ostensibly in revenge for earlier gross violations of human rights by the Seleke militia.

V. THE HUMANITARIAN CRISIS IN CAR

From March 2013, when the Seleka rebels overran Bangui and seized power from the Bozize regime, CAR was left in the hands of bandits, who used rape, murder, and plunder, as instruments of imposing their will on the people. With just about 200 policemen to guard 4.6 million people from rebel gangs, the humanitarian crises built up to a point where the African Union (AU) had to call on concerned actors in CAR "to fully comply with international humanitarian law and human rights, and to refrain from any acts of violence against civilians[9]". The AU emphasized its determination to hold accountable all violators of human rights and humanitarian law in CAR. As early as December 2013, because of the total collapse in commercial life and the insecurity that had disrupted the farming season, food shortages had started to be evident throughout the country. Muslims traders controlled more than the 80% of the commercial trade in the Central African Republic, and the immediate impact of the killings and mass exodus of the Muslims, was shortage in food supplies.

The six months, which Michel Djotodia spent as President of CAR, was punctuated by reprisal and counter-reprisal killings between ex-Seleka and the anti-Balaka militias. The dissolution of the Seleka militia in September 2013 and their disarmament ordered by Djotodia, without any serious arrangements to protect the militiamen or the Muslim communities, whom the French media had mischievously portrayed as allies of the Seleka, did not help matters, as this just opened the floodgate for anti-Balaka to start exacting total revenge on all Muslims. Once the anti-Balaka got the upper hand in the conflict4/30/14 12:05 PM4/30/14 12:06 PM, their goal changed to ensuring that no Muslim in CAR – old, young, men or women were spared. There were graphic pictures of Muslims burnt alive in their houses, dismembered and even eaten up in a cannibalistic orgy, last heard of in the primitive ages! The deployment of the African-led International Support Mission (MISCA) in December 2013 with the mandate to stabilize the country as a result of the spiraling spate of sectarian killings, not only did it not show the anticipated result, but it did not also seem to halt the disintegration of CAR, with thousands scrambling to reach areas of relative safety in or out of the country.

The humanitarian situation in CAR since 2012 has remained extremely dire. It has been estimated that tens of thousands have died, and about 2.2 million people, half of the country's population is in need of humanitarian assistance. According to OCHA, as at 31 March 2014, Internally Displaced Persons (IDPs) in CAR were about 1,625,000 with about 200,000 in Bangui alone. CAR refugees in neighbouring countries were about 319,603 (Cameroun 150,000; Chad 90,000; DR Congo 64,000; and Peoples Republic of Congo, 15,000)[10] . According to the same source, as at end of March 116,051 persons have been evacuated out of CAR, of which 92,3832 were citizens of Chad or third countries. There are reported cases of starvation, malaria and cholera in several camps where the victims of this crisis are taking refuge, and as the rainy season is already in sight, the problems of inadequate shelter and feeding for the refugees would increase drastically. The success of whatever supports OCHA and the humanitar-

[9] AU Peace and Security Council 362nd Meeting, Addis Ababa, 23 March 2013.
[10] "Central African Crisis: Regional Humanitarian Snapshot (as at March 2014)"

ian agencies may wish to give the victims will depend almost entirely on funds raised from of external contribution. The UN Under-Secretary-General for Humanitarian Affairs and Emergency, Baroness Amos put it more aptly: "Financial support is urgently needed to provide seeds and tools so that people can plant, so that we can support the pre-positioning of stocks, support voluntary returns where possible, and improve conditions in the IDP sites. We have asked for $551 million, given the scale of the crisis it is a modest amount. For now, we are only 16% funded[11]". Among the mostly urgent things needed, according to Baroness Amos indicated tents, food and medicine especially for the most vulnerable among the IDPs and the victims that were taking refuge in the neighbouring countries.

Of more immediate concern, was how to evacuate 19,000 Muslims urgently from Bangui, as well as from other towns in CAR, who are surrounded by anti-Balaka Christian militia threatening their lives. The militia has become more militarized it now has the audacity of attacking African Union peacekeepers. The anti-Balaka up to now control all major routes to and from Bangui, as well as many towns and villages in the southwest of the country. There are currently about 6,000 peacekeepers in CAR, about half the number required, which made it extremely difficult for the troops to halt the massacres going on all over the southern part of the country. "The state has virtually no capacity to manage the array of threats it is facing – no national army, and the remnants of the police and gendarmerie lack the basic equipment and means to exercise their duties, while the administration is largely absent", lamented Mr. Toussaint Kongo-Daudou, the Foreign Minister of CAR. Unfortunately, from all indications the United Nations would not be able to raise the number of the peacekeepers to 12, 000 – the minimum needed to take effective charge of CAR – until possibly around September 2014. Meanwhile, the United Nations Security Council through its Res.2127/2013 has authorized both the deployment of the African-led International Support Mission in the Central African Republic – MISCA – and the French troops already in CAR, to help protect civilians, stabilize the country and restore State authority over the territory, as well as create conditions conducive to the provision of humanitarian assistance. To finance such efforts, the Council requested the Secretary-General to establish a trust fund for MISCA, through which Member States and international, regional and sub-regional organizations could provide support[12].

VI. HUMAN RIGHTS VIOLATIONS

In her 64 years as a sovereign state, the citizens of the Central African Republic have never had a government that bothered about human rights and fundamental liberties. Lack of basic civil and political rights have been a common feature of all successive regimes in the country. However, even by the standards of CAR the horrendous violations of human rights have been taking place in the country since 2012 have been unprecedented. In the Annual Report of the UN High Commissioner for Human Rights to the 2013 UN General Assembly, the High Commissioner had this to say on the human rights violations by the ex-Seleka militia:

> "*Reports indicate that Seleka soldiers were involved in summary executions of the members of the security forces of the former Government since the beginning of the rebel offensive on December 2012. The Seleka also reportedly tortured and ill-treated civilians at check-points, illegal detention centres and in other; they committed sexual violence, including against children; and looted public and private property*[13]"

However, the reprisal of the anti-Balaka Christian militia since September 2013, which involved coordinated attacks on Muslim neighbourhoods, including public lynching of Muslim civilians, mutilating their bodies and setting them

[11] Baroness Amos, UN Under-Secretary-General for Humanitarian Affairs and Emergency: Remarks to the Press on the Situation in CAR, Geneva, 7/3/14
[12] S/RES/2127(2013) – 7072nd Meeting, 5December 2013.
[13] A/HRC/24/59 12 September 2013

ablaze, were atrocities without parallels in the annals of modern conflicts. "Children (Muslims) have been decapitated, and we know of at least four cases where the killers have eaten the flesh of their victims. IPHRC was shown gruesome photographs of one of those cases by one of the civil society organizations that have been courageously attempting to document violations[14]". Amnesty International, which has sent several observers to Bangui and to the various refugee camps in the neighbouring countries, described the ongoing violence inflicted by the anti-Balaka Christian militia on Muslim civilians as a "tragedy of historic proportions", which could set a dangerous precedent for other countries in the region. 'The anti-Balaka militias are carrying out violent attacks in an effort to ethnically cleanse Muslims in the Central African Republic. The result is a Muslim exodus of historic proportions[15]". The exodus has literally changed the demography of CAR, with Muslims in the north and Christians in the South of the country. The anti-Balaka militias have vowed not only to drive all Muslims from CAR, but also to wipe out any symbol of Islam in the country, hence the continuous targeting of Muslims, and the destruction of mosques especially in Bangui, the towns of Bodfas, Carnot and Berbarati, as well as Mbaiki in the south, and Bossangoa in the northwest. At least 19,000 Muslims were trapped in these cities, and it was difficult to say with any degree of certainty how many were killed or managed to escape to safe areas. "More than a thousand mosques and Koranic schools have been smashed into ruins; more than a hundred Imams have been killed[16]".

It is instructive to note that the International Criminal Court (ICC) has already opened a preliminary examination in the Central African Republic to determine whether atrocities committed there constitute possible war crimes. Ms. Fatou Bensouda, the Prosecutor for ICC regretted that fighting in CAR had worsen and had taken on an increasingly sectarian nature since March 2013. Accordingly, the ICC would investigate incidents, "including hundreds of killings, acts of rape and sexual slavery, destruction of property, pillaging, torture, forced displacement and recruitment and use of children in hostilities". She added, "In many incidents, victims appear to have been deliberately targeted on religious grounds[17]". The same allegations of human rights violations have been made by different human rights bodies, i.e. Amnesty International, Human Rights Watch, Office of the UN High Commissioner for Human Rights, as well as humanitarian agencies working in the Central African Republic. It should be noted that CAR is a signatory to the Rome Statute, which led to the formation of ICC, and the court has jurisdiction over genocide, crimes against humanity and war crimes committed on the territory or by nationals of CAR since 1 July 2002, when the country ratified the Statute. The Prosecutor made it clear that these investigations are "unrelated to the situation previously referred to the ICC by the CAR authorities in December 2004".

The human rights situation in the CAR is currently being taken up at three different levels of the United Nations: the Security Council; the UN Human Rights Council; and the International Criminal Court. Pursuant to the UN Security Council Resolution 2127 (2013) of 5 December 2013, the Secretary-General has established an International Commission of Inquiry, comprising experts in both international humanitarian law and human rights law, in order to immediately investigate reports of "violations of international humanitarian law, international human rights laws, and abuses of human rights in the Central African Republic by all parties since 1 January 2013[18]". The Commission is to compile information, help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and to help ensure that those responsible are held accountable. Furthermore, the Security Council called on all parties to cooperate fully with the Commission. Its mandate is to work for an initial period of one year. The Commission has a secretariat and three high-level experts, under the Chairmanship of Mr. Bernard Acho Muna of the Republic of Cameroon.

[14] UNHCHR Navi Pillay, press conference on 20 March 2014
[15] Amnesty International, Annual Report 2013
[16] Koert Lindijer, the Dutch NRC-Handelsblad daily, 14/3/14
[17] International Criminal Court (ICC) Press Release 07/02/14
[18] Secretary-General SG/A/1451 (AFR/2799) 22 January 2014.

VII. PRIORITY ACTIONS AND RECOMMENDATIONS

There are several areas in the Central African Republic crises that require very urgent action from the international community, but unfortunately very little have been done. As a result, both the security and the humanitarian dimensions of the crises remain of serious concern, more than a year since they first manifested. The almost total absence of institutions necessary for the functioning of a modern state – national army, police, judiciary, civil service, etc. – have not helped matters. Currently, without the international peacekeeping troops stationed in the country, the Transitional Government would not be able to stand even for a moment on its own. Unfortunately, the troops are mainly in Bangui and cities very close to the capital, making it almost impossible to stamp their authority on the militias who continue to commit heinous human rights violations. The priority areas that need to be addressed in order to stem the tide of the grievous human rights violations in CAR are as follows:

(i) **Inadequate Peacekeeping Troops:** The UN has estimated that the minimum number of troops required to stabilize the security situation in CAR is about 12,000. However, these troops will not be on the ground until September. Meanwhile, the 6000 African peacekeepers (MISCA) and 2,000 French Sangaris on the ground are inadequate to protect civilians effectively, especially in and around IDP sites and remote towns where Muslims are still present. The Security Council has requested Member-States and regional organizations to contribute troops to the UN peacekeeping operation in CAR – BINUCA. Considering the interest of the OIC in stopping the genocide against Muslims and ultimately in resolving the crisis in CAR, Member-States should be encouraged and indeed, supported to contribute troops to BINUCA. The withdrawal of the Chadian troops from CAR was a deep psychological blow to the Muslim communities, who considered the Chadian troops as their main protectors. To facilitate the return of the Internally Displaced CAR Muslims, it is important for the OIC to get a replacement to the Chadian troops.

