

INTRODUCTORY NOTE TO THE STATUTE OF THE OIC INDEPENDENT PERMANENT HUMAN
RIGHTS COMMISSION
BY IOANA CISMAS*
[June 28-30, 2011]
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The Organization of Islamic Cooperation (“OIC”), formerly known as the Organization of the Islamic Conference, is an inter-governmental body composed of fifty-seven Member States. Its primary aim is to safeguard the interests of the Muslim world in the spirit of peace.¹

In the realm of human rights, “the collective voice of the Muslim world,” which the OIC aims to embody, has materialized in two legal instruments: the Declaration on Human Rights in Islam (“the Declaration”) and the Covenant of the Rights of the Child in Islam (“the Covenant”). Additionally, in 2008 the revised OIC Charter set up the OIC Independent Permanent Human Rights Commission (“the Commission”) as a permanent body to promote human rights in Member States.² In June 2011, the OIC Council of Foreign Ministers, one of the main decision-making organs of the Organization,³ adopted the Statute of the OIC Commission (“the Statute”).⁴ According to the OIC Secretary General, the Statute attempts “to strike a delicate balance” between Islamic and international human rights instruments.⁵ To this end, the preamble of the Commission Statute recalls Article 15 of the OIC Charter, which stipulates that the body “shall promote civil, political, social and economic rights enshrined in the organisation’s covenants and declarations and in universally agreed human rights instruments, in conformity with Islamic values.”

The Declaration, a non-binding legal instrument, was adopted in 1990 to “serve as a general guidance for Member States in the field of human rights.”⁶ Two particularities are noteworthy. First, various rights of the Declaration are qualified through limitations by appeal to sharia law.⁷ Moreover, a general limitation clause subjects all rights of the Declaration to sharia.⁸ Several legal scholars have argued that interpretations of sharia may conflict with international standards on the equality of women, freedom of religion, freedom of expression, freedom of assembly and association, democratic freedoms, criminal justice, and provisions on states of emergency.⁹ Furthermore, jurisprudence and scholarship suggest that sweeping limitation clauses, such as the one in Article 24 of the Declaration, raise serious procedural questions with respect to their permissibility under treaty law.¹⁰ Second, the Declaration introduces sharia as the exclusive rule of interpretation of the Declaration.¹¹ This unique endeavor would appear as an attempt at self-containedness¹² aimed at displacing the customary rules codified by Article 31(3)(c) of the Vienna Convention on the Law of Treaties.¹³ For the purpose of interpreting the Declaration, Article 25 would thus seem to exclude customary international law and international and regional human rights treaties to which OIC members are parties, insofar as their provisions are inconsistent with sharia.¹⁴ This attempt at self-containedness based on sharia mirrors the practice of some OIC Member States that have entered general Islamic reservations to international human rights treaties.

The second human rights instrument adopted in the framework of the OIC is the 2005 Covenant. The Covenant represents a departure from the OIC’s own Declaration because it does not establish sharia as the principle of interpretation, and because there is no general limitation clause subjecting the rights of the child to religious values or Islamic law.¹⁵ While the use of religious restriction on specific rights is less present in the Covenant as compared to the Declaration, provisions of the Covenant requiring compatibility with domestic law may permit sharia, as clawback clauses, to play a role in limiting rights in those OIC states in which sharia is a source of legislation.¹⁶

The balancing act embedded in the Statute may thus have at least two types of effects on the particularities of the OIC human rights documents. First, through the Commission’s work, the OIC may move away from self-containedness claims based on sharia law towards a margin of appreciation doctrine¹⁷ requiring a context-sensitive application of international human rights standards. The latter doctrine would be more in line with the OIC, which consists of countries that embrace different Islamic streams and different schools of jurisprudence¹⁸ and which have legal systems wherein the status of sharia as source of legislation varies considerably.¹⁹ Second, the interpretation of Islamic law may become one of the main tasks of the Commission. As Abdullahi Ahmed An-Na’im noted, sharia “is not really divine law in the sense that all its specific principles and detailed rules were directly revealed by

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God to the Prophet Muhammad’; rather, ‘‘Shari’a was constructed by the early Muslim jurists out of the fundamental sources of Islam, namely the Qur’an and Sunna’’ and other traditions.²⁰ The constructionist feature of sharia²¹ thus empowers the Commission to seek interpretations of Islamic law which promote human rights and uphold the existing international obligations of the OIC Member States.

