

OIC-IPHRC STUDY ON SEXUAL ORIENTATION AND GENDER IDENTITY IN THE LIGHT OF ISLAMIC INTERPRETATIONS AND INTERNATIONAL HUMAN RIGHTS FRAMEWORK



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A. INTRODUCTION:

1. 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.
2. 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*’.
3. 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.
4. 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.
5. 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:

6. 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

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/>

- 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.
7. 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.
 8. 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
 9. 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
 10. 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
 11. 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
 12. 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 children⁶.

(ii) Homosexuality according to Abrahamic religious thoughts:

13. Marriage, family, and sexuality have always been and shall remain the subject of profound religious beliefs and practices which in turn shape personal identities.
14. 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.

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

15. The Qur'an is explicit in its condemnation of homosexuality. In the Qur'an, homosexuals are referred to as '*qaum Lut*' (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 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].*"
16. 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.
17. 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.
18. 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).
19. 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.
20. 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
21. 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

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

(iii) Homosexuality according to scientific research:

22. 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 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 predisposition⁹. 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 homosexuality¹⁰.
23. 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
24. It is a common medical knowledge that there are other mental conditions like schizophrenia¹² 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.
25. 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:

26. 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.
27. 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

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>

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 institution¹⁴.

28. 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 of ‘genderless marriage’ portend to deinstitutionalize the institution of traditional marriage and concomitantly deform the values underlying the family and society.
29. 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
30. 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 3 of 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 gratification²⁰. 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 minds²¹;
 - 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*

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

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

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 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 ;

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

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>

- 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 disorders²⁹
- 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:

31. 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 controversial 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;

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

- 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 instruments³¹;
- 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 60/251³²;
- 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 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.

³¹ Vienna Declaration and Program of Action

³² http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_Eng.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

³⁴ Puppinc, 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>

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 has also 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;
- 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 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 advise all 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.