(ii) **Rescuing trapped Muslims Victims:** At the time of writing this report, it was estimated that there were more than 20,000 Muslims still trapped in Bangui and several other cities in CAR, as a result of the continuous attack against them by the marauding anti-Balaka militia. The correspondent of "The New York Times" reported, "In Boda, until recently one of the few places where Muslims were relative safe in CAR, 4000 Muslims remained trapped for weeks without any rescue plan for them. Many of those who have ventured to go out had been killed, and those who remained just wanted to be allowed to leave safely[19]". The OIC Secretariat needs to mobilize Member-States to deploy all the diplomatic clouts they can muster in getting the CAR Interim Government, as well as the AU and French peacekeepers to protect the remaining Muslim population in CAR from the horrific killings by the anti-Balaka militia;

(iii) **MISCA TRUST FUND:** Security Council Res. 2127(2013), which established MISCA – the African Peacekeeping Force in CAR, also created a Trust Fund in which Member-States of the UN, international and regional organizations could provide financial support. With 6,000 troops, MISCA is the largest peacekeeping force in CAR. CFM may wish to request OIC Member-States to contribute to the MISCA Trust Fund. Several African countries have pledged to contribute to MISCA, i.e. Nigeria, $1.5M; South Africa, $1M; Ethiopia and Ivory Coast $500,000 each and The Gambia, $250,000. Algeria has promised deployment of MISCA troops to Bangui.

(iv) **INTERNATIONAL COMMISSION OF INQUIRY FOR CAR:** The International Commission of Inquiry to investigate events in the Central African Republic since January 2013 should be supported by all OIC Member-States, because it offers the opportunity to go into the root cause of how a political contest for power metamorphosed into a savage mob killings of Muslims, in a country where Muslims and Christians had lived

[19] New York Times, 10 April 2014

together peacefully for many years. The Commission will also compile a list of those killed and maimed, properties and business loss, etc. Similarly, the ICC is conducting investigations with a view to prosecuting those who have committed genocide or crime against humanity during the crisis. Ethnic/religious cleansing against any particular group of people constitutes genocide. Thousands have been affected in CAR and the least OIC can do is to assist the victims through knowing their rights, and in the compilation of their loses in preparation for testimony before the ICC or the Commission.

(v) **FUTURE OF CAR:** Behind the scene, there is already a debate on the political future of the Central African Republic, with the de factor partitioning of the country into two – Muslims in the north and Christians in the south. There is a strong call for reconciliation based on a new form of government; moving away from a unitary form of government to one that would give the constituent parts of the country some measure of autonomy: federalism or confederation. All these would culminate into an election in February 2015, set by UN Security Council Res. 2127/2013. However, these are only possible if the current Interim Government is able to establish a minimum capacity to function on its own. Most of the Muslims affected by the anti-Balaka atrocities, believe that it is too early to start talking of holding elections in eight months' time, because the process of resettling those who want to return to the country would not have been completed by that time. Holding in February 2015 would tantamount to disenfranchising Muslims, thus, giving credence to the anti-Balaka's prejudice that every Muslim in CAR is a "foreigner". CFM may wish to look into the February 2015 election date for CAR, and if it finds the fear of the Muslim population credible, take up the issue with the UN Security Council.

VIII THE ROLE OF OIC IN THE CENTRAL AFRICAN REPUBLIC'S CRISIS

The UN Secretary-General Ban Ki-moon has proposed a six-point initiative to address the greatest risks being faced by the people of the Central African Republic, as follows: Security, Humanitarian, Financial, Internal Administration, Reconciliation, and Elections[20]. The OIC Secretariat and some OIC Member-States are already engaged with one or two of these six-point agenda, either in the effort to render humanitarian assistance to the victims, or protect their lives and property. Chad and Cameroon were the only OIC Member-States with soldiers on peacekeeping operation in CAR – until Chad announced its decision to withdraw its troops from this troubled country. In addition these two OIC countries host to over 200,000 refugees or those transiting to third countries. Chad and Cameroon, no doubt, deserve enormous credit for using their scarce resources in granting humanitarian assistance to such a multitude of CAR refugees, but unless other OIC Member-States come to their assistance, the capacity for either of the two countries to continue shouldering this burden is limited. In this regard, the decision by the OIC Humanitarian Organizations Council to provide urgent humanitarian assistance to internally displaced Muslims in the CAR, as well as those in refugee camps in Cameroon and Chad is highly commendable. Unfortunately, as the OIC Secretary-General stated, "because of lack of financial capabilities from the General Secretariat, our efforts in the humanitarian domain are limited despite growing need and increasing requests[21]". To complement the efforts of the OIC General Secretariat and Member-States, it is important to involve the OIC civil society organizations. Regrettably among the 50+ international humanitarian agencies and NGOs that were operating in Bangui, none was from the OIC States. In this regard, the inauguration of the OIC Humanitarian Organizations Council by the Secretary-General is a welcome development. An OIC Consultative Status would enable the civil society organizations, which comprise the Council to operate under the umbrella of the OIC and to be able to raise funds in support of humanitarian interventions in crisis-ridden OIC States.

[20] UN News Centre, 22 February 2014

[21] OIC General Secretariat Press Release (OIC Receives Growing Requests from Affected People in Central African Republic and Mali) 14/04/14

The security, financial and humanitarian aspects of the CAR crisis, without which, the road to normalcy in the country would remain impassable, is a function of mainly funds. However, reconciliation and elections, which are the final stages in the effort at bringing political stability, are more complex. There is a need for wider consultations with the representatives of the affected Muslim communities before taking a position on this phase of the transition programme. The financial cost, and geo-political implications of IOC's participation in all the above six-point initiative mentioned phases of the CAR's crisis resolution are high, yet it is conceivable that OIC is not seen to be playing a major role in the resolution of the Central African Republic's crisis. However, for political expediency, it is advisable for OIC to liaise very closely with the African Union in whatever intervention it intends to make in the Central African Republic. While defending the rights of innocent Muslims, many of whom have been brutally deprived of their lives and livelihood, OIC should also avoid being perceived to be justifying the criminal actions of rogue soldiers like the ex-Seleka, even if they were Muslims.

There is no doubt that Muslims have been the biggest victims of the human rights violations that have taken place in CAR since January 2013, and because of this, OIC has an obligation to ensure that justice is served in the investigations that will follow. Otherwise, what happened in CAR has the risk of creating a precedent for trampling upon the fundamental human rights of Muslims in countries where they are a minority, like in most of the countries in Central, Eastern Africa, and Southern Africa. Indeed, if this is not nipped in the bud, it has the potential of encouraging Islamaphobia in countries where Muslims and Christians have been living peacefully for decades. Therefore, the tragedy in CAR shouldn't be seen in terms of CAR per se, but for the totality of what it represents now and in the future.

The Muslims affected by the crisis in the Central African Republic should be assisted in the collation of records pertaining to both their human and material loses, with a view to seeking compensation in the future, as well as putting effective case before the ICC, the UN Commission of Enquiry on CAR and the UN Human Rights Council Special Rapporteur on CAR.

The Chief Imam of Bangui, Oumar Kobine LAYAMA and his Christian counterpart, Arch-Bishop Dioudonne Nzapalainga should be supported and encouraged to in their reconciliation efforts.

OIC should ensure that all those who perpetrated gross violations of human rights in the Central African Republic, irrespective of affiliation, are severely punished in order to serve as a deterrent.

The Commission calls upon the OIC Secretary General, as well as Member-States to collaborate with the AU, engage France on bilateral basis because of its influence in the Central Africa, as well as the UN Secretary-General, Security Council, and the Human Council with a view to finding an urgent, fair and acceptable settlement of the CAR crisis.

The present report, and its addendum, were adopted by the IPHRC during its 5th Regular Session, held in Jeddah, at the OIC Headquarters, on 1 – 5 June 2014. The IPHRC urges CFM to also adopt and approve the implementation of this report, including the request to allow the Commission to remain engaged with the monitoring of the human rights situation in CAR on behalf of the OIC. Indeed, for CFM to be fully seized with the human rights dimensions of the situation in the Central African Republic, IPHRC should continue to monitor and report on the implementation of the six-point initiative of the UN Secretary-General, the investigations being carried out by ICC and the UN International Commission on CAR, as well as ensure that the interest of the affected Muslim victims is protected in the UN Human Rights Council and the UN General Assembly.

ADDENDUM TO THE REPORT ON HUMAN RIGHTS SITUATION IN CAR FOLLOWING IPHRC FIELD VISIT TO CAR ON 16 – 17 MAY 2014

IPHRC report on the "Human Rights Situation in the Central African Republic post December 2013, was based on the collation of reports on the subject by several international human rights NGOs, humanitarian agencies, as well as on IPHRC's analysis of these reports, and recommendations proffered. The addendum, on the other hand, is a complement to the report, based on IPHRC's field visit to the Central African Republic (CAR) on 16-21 May, 2014, which was undertaken simultaneously with the OIC delegation sent to assess the humanitarian needs of the victims of the crisis.

Being a complement to the main report, the addendum tries to explore areas that have not been touched upon by the report or have not been captured in details, as follows:

i. **Right to Life:** this is the most fundamental human right, and five months since the sectarian crisis started in CAR, Muslims are still hacked to death right inside Bangui. More than 90% of the country's Muslims have fled the country, living in pathetic situation in camps for the Internally Displaced Persons (IDPs) or in refugee camps mainly in Cameroon and Chad. There are also thousands of Christian internally displaced persons though, but they are not subjected to targeted killings like their Muslim compatriots. Presently, out of the estimated 250,000 Muslims that were in Bangui before the crisis, just about 1000 are still left, literally trapped in their PK-5 quarters. Any attempt to leave that area is met with death in the hands of the anti-Balaka Christian militias that surround the area. During the period of our visit, five Muslims that ventured to leave the PK-5 Quarters were killed, including one that was pulled out of a taxi and butchered right in front of some members of our delegation. The saddest thing is that in spite of the presence of the AU and French Sangari troops, the anti-Balaka Christian militias still kill at will. In the only secure hotel in Bangui, where we stayed during the visit, there were five Muslims that have been living in the hotel since December 2013 paying about $US300 per day, but cannot step out beyond the hotel premises without being killed. Indeed, one was forced to change his name from Abubakar to Christian "Alain" for the sake of dear life. Unfortunately, he is being 'betrayed' by the black prayer spot on his forehead! IPHRC is of the view that OIC should launch a rescue appeal to save these people from their traumatic situation. We discovered that there is another group of Muslims that are being silently exterminated by the anti-Balaka militia, without attracting the attention of the international community. These are the Fulani (Mbororo) nomadic herdsmen. According to reports we got from Muslims left in Bangui and those living in refugee camps in Cameroon, hundreds of these nomadic herdsmen have been killed and there animals taken by the anti-Balaka militia. IPHRC came across one of the nomadic herdsmen in a refugee camp in Cameroon, who told me that he had lost over 200 cows. Sadly, it is difficult to assess the number of Muslims that have been killed since December 2013, because no agency has been able to go into most of the provinces outside Bangui, where similar atrocities have been carried out.

ii. **Freedom of Religion:** the thousands of Muslims that have been killed in CAR was for no other reason than being Muslims! In some instances, their bodies were desecrated and deprived the opportunity of being buried according to Islamic injunctions. It was estimated that there were about 36 standard mosques in Bangui before the crisis, but only three are standing at the moment, with children playing football on the land that used to be mosques! The Muslim community in Bangui has raised with us the issue of the status of the mosques and their houses that have been destroyed. They need a commitment from the Interim Government that they would be assisted to rebuild their houses, and the mosques would be rebuilt on the same land. In this regard, it is very important that a record of all places of worship destroyed is taken as soon as possible. Freedom of religion is basic in any attempt to heal the wounds from the crisis, and the Interim Government

should be more up and doing in this area. In an answer to the question IPHRC posed to some Muslims and their Christian counterparts, whether the Interim Government was doing enough to bring about the urgently needed reconciliation in the country, the response was mainly negative. It would be difficult to be otherwise, with people still being massacred simply on the basis of their faith. From the visit, IPHRC came out with the conviction that it is more difficult to heal the wounds of conflicts arising from ethnic, ideological or political differences than religious differences, which tend to be more pervasive.