More generally, the importance of the Commission should be understood against the scarcity of established human rights mechanisms in the Asian region and the Middle East. While the Commission has potential as a human rights body, it becomes evident that its mandate, as well as its procedural aspects, will bear on the legitimacy of the new body and the effectiveness of its work.²²

Article 12 of the Statute lays out the mandate as follows: ‘‘The Commission shall carry out consultative tasks for the Council and submit recommendations to it. It shall also carry out other tasks as may be assigned to it by the Summit or the Council.’’ Specifically, the Commission is tasked with supporting the OIC position on human rights at the international level, consolidating cooperation among OIC Member States, by providing ‘‘technical cooperation in the field of human rights and awareness-raising’’ and by undertaking studies and research.²³ When compared to other human rights mechanisms at the regional and international level, it becomes apparent that most monitoring functions, and functions related to complaint mechanisms, are absent from the Statute of the Commission.²⁴ As such, the Statute does not stipulate the review of periodic state reports on the situation of human rights in OIC Member States. Interestingly, the term ‘‘monitoring’’ appears only once in the Statute, as an objective assigned to the Commission of monitoring ‘‘the observance of the human rights of Muslim communities and minorities.’’²⁵ Nor does the Statute provide for the Commission to receive individual or inter-state complaints of human rights violations. Insofar as the Commission was envisaged as a mechanism for access to justice for victims of human rights violations in the OIC region, it may well remain a distant promise.

It would appear that the Commission was not envisioned as a monitoring body, but rather was conceived of as a consultative body of the OIC Council of Foreign Ministers.²⁶ At the same time, provisions of the Statute do allow for consultation on human rights issues to be offered to OIC Member States directly, as long as the latter approve or request it.²⁷ This non-mandatory clause—if it is interpreted as allowing governments to exclude their own human rights situations from the consultative tasks of the Commission—may represent a serious limitation of the effectiveness of the Commission’s work. In stark contrast to the attribute of independence contained in its title, such a scenario raises questions about the Commission’s substantive independence in carrying out its tasks. Nonetheless, in fulfilling its mandate, there is nothing to prevent the Commission from exploring a variety of working methods, including country missions to analyze legislation and to advise on the change thereof and to encourage the use of diplomatic channels to resolve various human rights situations.²⁸

Article 17 holds probably the greatest potential for achieving a balance in the Statute. It stipulates the Commission’s interpretative role, stating that it may submit recommendations on the refinement of OIC human rights declarations and covenants. This puts the Commission in a situation similar to that of United Nations treaty bodies, which adopt general comments interpreting the various provisions of the conventions they are monitoring. Pursuant to this article, the interpretation of sharia and clawback clauses clearly falls within the ambit of the Commission’s mandate.

The Statute also includes a number of provisions with respect to the composition and the functioning of the Commission.²⁹ The Commission ‘‘shall be composed of 18 members nominated by the Member States’ governments among experts of established distinction in the area of human rights and elected by the Council of Foreign Ministers for a three-year period renewable once.’’³⁰ The Commission ‘‘shall convene bi-annually in ordinary meetings’’ and ‘‘adopt its recommendations by consensus and if not possible, by a two-third majority of the voting members present.’’³¹ While it encourages a gender and geographic balance,³² the Statute lacks explicit provisions requiring the independence and impartiality of the commissioners. Furthermore, the existing stipulations regarding the participation of civil society appear extraordinarily cumbersome. The Commission may invite guests, including NGOs and national human rights institutions, to attend its meetings. However, such participation is conditioned on the host country’s consent (thus giving the headquarter country a potential *de facto* veto power over attendance requests), on the approval by all members of the Commission, and on the accreditation by the OIC of attending organizations.³³ Although new rules of procedure could iron out some of these shortcomings by including procedural safeguards for the independence of the commissioners and by providing a more facile mechanism for civil society participation, the first years of the Commission’s existence will demonstrate its eagerness to strike the necessary balance with one sole overarching goal: that of increasing the protection of human rights in the OIC region.