iii. **The role played by the French Sangari Forces:** The Muslim community in CAR has absolutely no confidence in the French Sangari troops in the country. This is evident in the numerous graffitis like "France is the enemy of Islam" and "No French soldiers welcome here" all over the Muslim enclave in Bangui. It was alleged that the French troops refused to protect the Muslim minority when they were being killed in Bangui, because "France did not want to be perceived as taking sides in the fight between the Seleka and anti-Balaka militias". In its report of 28/01/14, Human Rights Watch said, "The French Sangari troops, who are disarming the Seleka, often seem reluctant to intervene because according to them they cannot take sides, even when Muslims, now unarmed, are killed in revenge attacks by anti-Balaka". Similarly, Navi Pillay, the UN High Commissioner for Human Rights said on 20/01/14 that "France left Muslim communities vulnerable to attack by first disarming the ex-Seleka militia". With such revelations, it is difficult to dismiss the suspicion and lack of trust for the French from the CAR Muslim communities. However, whether in direct intervention as Sangaris or under the umbrella of the expanded UN Peacekeeping Operation coming up in September, France as a former colonial master, will continue to play a dominant role in CAR. Question is, how can France, which is not perceived by the Muslims as an impartial party be a mediator in the crisis in CAR? IPHRC is of the view that OIC has to step-up its role in the diplomatic effort to bring back peace in CAR in collaboration with France and the instrumentalities of the United Nations, including greater participation in the UN peacekeeping operations in the troubled country.

iv. **Human Rights Investigations into the violence in CAR:** The United Nations Security Council, the International Criminal Court (ICC) and the UN Human Rights Council have all launched investigations into the massive human rights abuses in CAR, as IPHRC has mentioned in its main report. During IPHRC's visit to the country, it was found out that the remaining Muslim communities were not aware of these investigations, let alone prepare well for them. For example, IPHRC discovered that no accurate record of Muslims that have been killed, except the ones that have been brought to the mosque for funeral were kept. Neither do they have accurate records of their properties destroyed, because of the nature of most Muslims departed from the country. Hundreds of shops belonging to Muslims have not only been looted but the buildings raised down also. It was very obvious that the Muslim communities need legal assistance to help them in giving evidence before the series of the investigation panels set up for CAR, as well as to prepare more accurate records of their human and material loses. So far, all their records are manually kept and one or two computers will make a world of difference in their task.

v. **Suspension of Kimberly Process Certification:** CAR was suspended from the Kimberly Certification Process in June 2013, and since then the country's diamonds have not been traded legally on the international diamond market. The loss of certification has deprived the country of about 50% of its revenue. During our visit the Interim Government requested OIC States to lobby on its behalf for the lifting of the suspension. However, when IPHRC discussed this request with the Muslim community leaders, their views were in conflict with that of the Interim Government. Muslims controlled the diamond trade before the conflict, but after the massacre by the anti-Balaka, the diamond fields are now under the control of what the Prime Minister called "Criminal Gangs". The Muslims believe that lifting the sanctions on the export of diamonds at this

time, would only strengthen the criminal gangs, thus, making it more difficult for the Muslims forced to flee the country get back their mining operations when they are back. Accordingly, the Muslim mining communities believe that it is not yet time to lift the sanctions. IPHRC believes that lifting the Kimberly Certification Process for CAR should not be discussed in isolation of the overall reconciliation process in the country.

vi. **February 2015 Elections:** although approved by a UN Security Council resolution, holding "an all-inclusive, free and fair elections" in the Central African Republic not later than February 2015, is practically impossible. This is because up to this moment Muslims are still being massacred in the country, and almost 50% of the country's population are in need of humanitarian assistance. Almost every single representative of the humanitarian agencies operating in Bangui shared this view. How did the UN Security Council arrive at this conclusion when the representatives of the various UN humanitarian and development agencies on the ground hold a contrary view? Speaking to a Muslim former member of the National Assembly about the preparedness of Muslims to participate in a general election next February he answered, "When people are fighting for their lives elections are the last thing that come to mind". He went further by stating that in his own constituency more than 90% of the Muslims have fled Bangui, including members if his family. "All these are French machinations to ensure that the Central African Republic remains under their firm control", he added. Once more, IPHRC recommends that OIC States should take up this matter at the Security Council, with a view to getting the resolution reviewed not only because it is unfavorable to the thousands of Muslims who have been forced to flee the country, but also because it doesn't reflect the socio-political reality on the ground.

Finally, IPHRC visit to CAR has brought about the conviction that the process of reconciliation in the country is a long haul, and OIC has to map out its strategy of getting engaged for the duration.

OIC - IPHRC FIELD VISIT REPORT ON THE HUMAN RIGHTS SITUATION IN THE OCCUPIED PALESTINE APRIL 2016

I- BACKGROUND:

The longest military occupation in the world is entering its 68th year amidst a deafening international silence. Indeed, the Palestinians are one of the last remaining people in the world who lack an independent state. Yet there is one fundamental difference between the Israeli occupation of Palestine and any other occupation in modern times. Usually, the occupying power annexed the territory at hand and turned the people living in it (sometimes against their will) into its citizens, but Israel never did that. Instead, it killed thousands, displaced millions of civilians from their homeland, and it let its army run the occupied territory. The Israeli occupation is also different from any other occupation, because Israel has indeed imported its claimed 'citizens', or in reality, illegal settlers from across the world to the land it conquered, and has been using the natural resources of this land, at the expense of the native population.

The Israeli occupation of Palestine is, therefore, a unique phenomenon. The majority of the Palestinian population under Israeli control does not enjoy the most basic of civil rights or any political representation within the regime that controls it. And while Israel claims to be the only decent democracy in the region (for its Jewish citizens), for Palestinians, it's a brutal dictatorship.

As an occupying power, Israel has an obligation, under international law in particular the 4th Geneva Convention, to protect the civilian population in the occupied territory and administer it while taking into consideration the best interests of that population. However, Israel continues to defy international law by systematically carrying out destruction and confiscation of Palestinian private properties, including homes, as well as the transfer of settlers into occupied territories. Indeed, the situation is getting worse every day, with escalation in Israeli violence against Palestinians, including undermining of their basic rights of worship and movement, especially in Al-Aqsa Mosque.
While the Israeli occupation of Palestine, continue to be the root cause of all human rights violations and sufferings of the Palestinian People, it is time to take practical steps not just to highlight but also to end this longest-running military occupation of modern times.

II- MANDATE:

The "Situation in Palestine and other occupied Arab territories" forms a permanent item on the agenda of the IPHRC since its inception. During its previous sessions, the Commission reiterated the gravity and persistence of human rights violations of the Palestinian people, condemned the ongoing escalation of aggression by the Israeli security forces and illegal settlers against innocent Palestinians, and emphasized that Israeli occupation is the primary cause of all human rights violations, which impacts on the full range of civil, political, economic, social and cultural rights of Palestinians.

In addition to the specific mandate given by the 39th OIC Council of Foreign Ministers (CFM) and 12th Islamic Summit, the Commission, since its inception in 2012, had decided to carry out a field visit to the occupied territories of Palestine. The visit was aimed at giving moral support to Palestinians as well as to physically observe the human rights situation on ground i.e. the impact of the illegal Israeli occupation since 1967 on the daily life of Palestinians, with a view to providing concrete recommendations to the CFM on how to address these severe human rights violations.

III- GENERAL POINTS:

After three years of logistical difficulties in arranging and acquiring permission for the visit, the Commission finally undertook its long awaited visit to Palestine from 6 - 9 April 2016. Six IPHRC members namely Amb Ilham Ahmed, Dr. Egrin Ergul, Dr. Siti Ruhaini Dzuhayatin, Mr. Mohamed Raissouni, Dr. Mamdouh Aker and Mr. Adama Nana participated in this visit. In Palestine the delegation was facilitated by Dr. Ahmed Al Ruwaidi, head of the OIC Office in Palestine and his team.

Despite the feelings of insecurity, uncertainty and apprehension, and the psychological barrier that prevailed at the beginning, especially at the Israeli immigration checkpoint, the visit turned out to be very informative and provided the opportunity to physically observe the situation on ground.

IV- MEETINGS:

The visit started with paying respect to the mausoleum of the late Palestinian leader Yasser Arafat in Ramallah. In addition to visiting different places such as refugee camps, new Israeli settlements and areas affected by the occupation wall, the Commission also had the opportunity to meet with a number of Palestinian officials as well as representatives of civil society, national institutions, NGOs and families of Palestinian prisoners and martyrs.

During the visit, the delegation called on President Mahmoud Abbas. He regretted the lack of interest on the part of the Israeli government and the relevant actors in the international community to come to the negotiating table to put an end to the suffering of the Palestinian people. He expressed despair, as no viable political settlement was appearing in the new future. On a practical note, President Abbas considered the visit as an ideal opportunity to observe the continued suffering of Palestinians under the inhuman occupation regime and urged the delegation to focus on its human rights impact, which could be conveyed to all OIC Member States for appropriate use at relevant regional and international human rights mechanisms. He also informed that Palestine was currently in the process of referring individual human rights violations in Palestine to ICC and other relevant international institutions and legal mechanisms.

The delegation also met with Mr. Riyad Almalki, the Minister of Foreign Affairs of the State of Palestine, who besides conveying gratitude on the IPHRC initiative to acquire first-hand information on the human rights situation, also took the opportunity to brief the delegation on the current political and human rights situation. He further elaborated on various discriminatory policies imposed by Israel, in particular in Al-Quds, the separation wall, the forced eviction of Palestinian population from their homes and replacing them with Jewish settlers, which were practically and forcibly changing the demographic composition of Palestinian cities and towns. In his view, the unabated occupation, in itself represented the most egregious violation of Palestinian's human rights and considered the apartheid practices imposed by Israel against the Palestinians as much worse than the past apartheid regime in South Africa.

To reiterate Palestine's commitment to upholding international human rights law, the Minister conveyed that they have ratified four OIC treaties, including the Covenant on the Rights of the Child in Islam, the Statute of the Women Development Organization, and the International Islamic Court of Justice as well as ratified, without reservation, nine UN human rights treaties. He explained that relevant ministries, in consultation with civil society organizations, were also in the process of presenting seven reports to different treaty bodies. He further indicated that a national committee was established by the President to assess Palestine's commitments to the international treaties.

The delegation also met with the representative of the Ministry of Women Affairs and got a briefing on the ministry's main functions, which included promotion of gender equality and eight major sectors, with priority to sectors of democracy, human rights, health, early marriage and reproductive health, food security and violence against women. The impact of the continued occupation on Palestinian women was tackled through the National Committee on the UN Security Council Resolution 1325. An executive plan was being prepared for the implementation of the said resolution. The situation of women and children in the West Bank and in Gaza, in particular, was also explained, who continue to face serious violations of their human rights, including daily attacks by the Israeli forces against Palestinian students, and the appalling situation of women prisoners whose number has reached 51, among them many girl children.

IPHRC delegation also met with the Head of the Office of the High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory (OPT) in Ramallah, who welcomed the visit of IPHRC, and apprised the delegation with the mandate and activities of the office. The mandate included monitoring and reporting at all levels, technical assistance and capacity building. In 2009 a protection cluster was added to the mandate to guarantee respect for human rights during emergencies, however he indicated that the situation in Palestine represented 'a long term chronic humanitarian emergency' as a direct result of the continuation of the Israeli occupation. The OHCHR office submits periodic reports to the Human Rights Council and the General Assembly, and informed discussions at other United Nations bodies.

OHCHR representative expressed specific concerns on a recent development related to the forced Israeli relocation of Bedouin in East Jerusalem in order to build new Jewish settlements. He feared that these Bedouin groups would be forced soon to leave their places of residence, and add to the already aggravated situation of relocation of Bedouins. OHCHR representative also gave details of the human rights violations by the Israeli forces, in particular recent cases of violence since October 2015, which included grave violations such as mass demolition of houses to inflict punishment, deportations, excessive use of force and extra judicial killings. He asserted that a general climate of impunity prevailed in several cases of killings of Palestinians by Israeli forces and settlers, including in Gaza where excessive use of force was predominant. Thousands of Palestinian continue to be held in administrative detention for prolonged periods and imprisonments and torture cases, in addition to severe limitations to the freedom of movement, were also reported widely, he added.