ENDNOTES

- 1 See ORGANIZATION OF ISLAMIC COOPERATION, ABOUT THE OIC, http://www.oic-oci.org/page_detail.asp?p_id=52; Charter of the Organization of the Islamic Conference arts. 1 & 2, Mar. 14 2008, OIC Doc. OIC-CHARTER-FINAL-miscdoc-ah-08 (notably, Palestine is listed by the OIC as a Member State) [hereinafter Charter].
- 2 Charter, *supra* note 1, arts. 5 & 15; see also Ten-Year Programme of Action to Meet the Challenges Facing the Muslim Ummah in the 21st Century art. VIII, Third Extraordinary Session of the Islamic Summit Conference (Dec. 7-8, 2005).
- 3 Charter, *supra* note 1, art. 10.
- 4 Statute of the OIC Independent Permanent Human Rights Commission, Resolutions on Legal Affairs Adopted at the 38th Session of the Council of Foreign Ministers, OIC Doc. OIC/IPCHR/2010/STATUTE (June 28-30, 2011) [hereinafter Statute].
- 5 *OIC Leader Circles Globe to Represent Voice of Muslim World*, HÜRRIYET DAILY NEWS (July 16, 2010), available at <http://www.hurriyetdailynews.com/n.php?n=the-man-of-a-million-miles---an-interview-with-oic-secretary-general-professor-ekmeleddin-ihsanoglu-2010-07-15>.
- 6 Cairo Declaration on Human Rights in Islam, Aug. 5, 1990, U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993) [hereinafter Declaration].
- 7 NISRINE ABIAD, SHARIA, MUSLIM STATES AND INTERNATIONAL HUMAN RIGHTS TREATY OBLIGATIONS: A COMPARATIVE STUDY xviii (2008) (stating that the substance of sharia can take “the form of positive law or prescriptive norms and moral exhortations” “derived from a methodological interpretation of the Quran and the Sunnah”).
- 8 Declaration, *supra* note 6, art. 24.
- 9 See Abdullahi Ahmed An-Na’im, *Human Rights in the Muslim World: Socio-Political Conditions and Scriptural Imperatives—A Preliminary Inquiry*, 3 HARV. HUM. RTS. J 13, 37-44 (1990); Heiner Bielefeldt, “Western” Versus “Islamic” Human Rights Conceptions?: A Critique of Cultural Essentialism in the Discussion on Human Rights, 28 POL. THEORY 90, 105-106 (2000); EVA BREMS, HUMAN RIGHTS: UNIVERSALITY AND DIVERSITY 259-267 (2001); Ann Elizabeth Mayer, *Universal Versus Islamic Human Rights: A Clash of Cultures or Clash with a Construct*, 15 MICH. J. INT’L L. 307 (1994); Asifa Quraishi, *Her Honor: An Islamic Critique of the Rape Laws of Pakistan from a Woman-Sensitive Perspective*, 18 MICH. J. INT’L L. 287 (1996); JAVAID REHMAN, INTERNATIONAL HUMAN RIGHTS LAW 367-370 (2d. ed. 2010).
- 10 Jurisprudence and scholarship concur that a number of procedural criteria must be met for limitations on rights to be permissible under treaty law. As such, limitations must be prescribed by law, must have justified one of the specified legitimate aims (public order, public health, public morals, national security, public safety, and rights and freedoms of others), and be necessary in a democratic society. See, e.g., The Word “Laws” in Article 30 of the American Convention on Human Rights, Advisory Opinion OC-6/86, Inter-Am. Ct. H.R. (Ser. A) No. 6, ¶ 18 (May 9, 1986); uses Media Rights Agenda and Constitutional Rights Project vs. Nigeria, Communications 105/93, 128/94, 130/94, 152/96, ACHPR, 12th Activity Report 1998-1999, Annex V, ¶¶ 65-70; U.N. SCOR, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, U.N. Doc. E/CN.4/1984/4 (1984); Mohamed Elewa Badar, *Basic Principles Governing Limitations on Individual Rights and Freedoms in Human Rights Instruments*, 7 INT’L J. HUM. RTS. 62 (2004).
- 11 Declaration, *supra* note 6, art. 25 (stating that “[t]he Islamic Shari’ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration”).
- 12 A self-contained regime refers to, *inter alia*, “interrelated wholes of primary and secondary rules, sometimes also referred to as ‘systems’ or ‘subsystems’ of rules that cover some particular problem differently from the way it would be covered under general law.” See Int’l L. Comm’n [ILC], *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law* (Report of the Study Group of the International Law Commission Finalized by Martti Koskenniemi) ¶¶ 152.1 & 152.5, U.N. Doc. A/CN.4/L.682 (Apr.13, 2006). The International Law Commission in its report on fragmentation recommends the use of the concept “special regime” as opposed to “self-contained regime,” given that the former captures better the fact that “there is no support for the view that anywhere general law would be fully excluded.” The author here uses the expression “attempt at self-containedness” precisely because Article 25 of the Declaration challenges the applicability of any other rules in interpreting the Declaration, including the mandatory rule in Article 31(3)(c) of the Vienna Convention, *infra* note 13.
- 13 Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331 (entered into force Jan.27, 1980) (Article 31(3)(c) stipulates that, in interpreting a treaty, “any relevant rules of international law applicable in the relations between the parties” shall be taken into account); see also ILC Report, *supra* note 12, ¶¶ 426-427.
- 14 For example, Article 19(d) of the Declaration provides that “[t]here shall be no crime or punishment except as provided for in the Shari’ah.” See Declaration, *supra* note 6, art. 25. It is well known that some interpretations of sharia require as punishment the amputation of the right hand for theft and 100 lashes for adultery. See ABIAD, *supra* note 7, at 23-24. At the same time, the prohibition against torture is a *jus cogens* norm and, alongside the prohibition against cruel, inhuman and degrading treatment, it is enshrined in the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which several Member States of the OIC are parties. See, e.g., Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 1, Dec. 10, 1984, G.A. Res. 39/46, Annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984) (entered into force June 26, 1987); International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR]; Prosecutor v. Furundžija, Case IT-95-17/1-T, Judgement, ¶ 156 (Int’l Crim. Trib. for the Former Yugoslavia Dec.10, 1998).

- However, Article 25 of the Declaration requires as sole reference the sharia law for interpreting Article 19(d), thus seemingly excluding the international standards related to the prohibition against torture and other cruel, inhuman and degrading treatment.
- 15 Org. of the Islamic Conf. [OIC], Covenant of the Rights of the Child in Islam, OIC Doc. OIC/9-IGGE/HRI/2004/Rep.Final (June 2005), available at <http://www.en.iranoic.ir/LinkClick.aspx?fileticket=9avItk0TLdo%3D&tabid=373> [hereinafter Covenant].
- 16 In the context of the African Charter on Human and Peoples' Rights, Richard Gittleman defines clawback clauses as those "that entitle a State to restrict the granted rights to the extent permitted by domestic law" and observes that these clauses render the protection of rights "substantively questionable." See Richard Gittleman, *The African Charter on Human and Peoples' Rights: A Legal Analysis*, 22 VA. J. INT'L L. 667, 691 (1981). See also *Report of the Commission to the General Assembly on the Work of its Fifty-second Session*, [2000] Y.B. INT'L L. COMM'N 165, U.N. Doc. A/CN.4/SER.A/2000.
- 17 Yuval Shany, *Toward a General Margin of Appreciation Doctrine in International Law?*, 16 EUR. J. INT'L L. 907, at 909-910 (2005) (identifying two principle elements characterizing the margin of appreciation doctrine: judicial deference (i.e., international courts grant a certain, but not total, degree of deference to national authorities acknowledging their discretion on the manner they choose to execute their international law obligations) and normative flexibility (i.e., states can lawfully reach different decision on the application of an international norm given that rule at stake is open-ended or unsettled)). For a critique of the doctrine, see Eyal Benvenisti, *Margin of Appreciation, Consensus, and Universal Standards*, 31 N.Y.U. J. INT'L L. & POL. 843 (1998).
- 18 Anver M. Emon, *Conceiving Islamic Law in a Pluralist Society: History, Politics and Multicultural Jurisprudence*, SING. J. LEGAL STUD. 331, 355 (2006); BARBARA GARTNER, *DER RELIGIONSRECHTLICHE STATUS ISLAMISCHER UND ISLAMISTISCHER GEMEINSCHAFTEN* (2011).
- 19 ABIAD, *supra* note 7, 5-19 (identifying states where sharia is not a source of legislation (e.g., Turkey), states where Islamic law is an important but not exclusive source (e.g., Egypt, Yemen, Libya, Malaysia, and Morocco), and finally those where sharia is the only source of law (e.g., Iran, Pakistan, and Saudi Arabia)).
- 20 ABDULLAHI AHMED AN-NA'IM, *TOWARD AN ISLAMIC REFORMATION: CIVIL LIBERTIES, HUMAN RIGHTS AND INTERNATIONAL LAW* 11-33 (1990). See also ABIAD, *supra* note 7, at 119-122 (noting the potential and importance of implementing legislative reforms within the framework of sharia and promoting those interpretations that further human rights).
- 21 Muhammad Khalid Masud, Brinkley Messick & David S. Powers, *Muftis, Fatwas, and Islamic Legal Interpretation, in ISLAMIC LEGAL INTERPRETATION, MUFTIS AND THEIR FATWAS* (Muhammad Khalid Masud et al. eds., 1996) (arguing that sharia is "continuously adjusted to changing circumstances").
- 22 See Statement by Bacre Waly Ndiaye, Dir. Human Rights Council and Treaties Division, Office of the United Nations High Commissioner for Human Rights to the 38th Session of the Council of Foreign Ministers, Organization of Islamic Conference (June 28-30, 2011).