As a part of its interaction with human rights actors, IPHRC delegation met with the Palestinian Independent Commission on Human Rights (ICHR). The meeting was attended by members of the Commission and representatives of some Palestinian civil society organizations. Ms. Farseen Shaheen, the General Commissioner of ICHR, briefed the delegation on the current situation stating that the major cause of human rights violations is the occupation. She also stated that one of the major challenges facing Palestinians was existing political divisions between the West Bank and Gaza, which continued to hamper political and democratic processes resultantly, there was not even a national Parliament to monitor the functioning of the State, including possible violations of human rights.

V- OBSERVATIONS:

Just by taking a walk in any of the Palestinian city or village, one observes that Palestinian people continue to suffer on daily basis from limitations imposed by the occupying power. Al-Quds has been blocked by the separation wall and settlements from all directions, and the city is suffocated to an extent that it was extremely difficult to gain access to enter. Violations on daily basis, imprisonment, house demolitions and imposition of policies to create new demographic realities on the ground has also made it impossible to enter into political negotiations on the proposed two State solution.

In addition to meeting various officials from national and international human rights machinery, IPHRC delegation visited numerous sites within the West Bank and interacted with various individuals, families and organizations, including civil society and human rights actors, and actual victims of Israeli violations, as well as former prisoners and detainees. Observations made in this report are based on firsthand information acquired through on situ visits, direct contact with victims and inference from statistics provided by the Palestinian authorities and civil society organizations. Some of the observations relating to specific topics are given below:

i- Palestinian prisoners and detainees

The condition of Palestinian prisoners and detainees, as a result of the 'administrative detention' imposed by the Israeli forces, continue to deteriorate. This abhorrent practice is carried out without due process of law and without

any recourse to justice. There were numerous cases of such detentions, including of parliamentarians and children. Issues of administrative detention and prisoners represent core problem for Palestinian families. A sad reality observed by IPHRC delegation was that at least there was one prisoner in every Palestinian family. Many detainees are transferred to prisons in Israel, in violation of the Fourth Geneva Convention. Excessive force, permitting torture to certain limits, violent handling and difficulty to identify places and reasons of detention of prisoners were major causes of continued torment to the families of prisoners.

The Palestinian Commission of Prisoners' Affairs also briefed the IPHRC delegation on the dire situation of Palestinian prisoners in Israeli prisons. It was explained that Jewish settlers in the OPT are subject to civil law regime, while military regime applies to Palestinians in the West Bank, including East Jerusalem. The Palestinian Commission called for an immediate end to Israel's discriminatory policy of administrative detentions, which constitutes 'arbitrary detention' under international human rights law.

On average, around 700 children are detained and prosecuted every year, most commonly on charges of throwing stones. The number of Palestinian children arrested by Israeli forces has more than doubled since October 2015. İnterviews with children who have been detained and video footage and reports from lawyers revealed that Israeli security forces were using brute force in arresting and detaining children, in some cases beating them, and holding them in unsafe conditions. In November 2015, the Israeli Knesset passed a law that authorized longer prison sentences up to 4 years for children convicted of throwing stones, and that allowed the government to suspend social welfare payments to their families while the children served their sentences.
Israeli security forces routinely interrogate children in the absence of parents, violating international and domestic Israeli laws that provide special protection for detained children. Protection included certain requirements that in order to arrest or detain a child, that should be only as a last resort, and to take precautions to ensure that children are not forced to make any confession. The Convention on the Rights of the Child requires security forces to make the best interests of the child a primary consideration in all aspects of the juvenile justice system. There were also cases of women prisoners in Israeli prisons, including 68 prisoners among them being mothers and girl children.

Excessive use of force by Israeli Security Forces and a lack of accountability for violations of international human rights Law (IHL) continued unabated in the OPT. Despite absolute prohibition of torture in international human rights law, Palestinians detained by Israel continued to be subjected to torture and ill-treatment, which included sleep deprivation; excessive use of handcuffs; beatings; verbal abuse; stress positions; solitary confinement; humiliation and threats of killing, sexual assault and house demolitions of the detainee's, his or her family.
The situation of the dead bodies of Palestinians resisting the Israeli forces, or who died while in Israeli detention places, continue to be another worst manifestations of the cruelty of the Israeli occupation. The families were forbidden from receiving the bodies, and even when bodies were handed over to families, they were given very short time for burial and in very odd hours at the night when it would be difficult to perform religious rituals and gather relatives and friends for the funeral. In most cases, families have been refusing to take the bodies until proper investigation is conducted, and in the process, bodies were kept for prolonged periods in morgues thus becoming hard to recognize due to excessive freezing. Civil society organizations also complained that all Israeli practices were pre-meditated and structured to inflict punishment.

The situation of sick prisoners is yet another issue of concern, which continues to deteriorate. Sick prisoners are regularly kept in prisons including tens of prisoners with disabilities. As per reports, about 85 have died in prison as a result of lack of medical treatment. The World Health Organization (WHO)'s request to have access and visit to these prisoners has been regularly denied since 2010.

ii- Restrictions on the right of movement and travel:

Freedom of movement is not only a right in itself, but is essential for the enjoyment of the many other human rights. IPHRC delegation observed many and severe barriers to freedom of movement faced by Palestinians on daily basis. The restrictions on freedom of movement imposed by Israel in the occupied Palestinian territory, include both the physical restrictions such as barrier checkpoints, roadblocks as well as bureaucratic delays in issuance of permits and closure of check points etc. Such restrictions impede Palestinians' access to their land and resources and in general, these policies undermine the opportunities for the development of a viable and contiguous Palestinian state.

IPHRC delegation was further briefed on restrictions on movement and travel. It was explained that Palestinians were prohibited from travel through Al- Karama Crossing, Hebron and Tulkarm, which was causing tremendous difficulties and absolute restriction of movement in all regions of the West Bank including affecting their travel to Makkah for pilgrimage (Hajj). These restrictions were also affecting the population of the Gaza strip, where approximately 1,800 000 people continue to suffer on every aspect of daily life. Since the war on Gaza in 2014, there was no re-construction whatsoever and the houses were still in rubble since then due to the blockade by Israel of construction materials from entering the strip. As a result of severe restrictions, the UN estimates that there would be no clean drinking water by 2020.

iii- Separation Wall and illegal settlements:

Israel continues to support the expansion of illegal settlements in the West Bank. Demolishing the homes of Palestinians who are protected under the Geneva Conventions, is a clear violation of international humanitarian law. Intimidations and attacks by Israeli settlers against Palestinians are increasing. Settlers have been responsible for most of the violence committed against Palestinian men, women and children as well as their homes and properties[1]. The violence from illegal settlers is reinforced by lack of accountability and failure of Israeli law enforcement forces to protect vulnerable Palestinian communities.

The expropriation of Palestinian land is an obvious part of the expansion of settlements and of the construction of the separation wall. The fragmentation of Palestinian land and creation of separate reserves and enclaves, including plans threatening to cut off East Jerusalem from the rest of the West bank stand as a stark proof of Israel's plans and policies to change realities on the ground. In this regard, the European Union and the United States now require labeling of products manufactured in territories that came under Israeli control in 1967 during the Six Day War as not made in Israel. It is a positive development, which must serve as a source of encouragement for other countries to adopt similar policies.
IPHRC delegation met with the Commission of the Separation Wall and Settlement Resistance, which gave a comprehensive overview of the situation with illustrated maps showing the expansion and mushrooming of Jewish settlements in the West Bank and Jerusalem. The negative impact of the Separation wall on the daily life of Palestinians, and the ongoing violations of their human rights of freedom of movement was also explained in detail. This Commission documents on regular basis (monthly and annually) violations committed by Israel against the Palestinians, in terms of houses demolitions, village demolitions, confiscation of land and expansion of settlements.

There are 413 settlements including colonial sites, which are residential, service and military installations established and seized by the Israeli Jewish settlers in the occupied territories since 1967. According to the Commission, latest

[1] The creation of Israeli zones for settlers and the resulting segregation was noted in the 2013 Human Rights Council report by the Independent Fact-Finding Mission on Settlements (A/HRC/22/63).//www.bbc.co.uk/news/10400074

data indicated that the number of colonial sites in the West Bank has reached 505, ranging from colonies, colonial outposts, military sites, service sites, industrial areas, tourist sites and seized buildings in whole or in part, in Jerusalem. The estimated number of total settlers' amounts to 612.000, out of which 246.000 are in Jerusalem and the remaining 60% of settlers are in the surroundings of the Green Line between the 1948 and 1967 border.

The separation wall was erected by Israel, the occupying power, in 2002 inside the lands of the West Bank, on the pretext of preventing the Palestinians from 'threatening the security of Israel'. It is built of cement blocks ranging between 6-9 meters with observation towers and cameras on the top wherever the wall passes across or close to Palestinian residential areas.

Under the occupation, the Israeli military governor (commander of the Israeli army) has been in total control of the land in Palestine. Law was imposed to confiscate a large percentage (18%) of the land amounting to 1,300.000 denims. The Separation Wall extends to 754 kilometers, separating 10.5% of the remaining Palestinian land in the West Bank, and the settlements took away another 9.8% of the land.

Palestinians firmly believe that the underlying objectives of building the wall were: to separate large areas of the West Bank and to annex these to Israel to divide the West Bank into entities (cantons) that would prevent the establishment of the Palestinian State; to control the Palestinian population in the West Bank by imposing security control on all of the West Bank; to limit the freedom of movement of Palestinian citizens and to control their economic resources to Judaize the West Bank.

The wall constitutes the worst manifestation of violation of Palestinian's right to freedom of movement. It has made their daily lives untenable and forces them to abandon their lands and possessions. A simple visit of the affected areas by the wall reaffirms the Advisory Opinion of the International Court of Justice, which concluded that the construction of the wall in occupied Palestine, including East Jerusalem, and its associated regime, was contrary to international law. In this regard, the Court rightly stated that Israel had a continuing duty to comply with its international obligations and was obliged to end the illegal situation, cease construction and dismantle the wall in the OPT, and to make reparations for all damage caused as a result of the wall.

iv- Houses demolitions on grounds of collective punishment:

Based on official Palestinian and UN sources, between September 13th 2015 and April 4th 2016, Israeli Occupation Forces have demolished 157 houses in occupied Palestine. This constituted an act of collective punishment committed by Israel against the Palestinian civilian population in violation of international law and Israel's obligations as the occupying power. Figures collated by the UN's office for the Coordination of Humanitarian Affairs (OCHA), which operates in Gaza, the West Bank and East Jerusalem, show from an average of 50 demolitions a month in 2012-2015, the number rose to 165 since January 2016, with 235 demolitions in February 2016 alone.

The increase in demolitions is raising alarm among diplomats and human rights groups over what they regard as a sustained violation of international law. Israeli military, which has occupied the West Bank since 1967, cites the reasons of demolitions as being illegal structures, which were either built without a permit or were in a closed military area or firing zone, or they violated other planning and zoning restrictions. But the UN and other human rights groups point out that permits are almost impossible for Palestinians to acquire; that firing zones are often declared but seldom used; and that many planning restrictions date from the British Mandate in the 1930s.
The hardest hit are Bedouin and Palestinian farming communities who are at risk of forcible transfer, which is a clear

violation of international law. The risk of forcible transfer of Bedouin communities was raised on many occasions in different meetings during the visit. The structures include houses, Bedouin tents, livestock pens, outhouses and schools. In an increasing number of cases, they also include humanitarian structures erected by the European Union to help those affected by earlier demolitions. On 7 April 2016, while IPHRC delegation was in Ramallah, the Israeli Civil Administration (ICA) carried out demolitions throughout the occupied West Bank, including in five Bedouin communities affected by the E11 illegal settlement plan, and in Khirbet Tana, which has been the location of multiple demolitions in 2016, most recently on 23 March 2016.

v- The situation in Al-Quds/East Jerusalem:

Jerusalem remained one of the most contentious issues in the Israeli-Palestinian conflict. United Nations Security Council resolution 478 (1980) affirmed that Israel's Basic Law proclaiming Jerusalem, including the annexed area, as the capital of Israel constituted a violation of international law and did not affect the application of the Fourth Geneva Convention in Palestine, including East Jerusalem.

Palestinians living in East Jerusalem are regarded as 'permanent residents' not Israeli citizens and have been subjected to a gradual and bureaucratic process of ethnic replacement or elimination. These measures included revocation of residency permits, demolition of residential structures built without Israeli permits (virtually impossible to obtain) and forced eviction of Palestinian families, in violation of the basic right to adequate housing, enshrined in the International Covenant on Economic, Social and Cultural Rights. Israeli policies have impeded the natural growth of the Palestinian economy in East Jerusalem. Palestinians were obligated to pay high municipal taxes in return for poor services and disproportionately low public expenditure in East Jerusalem. Israel actively seeks to undermine the Palestinian presence to serve its goal of preserving a Jewish majority in East Jerusalem. This has been a decades old policy of Israel, acknowledged by the Jerusalem Municipality, to maintain a demographic balance of approximately 70% Jewish to 30% Palestinians in Jerusalem. Israel is also putting in place huge development plans in East Jerusalem for the expansion of settlements and infrastructure to cut off East Jerusalem from the rest of the West Bank.

IPHRC delegation also met with the Palestinian Governor of the Governorate of Jerusalem, Mr. Adnan Alhusseini who confirmed the above facts and affirmed that Israeli authorities were determined to create a Jewish majority in occupied East Jerusalem through the policy of confiscation and annexation of Palestinian lands and in turn expelling them out of their ancestors' lands. He also gave a gloomy picture of the prevailing situation of Al-Aqsa Mosque, stating that the Israeli authorities implanted around the Mosque 75 settler outposts in order to change the demographic reality on the ground. These Israeli policies were gradually and effectively forcing the Palestinians away from the area, leaving the Mosque surroundings totally under the control of the Israelis with the de facto presence of settlers at the expense of the Palestinians, the real owners of the land. IPHRC delegation also met Archbishop Atallah Hanna, the Archbishop of the Church of Jerusalem who stressed that it is the duty of all Muslims and Christians to regain Al Quds from the occupiers. He welcomed the visit of IPHRC and called for cooperation between the OIC and the Christian institutions in Palestine.

vi- Situation in the refugee camps:

IPHRC delegation was able to visit two out of 19 refugee camps, namely Al-Jalazoun in north Ramallah and Aida in Bethlehem. These camps were established to accommodate people who were forcibly expelled from their land by Israel to build new Jewish settlements in the nearby areas. Al-Jalazoun Camp, which was established in 1949, is only 30 meters from Beit El Jewish settlement. Aida camp, which was established in 1950, is less than 15 meters from the Israeli checkpoint and the separation wall. It is located between the municipalities of Bethlehem, Beit Jala and Jerusa-

lem. Refugee camps are under the responsibility of the United Nations Relief and Works Agency for Palestine (UNRWA), which started its work in 1950.

The IPHRC delegation observed on the spot that the camps were very crowded with an estimated population density of 15000 inhabitants per square kilometer. Since 1967, the population has been multiplying to the fourth generation. Livelihood within the camps was very poor with very limited access to water and electricity. There was only one health facility in Al-Jalzoun, while in Aida camp there was no health center. This was also coupled with the scarcity of work opportunities and limited financial support from the UN and other bodies. The birth rate appeared to be relatively high.

Inside Al-Jalazoun Refugee Camp, IPHRC delegation was briefed extensively by representatives of refugees. Emotionally, it was moving to observe that refugees insisted on their right to return to their original homes and lands. Al Jalazoun is a refugee camp with narrow alleys through which raw sewage was running openly, and garbage was piling up, uncollected. There are 15,000 people crowded in this camp of 256 denims (63 acres), situated on the slopes below Ramallah, with the houses of the Beit El settlement spreading across the hilltops opposite the camp. Life in Al-Jalazoun refugee camp is punctuated by regular incursions of Israeli soldiers who arrest the youth population. About 30 inhabitants of this camp have been killed since the end of the second Intifada, 16 of them were children, while there were 135 detainees. While in the camp, IPHRC delegation visited the house of Atta Muhammad Atta Sabah, a 12-year-old Palestinian boy who was shot by an Israeli soldier on 21 May 2013 as he attempted to retrieve his school bag, which he had lost on the other side of the camp's wall while he was playing with his friends. The injury left him paralyzed below the waist and damaged his liver, lungs, pancreas and spleen.

Despite the dire condition in the camp, the percentage of education among refugees is high, however, unemployment among the youth is 45% as there are no available jobs. The dire conditions in the camps frequently create many social problems and internal tensions especially among the youth who usually have no jobs. Often, these tensions lead to frustration that at times is vented through protests against the Israeli forces, which subsequently trigger deadly conflicts. Women also become the target and victim of the vicious cycle of violence; from Israeli soldiers on the one hand, and the community and family on the other. Israeli soldiers viciously target women in public spaces to inflict humiliation and embarrassment. This in turn leads to protective mechanisms that tend to restrict and control women's movement by the community and the family to protect the honor, thus further limiting women's free movement, access to education, work and social activities. IPHRC delegation observed with concern other serious challenges cited by representatives of refugees, who claimed that UNRWA's assistance diminished considerably in its desire to push the Palestinian Authority to assume the responsibility of refugees, while the Palestinian Authority maintained that it was UNRWA's responsibility to cater for the needs of Palestinian refugees.

VI- CONCLUSION:

The prolonged occupation by Israel of the Palestinian territories continue to pose legally unacceptable characteristics of "colonialism", "apartheid" and "ethnic cleansing" in modern times, and it is a reflection of the root cause of all forms of violations of human rights of the Palestinian population.

The Israeli government frantically continues to intensify building of settlements on the territory of the State of Palestine. Settlement activities embody the core of the policy of colonial military occupation of the land of the Palestinian people and brutal aggression and racial discrimination against the Palestinians, which is much worse than any of the apartheid regimes. This policy constitutes a breach of international and humanitarian law, and United Nations

relevant resolutions. The occupation is racing against time to redraw the borders and impose a fait accompli on the ground, which undermines the potential for the very existence of a viable state of Palestine.

Israel continues unabatedly to execute its colonial policies, through the systematic confiscation of Palestinian land and construction of thousands of new settlement units in various areas of the West Bank, particularly in East Jerusalem. In addition, it continues to accelerate construction of separation Wall that is eating up large tracts of land, dividing it into separate and isolated islands and cantons, destroying family life and communities and the livelihoods of tens of thousands of families.

The IPHRC three-days visit seemed to be not enough to estimate the deep complexities resulting from the continuation of the Israeli occupation of the Palestinian territories, and dilemma faced by the Palestinian people in their daily struggle for self-determination and full independence as a viable state. The internal issues and political conflicts between the West Bank and Gaza also represent a major challenge in this regard. Unless this intricate situation is untangled and cleared up between the two sides, the gap will continue to widen and a lasting solution to the Palestinian problem will further prove unattainable. Additionally, the gaps between the elites and the normal people still overshadow the struggle against Israeli occupation.

The sustainable socio-economic support for the affected people in the occupied territories pose a major challenge to the Palestinian authority due to the limited resources. As complicated and delicate the visit was, this should in no way be construed as normalizing relations with Israel. Palestinian interlocutors at the highest level asserted that 'visiting the prisoner' did not, and should in no way imply establishing any type of relations, or normalizing relations with the 'guard'.

It was observed during different meetings with Palestinian officials that there was a sense of deep frustration that the Palestinian issue has been 'forgotten', or left behind amid so many challenges facing the OIC Member States. While appreciating the political support from the OIC, Arab League and the United Nations, the Palestinian officials, as well as normal citizens in refugee camps and occupied cities, regretted that there have been no mechanisms to translate this support into concrete actions. Accordingly, they maintained that Israel had a carte blanche to commit severe atrocities and crimes against Palestinians on daily basis with impunity, recognizing that it is immune against any kind of accountability.

The wide spread mushrooming of Jewish settlements in East Jerusalem and the West bank stand is a stark reminder of the colonial policies and actions undertaken by the Israel to annex Palestinian lands. These policies aim at changing the demographic and geographical realities on the ground, and have been pursued with impunity, as a result, the Palestinian territories diminished considerably to less than 22% of the overall area of the once was called the 'West Bank'.

The situation in Al-Quds (Jerusalem) remains a source of grave concern. IPHRC delegation shared the concern of Palestinian interlocutors that, with the passage of time, inattention and laxity towards the question of Al-Quds, under the Israeli occupation, has permeated among the Muslim countries and the international community in general. Israel, the Occupying Power, continues to undertake excavations in Al-Aqsa Mosque and other similar sites that pose serious threats to the holy places. Israeli military checkpoints prevent Palestinian citizens from getting access to their mosques and churches. Israel also continues to blockade the Holy City with a ring of settlements to separate it from the rest of the Palestinian cities.

VII- RECOMMENDATIONS:

While reaffirming the right of the Palestinian people to self-determination, including the right to their independent State of Palestine, with Al-Quds Al-Shareef as its capital, IPHRC proposes the following Recommendations:

1. The OIC and its Member States need to consider further action at the UN General Assembly and the Security Council, in order to push Israel to stop the construction of and to dismantle the Separation Wall, and to make reparations for all damage caused to affected Palestinian population.
2. OIC and its Member States should urge the UN Security Council to address the question of illegal Israeli settlements, and in this regard OIC Member States, in particular the members of the Security Council should strengthen their efforts.
3. Regular contacts between IPHRC and the Palestinian Authority's relevant human rights bodies, including the National Human Rights Commission and civil society organizations are important for updates on violations of human rights. IPHRC may invite, as appropriate, relevant Palestinian government and civil society representatives to brief IPHRC sessions in the course of the agenda on Palestine.
4. OIC and its Member States to consider convening an international symposium, with the support of the UN and other stakeholders, to focus on the situation of Al-Quds, and the apartheid policies of Israel, the occupying power.
5. OIC Member States should consider imposing strict ban on import of products from Israeli settlements, thus validating Boycott, Divestment and Sanctions (BDS) regime. National laws and regulations on commercial tenders in OIC Member States need to ensure that records of commercial entities presenting such tenders are free from any transactions with Israeli activities in settlements.
6. The political separation between Palestinians in the West Bank and Gaza need to be addressed as soon as possible, including through supporting reconciliation efforts. The political limbo currently existing between the two sides will continue to weaken Palestinian position in any possible future talks.
7. IPHRC welcomes, and fully subscribes to the outcome of the 5th Extraordinary OIC Summit on Palestine and Al-Quds Al-Sharif held in Jakarta on 7 March 2016, and calls for its full implementation.
8. OIC Member States should encourage their national human rights institutions and civil society organizations to strengthen networking with Palestinian human rights counterparts in order to enhance observance of and reporting on violations of human rights in the Palestinian territories.
9. Recognizing the important role of the UN Human Rights Council, IPHRC, with the support of the OIC group of Member States in Geneva, to consider organizing an event in collaboration with the Office of the High Commissioner for Human Rights, and other stakeholders, on the human rights situation in Palestine, with particular reference to the suffering of women and children under Israeli occupation.
10. IPHRC should continue to focus on the Palestinian question and regularly update the CFM on the state of Palestinians' human rights violations by Israel the Occupying power. In order to have a comprehensive picture of the state of affairs of these human rights violations, it is recommended that the next IPHRC visit should be focused on Gaza strip that continues to suffer some of the worst human rights violations of present times.

THE OIC-IPHRC REPORT ON THE FACT FINDING VISIT TO THE STATE OF AZAD JAMMU AND KASHMIR TO ASSESS HUMAN RIGHTS SITUATION IN THE INDIAN OCCUPIED KASHMIR MARCH 2017

INTRODUCTION AND BACKGROUND OF THE OIC-IPHRC FACT FINDING MISSION:

Jammu & Kashmir is one of the oldest internationally recognized disputes on the agendas of the Organization of Islamic Cooperation (OIC) and UN Security Council (UNSC).