- 23 Statute, *supra* note 4, arts. 9, 10, 13, 14 & 16.
- 24 For the mandate of the Inter-American Commission on Human Rights, see American Convention on Human Rights ch. VII, Nov. 21, 1969, 1144 U.N.T.S. 123, 9 I.L.M. 99 (1978) (entered into force July 18, 1978); for the mandate of the African Commission on Human and Peoples' Rights, see African Charter on Human and Peoples' Rights pt II, June 27, 1981, O.A.U. Doc. CAB/LEG/67/3 rev. 5, 1520 U.N.T.S. 217, 21 I.L.M. 58 (1982); for the mandate of the Human Rights Committee, see ICCPR, *supra* note 14, pt IV.
- 25 This composite objective is very interesting. First, it should be recalled that for a state to become a member of the OIC, it must have a Muslim majority population. A minority Muslim population, to which Article 10 of the Statute refers, would thus belong to a non-OIC Member State. As a result, the Commission is entrusted with an *ex parte* task of monitoring the obligations (towards Muslim minorities) in states which are not party to the OIC. Second, it can be argued that a Muslim state is made up of Muslim communities; thus the Commission would be tasked to monitor the obligations of the OIC Member States in relation to these communities. However, the notion of "Muslim communities and minorities" is often used in resolutions of the OIC Council of Foreign Ministers as communities in non-OIC Member States. See, e.g., Resolutions on Communities and Minorities in Non-OIC Member States, 37th Session of the Council of Foreign Ministers, OIC Doc. OIC/CFM-37/2010/MM/RES/FINAL (May 18-20, 2010).
- 26 The relation between the Commission and the OIC Council of Foreign Ministers could be said to mirror, albeit imperfectly, the relationship between the Human Rights Council Advisory Committee and the U.N. Human Rights Council. However, the functions attributed to the Commission surpass considerably those of the Advisory Committee. For example, the Advisory Committee lacks the right to choose the studies it undertakes, and it requires a precise mandate by the U.N. Human Rights Council. Moreover, the U.N. Human Rights Council Advisory Committee cannot offer consultancy directly to states. See Human Rights Council Res. 5/1, Rep. of the Human Rights Council, 5th Sess., June 11-18, 2007, U.N. GAOR, 62d Sess., Supp. No. 53, A/62/53 (June 18, 2007).
- 27 Statute, *supra* note 4, arts. 14 & 17.
- 28 The Commission could use as model the working methods of the U.N. Special Procedures; see *MANUAL OF OPERATIONS OF THE SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL* (Aug. 2008), available at <http://www2.ohchr.org/english/bodies/chr/special/index.htm>.
- 29 Statute, *supra* note 4, arts. 3-7 & 18-24.
- 30 *Id.* art. 3.
- 31 *Id.* arts. 18 & 20.
- 32 *Id.* arts. 6 & 7.
- 33 *Id.* art. 21. Article 15 also restricts the support from the Commission only to "Member State-accredited national institutions and civil society organizations active in the area of human rights." See also *Human Rights Defenders Call for Inclusion in OIC Human Rights Body*, MAZLUMDER (June 22, 2011), available at http://www.mazlumder.org/ing/haber_detay.asp?haberID=177.