There are two dimensions of the Kashmir dispute: the first and foremost is the political dimension concerning the respective claims of the Governments of India and Pakistan regarding the territorial jurisdiction of the State of Jammu and Kashmir and the second dimension is the investigation of the claims of the reported human rights violations committed by the Indian security forces and civil administration in total disregard of the prevailing international human rights and humanitarian laws. However, the OIC IPHRC, as mandated, is concerned mainly with the human rights aspect of the dispute and has accordingly focused its report on the following:

(a) to assess the human rights and humanitarian situation in Indian Occupied Kashmir (IoK) in the light of prevailing international laws and standards;
(b) to investigate and report upon the allegations of human rights abuses by the Indian security forces in the IoK and;
(c) to make recommendations to protect the fundamental human rights of the Kashmiris.

Mandate of the Fact-Finding Mission

The 43rd OIC Council of Foreign Ministers (CFM) through its resolution nos. 8/43-Pol and 52/43-Pol, while welcoming the establishment of a "Standing Mechanism to monitor human rights violations in the IOK" requested the IPHRC to undertake a fact finding visit to IoK to ascertain the human rights situation and report its findings to the OIC CFM.

Based on the specific mandate from the CFM, OIC-IPHRC, in July 2016, approached the Indian Government to facilitate IPHRC fact-finding visit to IoK. However, to this day, this request remains unheeded. A similar letter, written by the OIC General Secretariat to the Government of India concerning the OIC fact finding visit to IoK, also remains unanswered. In the backdrop of this non-responsiveness from the Indian Government, the Commission discussed the matter in its 9th and 10th Regular Sessions[1] and it was decided that the Standing Mechanism and other IPHRC members should at least visit the State of the Azad Jammu Kashmir (AJK) from the Pakistani side to meet with the refugees from IoK to ascertain the human rights situation in the IoK. A similar suggestion was also made by the Special Representative of the OIC Secretary General on Jammu and Kashmir after his visit to AJK in May 2016.

Meanwhile, the Government of the Islamic Republic of Pakistan took the initiative to invite the OIC-IPHRC to visit AJK and meet with the refugees from IoK and other stakeholders of the dispute. They, however, urged the OIC-IPHRC to continue to request India to allow a fact-finding visit to IoK in order to have an objective assessment of the

[1] Reports of the IPHRC 9th and 10th Regular Sessions held in April and November 2016

human rights situation on ground and independently investigate prevalent human rights abuses, which have been widely reported by national and international human rights organizations and independent media.

In the backdrop of these developments, the OIC-IPHRC delegation, in compliance with the CFM mandate, undertook a three day visit to Islamabad and the AJK from 27-29 March 2017. The delegation was led by the Chairperson Mr. Med Kaggwa and comprised of the Commission Members Dr. Rashid Al Balushi, Dr. Raihanah Binti Abdullah, Amb. Abdul Wahab, Dr. Ergin Ergul, Prof. Saleh Al Khathlan and Dr. Oumar Abbou Abba.

Visit Program and sources of information

The Commission, during its three day visit met with President and Prime Minister of the State of AJK, Minister of Government of Pakistan for Kashmir Affairs and Gilgit-Baltistan, Advisor to the Prime Minister of Pakistan on Foreign Affairs, Hurriyat Conference representatives (a coalition of political parties' representatives from IoK), relevant government officials, Kashmiri refugees from IoK, victims, witnesses and their families as well as victims of Indian shelling and firing living in the AJK side of the Line of Control (LoC), media and civil society. The Commission appreciates the unfettered, open and transparent access provided by the Governments of Pakistan and the State of AJK to undertake its mandated task with objectivity and neutrality.

OBSERVATIONS/FINDINGS OF THE OIC-IPHRC OVER THE HUMAN RIGHTS VIOLATIONS IN IOK:

The Commission had to surmount the gigantic task of collating reliable data and information as the locus of human rights violations existed in the IoK. Therefore, while compiling this fact finding report, besides first-hand information from the victims, witnesses and refugees who have fled from the IoK, representatives of the Hurriyat Conference and members of independent media, the Commission has relied extensively on the data reported by the independent human rights bodies like Amnesty International (AI), Human Rights Watch (HRW), Medecins Sans Frontieres (MSF), International People's Tribunal on Human Rights and Justice in Indian-Administered Kashmir (IPTK), Kashmir Media Service (KMS) and the Association of Parents of Disappeared Persons (APDP).

According to the statistics gathered from these sources, reportedly, more than 94,000 Kashmiris have been killed by the Indian Security Forces in IoK. Out of these, more than 7,000 persons have been killed in Indian custody. Further, more than 107000 structures have been destroyed, more than 22,000 women have been widowed, more than 105,000 children have been orphaned and more than 10,000 women have been raped and molested by Indian military and paramilitary troops in IoK since 1989. Furthermore, since, 8th July, 2016 more than 7000 people fell victim to the pellet gun injuries, out of which over 200 lost their vision which include children between the ages of 5-16 years. Statistical snapshot of the reported casualties is placed at Annex-A

Human rights violations reported by the international media and human rights organizations

Over the last three decades, a new phenomenon of half-widows has emerged in IoK. Half-widows are the wives of persons who are missing for more than 10-20 years. They are unaware of the whereabouts of their missing relatives and cannot remarry till they know the fate of their husbands. These half-widows apart from other relatives of disappeared persons are left without any entitlement to land, homes, inheritance, social assistance and pensions.

More than 6000 unmarked mass graves have been discovered in Northern Kashmir by a Kashmiri lawyer Pervez Imroz, which has been highlighted by the international media[2].

The statistics quoted by independent sources about the ongoing human rights violations are self-explanatory to describe the extent of the human tragedy endured by the Kashmiri people. Also, the images shared over the social media and documentaries produced by reputable media outlets no less than CNN[3] and Al Jazzeera provide insight into the human rights violations committed by the disproportionate use of force by the Indian security forces. The harrowing account of a 14 years old Irfa Shakour who was blinded by the pellet guns is too vivid and painful to ignore[4].

HRW in its report of 2016 highlighted the Indian crackdown on protests in IoK in July 2016, killing more than 90 people and injuring hundreds. The paramilitary Central Reserve Force defended the use of pellet guns, which injured hundreds with impunity telling the courts that 'it was difficult to follow the SOP given the nature of the protests.' At least 32 schools were burnt and many taken over by paramilitary forces who set up temporary camps inside them, severely disrupting education of children.

Human Rights Watch asked the "*Indian authorities should credibly and impartially investigate police use of force during violent protests in Jammu and Kashmir. The Indian government should publicly order the security forces to abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.*[5]"

Amnesty International, in its annual report of 2016 underscored the misery of 'months of curfew and a range of human rights violations by authorities'. It highlighted the killing of more than 80 people, mostly protesters with thousands injured and hundreds blinded by security forces use of pellet guns, which are inherently indiscriminate. The report accused the Indian Security Forces of using arbitrary and excessive force against unarmed demonstrators.

Khurram Pervez, a human rights defender was detained for over two months, a day after he was prevented from traveling to Geneva to attend the Human Rights Council meeting. Mr. Pervez also met with the IPHRC delegation during his visit to Geneva and shared in detail the ongoing human rights violations committed by Indian security apparatus in IoK.

In the aftermath of the extra-judicial killing of the popular Kashmiri youth leader, Burhan Wani, on 8 July 2016 by the Indian security forces, hundreds of thousands of Kashmiris came out on the streets to protest against the heavy handedness of Indian Security Forces. The Government of India imposed curfews in most parts of IoK to prevent large protests. Despite curfews around 200,000 people attended the funeral of Burhan Wani. The Indian Security forces resorted to the use of live ammunition including pellet guns on the unarmed/innocent protestors. Doctors treating the injured have verified, based on the injuries, that Indian Army fired above the waist height executing a policy of 'shoot to kill' resulting in more than 160 civilian deaths, more than 20,000 injured and over 100 people blinded including children that included young girls studying in their homes.

The famous newspaper Guardian in its July 18 2016 issue described the Indian high-headedness and prevailing impunity as: '*India is blinding young Kashmiri protestors –and no one will face justice*[6]'. The New York Times also stated that "*2016 will almost certainly be remembered as the year of dead eyes*[7]"

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[2] https://www.theguardian.com/world/2012/jul/09/mass-graves-of-kashmir
[3] https://www.youtube.com/watch?v=oKvJmPV96rw
[4] http://www.aljazeera.com/indepth/features/2017/02/kashmir-pellet-guns-170212080445939.html
[5] Human Rights Watch, 12 July 2016: https://www.hrw.org/news/2016/07/12/india-investigate-use-lethal-force-kashmir
[6] https://www.theguardian.com/commentisfree/2016/jul/18/india-blinding-kashmiri-protesters-justice-steel-pellets
[7] 'An Epidemic of 'Dead Eyes' in Kashmir as India Uses Pellet Guns on Protesters', Ellen Barry Aug. 28, 2016, New York Times

The members of the delegation scanned the videos and pictures shared on social media showing Indian armed forces attacking ambulances carrying the injured. This is corroborated by the Doctors Association Kashmir Press Release of 11 July 2016 in which they confirmed that Indian army attacked the hospitals with teargas shells. In an attempt to curb protests long curfews were imposed in IoK resulting in a deliberate shortage of essential food supplies, medicines, children food, petroleum products and other basic amenities.

These gross human rights violations prompted the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein to state that "*We had previously received reports, and still continue to do so, claiming the Indian authorities had used force excessively against the civilian population under its administration……..I believe an independent, impartial and international mission is now needed crucially and that it should be given free and complete access to establish an objective assessment of the claims made by the two sides.*[8]" In August 2016, the Government of Pakistan welcomed the request of the Office of the High Commissioner for Human Rights (OHCHR) and agreed to fully cooperate with the OHCHR mission[9] but unfortunately India has not responded positively to allow access to the OHCHR fact finding mission to investigate the allegations of human rights abuses in IoK.

In addition to the above, some of the specific set of human rights violations that are against the explicit rights granted in International human rights law are given below:

A. Violation of the Right to Self-determination

The UN Charter and Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) reaffirm peoples' right of self-determination and by virtue of that right people freely determine their political status and pursue their economic, social and cultural development.

The right to self-determination of the people of Jammu and Kashmir is accepted and upheld by the UN and agreed by the parties in dispute i.e. India and Pakistan. The UN Security Council Resolutions 47 of 21 April 1948, 51 of 3 June 1948, 80 of 14 March 1950, 91 of 30 March 1951, 122 of 24 January 1957 and UN Commission on India and Pakistan (UNCIP) Resolutions of 13 August 1948 and of 5 January 1949 all of which, declare that the final disposition of the State of Jammu and Kashmir would be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. The denial of this fundamental right to the Kashmiri people is a serious breach of international law. In terms of Article 25 of the UN Charter, it remains an international responsibility to pressurize India to agree to grant this fundamental right to the Kashmiris who are denied this right for over seven decades.

B. Violation of Right to life

Article 3 of the Universal Declaration of Human Rights (UDHR) stipulates that "*Everyone has the right to life, liberty and security of person*." The International human rights law prohibits arbitrary deprivation of life under any circumstances, Article 6 of ICCPR, prohibits derogation from the right to life, even during occasions of emergency. ICCPR Articles 4 and 7, explicitly ban torture, even in times of national emergency or when the security of the state is threatened[10].

[8] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20474
[9] http://www.mofa.gov.pk/pr-details.php?mm=NDI2Nw
[10] http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx

In IoK, with over 700,000 Indian troops, the region is the most heavily militarized zones in the world with a ratio of 1 soldier for 11 civilians. As widely reported and criticized, both in national and international media, Indian Security Forces have blanket immunity through discriminatory laws, imposed in the State, since 1990. Among these laws, Armed Forces Special Power Act (AFSPA) empowers the security forces "to shoot at sight or arrest people without a warrant." Such laws violate the fundamental human rights and international norms, to which Indian government is a signatory.

(i) Extrajudicial killings and Fake Encounters

The IPHRC delegation was informed by the AJK administration that since 1990 approx. 617 dead bodies were recovered in the AJK from the river Jhelum coming from the IoK. The Commission also met with the families of the victims who were killed in fake encounters and listened to many painful accounts from those Kashmiris visiting AJK from IoK on special visit visas. These families underwent the trauma of losing their loved ones without any recourse to justice and without any opportunity to register official complaints with the police.