OIC/CFM-38/2011/LEG/RES/FINAL

**RESOLUTIONS
ON
LEGAL AFFAIRS
ADOPTED BY
THE 38TH SESSION OF THE COUNCIL
OF FOREIGN MINISTERS
(SESSION OF PEACE, COOPERATION AND DEVELOPMENT)
ASTANA, REPUBLIC OF KAZAKHSTAN
26-28 RAJAB 1432 H
(28-30 JUNE 2011)**

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**RESOLUTION NO.1/38-LEG
ON
FOLLOW UP AND COORDINATION OF WORK ON HUMAN RIGHTS**

The Thirty-eighth Session of the Council of Foreign Ministers, (Session of Peace, Cooperation and Development), held in Astana, Republic of Kazakhstan, from 26 to 28 Rajab 1432 A.H. (28 – 30 June 2011 A.D.),

Recalling the noble motives and objectives of the glorious religion of Islam, which emphasizes the importance of human rights; and **mindful** of the universal and integral nature of Islamic laws on human rights and the prominent place of human being,

Bearing in mind the objectives of the OIC Charter of promoting and encouraging respect for human rights and fundamental freedoms for all people without distinction as to race, sex, or religion,

Recalling all relevant resolutions of the Islamic Summit and Foreign Ministers Conferences, in particular Resolution No. 49/19-Pol on the adoption of the “Cairo Declaration on Human Rights in Islam”;

Aware of the need for strengthening the existing mechanism within the OIC for exploring ways and means to promote and protect human rights through, *inter-alia*, the formulation of a set of Islamic covenants on human rights,

Recognizing the obligations and endeavors of the Member States to promote and protect internationally recognized human rights while taking into account the significance of their religious, national, and regional

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specificities and various historical and cultural backgrounds, and with due regard to the “Cairo Declaration on Human Rights in Islam”;

Mindful of the universal and integral nature of Islamic values with respect to human rights, the prominent place of Man in Islam as vicegerent of Allah on earth and hence the great importance attached by Islamic thought to the promotion, encouragement, and respect of human rights,

Recalling also the UN Commission on Human Rights and the Human Rights Council’s Resolutions entitled “defamation of religions” which express deep concern over the negative stereotyping of religions and at the way Islam is frequently and wrongly associated with human rights violations and with terrorism, and which also express concern over the space devoted by the printed, audio-visual, and electronic media to inciting violence, xenophobia, or related intolerance and discrimination against Islam and other religions,

Reaffirming the universality, objectivity and non-selectivity of all human rights and also the need to promote and protect human rights through cooperation and consensus rather than confrontation and/or imposition of incompatible, alien and inhomogeneous values,

Expressing its deep concern over the attempts to exploit the issue of human rights to discredit the principles and rules of Islamic Shariah (laws) and to interfere in the affairs of Islamic States,