The stories of these families are not unfounded as the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns in his report commented "*Evidence gathered confirmed the use of so-called 'fake encounters' in certain parts of the country. Where this happens, a scene of a shoot-out is created, in which people who have been targeted are projected as the aggressors who shot at the police and were then killed in self-defence. Moreover, in the North Eastern States, and Jammu and Kashmir the armed forces have wide powers to employ lethal force.*[11]"

IOK - based human rights organization 'Jammu Kashmir Coalition of Civil Society (JKCCS)', in its report '*Structures of Violence: the Indian State in Jammu and Kashmir*', highlighted the human rights violations committed by Indian security forces in IoK. The report holds Indian security forces accountable for the disappearance of 8000+ persons, 70,000+ deaths, 6000+ unknown, unmarked and mass graves, and countless cases of torture and sexual violence. The report concludes that structure of Indian State is responsible for creating an environment of impunity for security forces to commit gross human rights violations in IOK.

According to yet another report coming from BBC News: ***Fake Killings return to Kashmir***, "*Investigating the latest "fake encounters" of the three men from Nadihal village in Barramulla district, the police said that the army major had done it to get "a promotion and/or a cash reward* [12]". Alleged to be terrorists, the individuals were later identified as civilians who went missing and had allegedly been exchanged for money to some members of the Army so they could be killed in a fake encounter for which awards were offered.

(ii) Restrictive and discriminatory laws

The delegation has the opportunity to examine in detail the AFSPA and Public Safety Act (PSA) and have found them to be discriminatory laws which encourage impunity in IoK. The PSA, which Amnesty International has also called as '*lawless law*'[13] is even used to detain minors. The Amnesty International India, HRW, the International Commission of Jurists and UN Special Rapporteur on extrajudicial, summary or arbitrary executions has urged the Government of India to end the use of AFSPA and PSA to detain people, including children[14].

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[11] http://www.un.org/apps/news/story.asp?NewsID=41676#.WPX-Y0UrKUk
[12] http://www.bbc.co.uk/news/10400074
[13] Amnesty International: India: Still a 'Lawless Law' Detention under the Jammu and Kashmir PSA 1978 https://www.amnesty.org/en/documents/asa20/035/2012/en/
[14] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 26 April 2017 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf

It is the considered observation of the delegation that the PSA, which applies only in IoK, permits the State authorities to detain persons without charge or judicial review for as long as two years without visits from family members. People incarcerated under the PSA are sent to Jammu jail to make them inaccessible to their families causing further anguish and mental distress to the affected families. It is worth mentioning that on September 16, human rights activist Khurram Parvez was arrested under PSA for being a threat to "public order" and was lodged in Kot Bhalwal jail Jammu.

Under Section 4(a) of the AFSPA, even a non-commissioned officer can order his men to shoot to kill "if he is of the opinion that it is necessary to do so for maintenance of public order". Also, Section 4(b) allows such military personnel to destroy any shelter from which, in his opinion, armed attacks "are likely to be made" or which has been utilised as a hide-out by absconders "wanted for any offense." This discretion has provided the pretext of vandalising the private property even schools and places of worship. Section 4(c) of the Act permits the arrest without warrant, with whatever "force as may be necessary" of any person against whom" a reasonable suspicion exists that he is about to commit a cognizable offence." As evident, the provisions of these acts violate relevant provisions of international law and make India accountable for protection of human rights as provided in Bill of Rights.

Amnesty International's report on AFSPA on July 1, 2015[15] severely criticized the Act for creating an environment of impunity for Indian security forces in IOK enabling them to commit atrocious human rights violations without any fear of being tried. It focuses particularly on Section 7 of the AFSPA, which grants virtual immunity to members of the security forces from prosecution for human rights violations.

The delegation concurs with the opinion of the UN Special Rapporteur Mr. Christof Heyns that the powers granted under AFSPA are in reality broader than that allowable under a state of emergency as the right to life may effectively be suspended under the Act and the safeguards applicable in a state of emergency are absent. Moreover, the widespread deployment of the military creates an environment in which the exception becomes the rule, and the use of lethal force is seen as the primary response to conflict. This situation is also difficult to reconcile in the long term with India's insistence that it is not engaged in an internal armed conflict. The Special Rapporteur was, therefore, of the opinion that retaining a law such as AFSPA runs counter to the principles of human rights and democracy[16].

C. Violation of Right to Freedom of Opinion and Expression:

Freedom of expression is a fundamental right vital for a functioning democracy and protection of all other rights. Article 19 of UDHR provides that "*everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers*".

The delegation interviewed refugees from IoK and met with the members of the civil society and inferred that the right of freedom of speech in IoK is restricted under 'preventive measures' which has restricted the movement of political leaders and their ability to connect with the masses. The political leaders are detained under the PSA and kept under unexplained incarceration.

It is noticed that during 2016, in order to impose a digital curfew in IoK, blanket ban on internet services was imposed to restrict access to social media and connectivity. The communication blockade also inflicted financial miseries on

[15] Amnesty International Report "Denied: Failures in accountability for human rights violations by security force personnel in Jammu and Kashmir"
[16] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 26 April 2017 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf

traders in Kashmir Valley. Amnesty International commented that "*Blanket and indefinite suspensions of telecommunication services do not meet international human rights standards. These shutdowns affect the ability of phone and internet users in Kashmir to seek, receive, and impart information, which is an integral part of the right to freedom of expression. The restrictions on access to telephones, in particular, jeopardize a range of other human rights as well, including the right to life.*[17]"

D. Violation of Freedom of Religion:

Freedom of religion and belief is guaranteed under the international law[18]. The Hurriyat representatives and media reports confirmed that the Indian government imposed arbitrary and unlawful ban on carrying Muharram processions on 8th and 10th Muharram in 2016 which amounts to denial of religious freedom. Instead the civil administration used brute force to disperse the Muharram processions taken out around Lalchowk area on 8th and 10th Muharram[19].

Only in 2017, repeated curfews and movement restrictions impeded the holding of the congressional Friday prayers for 20 times at Kashmir's Historic Grand Mosque (Jamia Masjid) Srinagar. Cleric of Kashmir Mirwaiz Mohammad Umar Farooq was barred from performing his religious obligations by arresting him and imposing curbs on his movements. Congressional Friday prayers were also not allowed in the historic Jamia Masjid of Shopian, since 8 July for nearly 18 weeks.

The rise of far right Hindu politics and party namely Bhartiya Janata Party (BJP) that is currently leading the Indian Government and most northern states of India, coupled with anti-Muslim sentiments and actions in the country have also affected the situation in IoK. The IPHRC delegation observed that there was a palpable nervousness among the Kashmiris over the rise of right wing 'Hindutva' which has encouraged ultranationalist leaders to issue belligerent anti-Muslim statements leading to heightened Islamophobia. It was quoted that Rashtriya Swayamsevak Sang (RSS), Hindu extremist group, was allowed to take out armed rallies in IoK to intimidate Muslims. In another such incident, RSS workers escorted by the local police took out a rally in Kishtwar town on October 11, which spread panic among the members of Muslim community[20].

E. Violation of the Freedoms of Peaceful Assembly and Association:

While meeting with refugees and visiting people from IoK, the IPHRC delegation came across several accounts of relentless imposition of curfew without any leniency offered to cater for the needs of the vulnerable segments of population like elderly, infirm and children. It was told to the delegation that curfew by the State administration is exercised as a tool to suppress civil liberties and inflict collective punishment for the entire population.

The Commission was told, the same was confirmed through various sections of media, that the Hurriyat leadership is frequently arrested or is kept under house detention. Ms. Aasiya Andrabi (a well-known woman political leader) was kept under very difficult conditions in jail. The condition of the Chairman of Jammu Kashmir Liberation Front, Mr. Yasin Malik became highly critical during his long imprisonment. Prominent human rights activist Khurram Parvez

[17] Amnesty's International "Communications Blackout in Kashmir undermines human rights" 22 July 2016 https://www.amnesty.org.in/show/entry/communications-blackout-in-kashmir-undermines-human-rights
[18] Articles 18 of the UDHR and ICCPR and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
[19] Hurriyat's "Human Rights Report 2016"
[20] Hurriyat's "Human Rights Report 2016"

was kept under illegal detention for more than two months despite calls of human rights groups, including by a panel of human rights experts, for his immediate and unconditional release[21].

As widely observed and reported, since the unrest that started on 8 July 2016, IoK faced the longest curfew, which continued for more than 50 days with no breaks leading to worst humanitarian sufferings[22]. Most fundamental rights were curtailed through the imposition of continuous curfews and restrictions. Section 144 of the Criminal Procedure Code, prohibiting assemblies of more than four persons, remains in force for most of the times in the IoK. Assemblies, marches, graffiti, pamphlets, even silent vigils are banned.

F. Protection against Torture, cruel, inhuman or degrading treatment or punishment

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)[23] together with Geneva Convention related to The Protection of Civilian Persons in times of war, 1949 and Additional Protocols of 1977 provide for protection against humiliating and degrading treatment; torture, rape, enforced prostitution or any form of indecent assault.

The IPHRC delegation had the opportunity to meet with the Kashmiris visiting from IoK, who suffered torture in the hands of the Indian security forces and told that the use of torture, which include stripping off naked during custody is prevalent for seeking confessions.

According to Wiki Leaks, US Embassy in one of its cables disclosed the findings of the International Committee of the Red Cross (ICRC) about the widespread use of torture in IoK. The ICRC report claimed that out of 1,296 detainees it had interviewed, 681 said they had been tortured. Of those, 498 claimed to have been electrocuted, 381 said they were suspended from the ceiling, and 304 cases were described as sexual[24].

(i) Rape and Molestation

The Hurriyat representatives and many refugees in the camp described the ignominious practice of gang rape by the security forces. According to them, rape continues to be a major instrument of inflicting collective punishment to the Muslim society to seek confessions against the male members, coerce the protestors to accept the writ of the administration and break resilience at the community and individual levels.

A study done by MSF in 2006 reveals that Kashmiri women are among the worst victims of sexual violence in the world, the figure is much higher than that of Sierra Leone, Sri Lanka and Chechnya. The ages of women raped ranged from 13 to 80 years. Cases of rape and molestation abound in Kashmir and many go unreported because of the fear of social stigma, and of reprisal by State agencies. More often, police refuse to lodge complaints against the Indian troops[25].

G. Measures to bring demographic changes in IoK by the Indian Government

The political leadership of the State of AJK and also the sections of civil society raised fears that the Government of India has been trying to bring demographic changes in IoK by converting its Muslim majority character into minority through settlement of non-Muslim non-State subjects.

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[21] https://www.fidh.org/en/issues/human-rights-defenders/kashmiri-human-rights-defender-khurram-parvez-arbitrarily-arrested
[22] http://indianexpress.com/article/india/india-news-india/kashmirs-longest-curfew-kashmir-unrest-it-is-painful-when-your-baby-needs-milk-and-youre-helpless-2996460/
[23] http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx
[24] https://www.theguardian.com/world/2010/dec/16/wikileaks-cables-indian-torture-kashmir
[25] Kashmir Violence and Health: A report by MSF 2006 https://ru.msf.org/sites/russia/files/migrated/KASHMIR_FINAL_VERSION,_221106.pdf

These fears are not ill-founded as in 2014, an Indian Parliamentary committee suggested settling of West Pakistan Refugees in IoK (IHK). In this regard, the government announced the decision of setting up Sainik colonies to permanently settle Indian soldiers and build townships to settle displaced Kashmiri Pandits in IoK (IHK). Attempts to setting up colonies for Indian soldiers are in complete violation of the Fourth Geneva Convention. Under Article 49 of the fourth Geneva Convention, the occupying force shall not deport or transfer part of its own civilian population into the territory it occupies. Therefore, India does not have the right to settle its own population in the IHK.[26] " Annex-B provides table to corroborate the demographic shift in IoK.

H. Forced separation of families

The refugees who have fled the IoK to avoid persecution provided heart rending details to the IPHRC delegation that how they yearn to meet their loved ones on the other side of the LoC. In one such account, they shared the incident of talking to their families across the river marking the LoC and when the Indian security forces spotted this interaction, they forcibly removed the unarmed innocent women. Similar stories were shared by other refugees including the curbs put on telephone and internet services that restrict their communication.

Although as a result of the Composite Dialogue between Pakistan and India, cross LoC travel for civilians was opened at 5 points but only two of these are functional at present. Total 451 Bus Services have plied to-date. A total of 12317 passengers have travelled from AJK to IoK while only 6203 passengers have travelled in the opposite direction.

The Indian Government does not allow refugees to migrate into the Azad Jammu and Kashmir. The IPHRC delegation met with one of the 80 years old relatives of the refugees who managed to obtain Indian passport after an arduous struggle of 19 years to get visa to cross LoC to meet his daughter.

I. Probes and Inquiries

In a functioning democracy, every subject of the state has the right to justice and investigation of any reported crime or human rights violation. The history of judicial probes and administrative inquiries in IoK remains inconclusive. Even under Commission of Inquiry Act, in IoK, the administration has never made the findings public or punished the guilty and this makes one to conclude that probes and inquiries couldn't deliver justice and opportunity of fair trial to the Kashmiris.

Even the institutions, which are created under the Act of the Indian Constitution to investigate the allegations of human rights violations remain dysfunctional. The Hurriyat representatives informed that the State Human Rights Commission (SHRC) created in 1997 has remained mostly dysfunctional from time to time. Under Section 12 of the Jammu and Kashmir Protection of Human Rights Act, 1997 it is mandatory for the State government to initiate action on the report of the Commission within a period of four weeks from its receipt and intimate the Commission about the action taken. The successive governments have come in for sustained criticism from the SHRC for ignoring its recommendations. In 2006, SHRC Chairman Justice A M Mir resigned from his post citing "growing human rights violations" and "non-seriousness" of the State government on the issue as the reason behind the decision[27].

[26] http://cscr.pk/analysis-and-opinions/altering-demographics-indian-held-kashmir/
[27] Hurriyat's Annual Human Rights Report 2016

J. Line of Control (LoC) violations

After 1948 Kashmir War, UN established a United Nations Military Observer Group in India and Pakistan (UNMOGIP), for monitoring the ceasefire between Pakistani and Indian forces deployed along LoC. Members of UNMOGIP are deployed on both sides of the LOC to monitor implementation of UNCIP resolution of 1949. However, it is common knowledge that India does not allow UN Military Observers to visit areas beyond their living / office compounds.

The documented figure provided by the AJK authorities states that in 2016, the Indian security forces, in contravention of the ceasefire agreement, continued to violate the LoC, resulting in the loss of more than 46 innocent civilians and injuries to 145. The villages and populated areas (that are non-military targets) are also targeted deliberately by the Indian security forces. On 23 November 2016, India intentionally targeted a civilian bus near the LoC resulting in causalities of 10 civilians and injuries to at least 8 others. The IPHRC delegation physically met with the victims of this particular cross-LoC shelling and also inspected the remains of the bus, which was attacked.

K. State of Refugees from IoK in the AJK

According to the statistics[28] made available by the Government of the AJK, since 1989, a total of 6935 families totaling to 38,000 refugees migrated to AJK. The IPHRC delegation met with some of these refugees from IoK who are provided shelter and basic amenities and health and education free of cost by the Government of the State of AJK in refugee camps at Muzaffarabad, Bagh, Kotli, Mirpur and Rawlakot districts. However, the basic subsistence allowance of Rs.1500 per head is too meagre to meet the needs of the refugees. The refugees, though thankful for the efforts of the Governments of the Pakistan and AJK, did urge the international community to share the burden to meet their socio-economic needs.

L. Conclusion

Having met the with refugees, victims and families of victims, representatives of political parties and civil society from IoK as well as victims of cross border shelling in AJK, the Commission concludes that, in the absence of India's willingness to facilitate an independent investigation, there is considerable statistical and circumstantial evidence which lends credence to the allegations of indiscriminate and disproportionate use of force by the Indian security forces against unarmed and innocent civilians and human rights activists, resulting in torture, extrajudicial killings, rape and mass blinding through use of pellets.

Nonetheless, if India continues to refute these reports, it should allow all international, UN, OIC and other organizations to verify the situation on ground through independent fact finding missions. The Commission, accordingly, hopes that the Government of India will respond positively to the IPHRC request to grant access to the IoK to independently and objectively assess and report upon the human rights situation.

The Commission contends that the Kashmir dispute is not merely a question over territorial jurisdiction between India and Pakistan but it concerns about the future of millions of people who wish to exercise their inherent and inalienable right to self-determination.

The IPHRC delegation expresses its concerns over the violations of the right to life, right to freedom of opinion and expression, freedom of religion, freedoms of peaceful assembly and association as well as other fundamental human rights of the Kashmiri people guaranteed by international human rights law. Reports of widespread use of torture

[28] Annex-B of the IPHRC IoK fact finding report 2017

including rape and molestation of women at the hands of security forces are particularly condemnable. There are reports of widespread curfews and curbs on religious congregations for fear of protests and people have legitimate security concerns regarding protection of their right to life and dignity.

The Commission concludes that the use of restrictive and discriminatory laws by Indian Security forces such as AFSPA Act is contrary to the international human rights standards. These laws grant sweeping powers to the Indian security forces to detain, torture and even kill suspects without any fear of investigation hence has led to a culture of impunity, which violates fundamental human rights.

The Commission expresses serious concerns on the denial by India of the fundamental right to self-determination of Kashmiri people, well recognized by the relevant UNSC resolutions, and equating their legitimate freedom struggle with terrorism. The Commission has noted that the people of Kashmir has high hopes and expectations from the United Nations, OIC and IPHRC and international community to undertake substantive measures towards realization of their right to self-determination and protection of their basic human rights.

At the time of writing this report, the viral footage of Indian Security forces parading of an innocent civilian tied to the front of their Jeep as a punishment for alleged stone-throwing is widely condemned both by the national and international human rights community. The footage attests to the Indian Security Forces' acquiescence to using such inhuman tactics to create fear and terror among Kashmiri population.

Through discriminatory laws, Indian security forces have created an atmosphere of impunity and fear which has led to grave human rights abuses against unarmed demonstrators and protestors, with little regard for the principles of proportionality and necessity.

M. Recommendations

For the UN and international community

The UN has an overbearing role and responsibility to protect and promote the rights of the people of Jammu and Kashmir enabling them to exercise their right to self-determination. Therefore the UN may be requested to ; a) impress upon the Government of India to put an end to the on-going human rights violations in IoK; b) facilitate holding of an independent investigation to all human rights violations, including cases of enforced disappearance, extrajudicial killings, rape and unmarked mass graves; c) urge the Government of India to repeal restrictive and discriminatory laws like AFSA and PSA which contravene international human rights laws and standards; d) implement UN resolutions to allow people of Jammu and Kashmir to exercise their right to self-determination in a free and fair plebiscite under the UN auspices; e) consider commemorating international solidarity day with the Kashmiris; f) condemn and block the attempts of the Indian government to change the demographic status of the majority Muslim State of the Jammu and Kashmir through establishment of illegal settlements for non-residents; and g) encourage and facilitate both Pakistan and India to resume the dialogue process for peacefully resolving all outstanding issues particularly the core issue of the Jammu and Kashmir.

In the event of continuing non-cooperation by the Government of India, the UNSC, acting under its obligation to maintain international peace and security and with a view to preventing any further violations of human rights of Kashmiris, may consider and resolve the issue through peaceful means;

The UN Human Rights Council may consider appointing a Special Rapporteur with a specific mandate to investigate India's violations in IoK under international law and international humanitarian law;

The High Commissioner for Human Rights may continue to urge the government of Indian to accept an OHCHR fact finding mission to IOK and must continue to monitor, document and report the ongoing human rights violations under his regular briefings to the HRC. Relevant Special Procedures of the HRC should also continue to monitor, highlight and report on human rights violations falling under their respective mandates.

The Director General of World Health Organisation, in its periodic health situation reports may consider to report upon the health conditions of Kashmiris in the IoK as is done in the case of Palestinians in the Occupied Palestinian Territories. It will help in highlighting the precarious health conditions in the disputed area.

For the Governments of the Pakistan and State of the AJK

The Government of Pakistan should continue to provide moral and diplomatic support to the Kashmiris and highlight the issue at all forums including UN to create awareness over the human rights violations and garner support to protect the human rights of the Kashmiris;

For the Government of India

The Government of India may be urged to (a) to bring an end to the gross and systematic human rights violations of the Kashmiri people in IoK; (b) allow free access to international media and independent human rights organizations to carry out investigations into alleged human rights violations; (c) repeal all restrictive and discriminatory laws like AFSA and PSA to allow the Kashmiris appropriate access to justice, free trial and freedom of movement; and (d) allow access to the humanitarian organizations to provide much needed medical support to the victims of the violence in particular recent cases of blindness by the pellet gun injuries.

For the OIC

The OIC should (a) continue to insist and endeavor to prevail upon the Government of India to agree to receive the OIC and IPHRC Fact Finding Missions to IoK to investigate and report upon the allegations of human rights violations; (b) consider organizing an international conference/symposium on the side-lines of the Human Rights Council in Geneva involving academics, policy makers from UN and OIC Member States and human rights experts to propose ways and means to secure the human rights of the Kashmiris; (c) coordinate with the OIC Contact Group on Jammu and Kashmir to meet regularly on the side-lines of session of the UN General Assembly, the UN Human Rights Council as well as the OIC Ministerial meetings to forge a consensus position for presentation at the international fora; (d) coordinate and collaborate with the Islamic Development Bank and Islamic Solidarity Fund to initiate development projects in the livelihood sector, health and education in the IoK and the refugee camps in the AJK; (e) in case the Government of India continues to violate the human rights of Kashmiris, OIC Member States may be urged to consider using the Boycott Divestment and Sanctions Movement against India to pressurise it to meet its human rights obligations; and (f) urge the Government of India to remove travel restrictions imposed upon the Kashmiri leadership to facilitate their free movement abroad.

For the IPHRC:

The IPHRC may continue to coordinate and collaborate with the OIC General Secretariat and Member States to raise the awareness of the human rights violations in IoK. To this regard, IPHRC may continue to regularly brief the OIC Contact Group about the latest human rights situation in IoK. The IPHRC may coordinate with OIC Missions in New York and Geneva to circulate the findings of this report widely with the UN and human rights organizations.

ANNEX-A: Statistics of Human Rights Violations by Indian Security Forces

Human Rights Violations by Indian Security forces	
Total number of killings in the valley from 1989 to March 31, 2017	
Total Killings	94,644
Custodial Killings	7,081
Civilians Arrested	140,739
Structures Arsoned/Destroyed	107,844
Women Widowed	22,834
Children Orphaned	107,607
Womens gang-raped/Molested	10,842
Casualties during ongoing uprising since 08th July 2016	
Killings	125
Injured	16325
Inured by pellets	7485
Youth lost total eye-sight	55
Youth lost one eye sight	178
Youth at the verge of losing eye-sight	840
Youth whose vision damaged partially	1612
Women molested	534
Houses/shops/structures damaged	65165
Schools arsoned	50
People arrested(general)	10450
People detained under Public Safety Act	750
Compiled by Kashmir Media Service[29]	

ANNEX-B:

Table shows that the percentage of Muslim population in IoK is nearly the same as that of 1961. Contrarily, the percentage of Muslim population in India has increased from 10.70% in 1961 to 14.23% in 2011.

Year	**1941**	**1961**	**1971**	**1981**	**2001**	**2011**
Total	2,946,728	3,560,976	4,616,632	5,987,389	10,143,700	12,541,302
Muslims	2,133,611	2,432,067	3,040,129	3,843,451	6,793,240	8,567,485
Hindus	736,865	1,013,193	1,404,292	1,930,448	3,005,349	3,566,674
Mulsims (Percentage)	72.41	68.30	65.85	64.19	66.97	68.31
Hindus (Percentage)	25.01	28.45	30.42	32.24	29.63	28.44

Table 1 Total population and percentage of Muslim population in IoK (Source: Census India)

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