Having considered the relevant report of the Secretary General,

1. **Asserts** that human rights are universal in nature and must be considered in the context of dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds;
2. **Emphasizes** the necessity for the international community to address the human rights issue on an objective and indivisible basis, in all states, without selectivity or discrimination;
3. **Calls for** the necessity to consider human rights in their global conception and in all their civil, political, social, economic, and cultural facets within the framework of international cooperation and solidarity;
4. **Reaffirms** the right of States to adhere to their religious, social, and cultural specificities which constitute heritage and streams of thought that contribute towards enriching the common international conceptions of human rights;
5. **Calls for** the non-use of the universality of human rights as a pretext to interfere in the states’ internal affairs and diminish their national sovereignty;
6. **Recalls** the rights of States, when necessary, to express reservations on the international conventions, covenants, and agreements they subscribe to, as part of their sovereign rights;
7. **Expresses its deep concern** over the frequent and erroneous association of Islam with violations of human rights and the misuse of the print and audio-visual media in propagating such misconceptions which lead to the reinforcement of prejudice and discrimination against Muslims and **calls on** the Member States to undertake information activities to counter these activities;
8. **Notes with grave concern** the increasing trend of Islamophobic measures in the Western countries, stresses the responsibility of those States to ensure full respect to Islam and all divine religions and the inapplicability of using freedom of expression or press as a pretext to defame religions, and **calls for** refrain from imposing restrictions, in any form whatsoever, on the cultural and religious rights and freedoms of people.
9. **Denounces** media campaigns and fabrications made by some quarters in non-Member States regarding the mistreatment of non-Muslim minorities and communities in the OIC Member States under the slogan of religious freedoms and so on.
10. **Expresses** the need to pursue, as a matter of priority, a common policy aimed at preventing defamation of Islam perpetrated under the pretext and justification of the freedom of expression in particular through media and Internet.

11. **Commends** the valuable efforts of the Secretary General during his visit to Geneva and his speech to the Meeting of the Human Rights Council as well as the intensive consultations with senior officials of States and International Organizations regarding human rights and the valuable contribution of the Open-ended Working Group on Human Rights and Humanitarian Issues at the United Nations Office in Geneva towards safeguarding the interests of the Islamic countries and **urges** the OIC Member States to consider the possibility of establishing regional arrangements in the field of Islamic human rights to boost their regional cooperation in this regard.
 12. **Expresses** deep concern over any activities which may be carried out by certain Governmental and Nongovernmental Organizations, supported by governments, in order to attack OIC Member States for political purposes and to further their foreign policy objectives in international forums.
 13. **Exhorts all states** to take, in line with their national laws and in consonance with international human rights instruments, all appropriate measures to encourage understanding, tolerance, and respect in matters connected with freedom of religion or creed.
 14. **Calls upon** Member States to continue their active coordination and cooperation in the field of human rights particularly in the relevant international forums in order to strengthen Islamic solidarity to confront any initiative that may lead to the use of human rights as a means of exercising political pressure on any Member State.
 15. **Decides** that the General Secretariat and the Member States shall undertake to follow up Member States' missions with the relevant international organizations, in particular, at the UN Headquarters in New York and Geneva, and to hold meetings on appropriate occasions, to consider and discuss human rights issues with a view to adopting a unified position among Member States vis-à-vis campaigns and draft resolutions that target OIC Member States at relevant international fora.
 16. **Requests** the Member States to sign and ratify the Covenant on the Rights of the Child in Islam as soon as possible.
 17. **Requests** the Secretary General to follow up the implementation of this resolution and submit a report thereon to the 39th Session of the Council of Foreign Ministers.
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RESOLUTION NO. 2/38-LEG
ON
THE ESTABLISHMENT OF THE OIC INDEPENDENT PERMANENT HUMAN
RIGHTS COMMISSION

The Thirty-eighth Session of the Council of Foreign Ministers, (Session of Peace, Cooperation and Development), held in Astana, Republic of Kazakhstan, from 26 to 28 Rajab 1432 A.H. (28-30 June 2011 A.D.),

Mindful of the need to empower the Organization of the Islamic Conference with a mechanism to strengthen and protect human rights in the Member States,

Recalling the Ten-Year Programme of Actions adopted by the 3rd Extraordinary Islamic Summit Conference held in Makkah Al Mukarramah in December 2005 which called for considering the establishment of an independent permanent commission to promote human rights in the Member States,

Seeking to implement articles 5 and 15 of the Charter of the Organization of the Islamic Conference, unanimously adopted by the 11th session of the Islamic Summit Conference held at Dakar, Republic of Senegal on 13-14 March 2008, which consider the Independent Permanent Commission on Human Rights as a key OIC organ,

Having considered the report of the meeting of the Intergovernmental Group of Experts on the Establishment of the OIC Independent Permanent Commission on Human Rights at the OIC headquarters in Jeddah, Saudi Arabia from 1 – 3 Rabiul Awwal 1431H (15 – 17 February 2010), and the Draft Statute of the OIC Independent Permanent Commission on Human Rights, attached as Annex 1 Ref. OIC/IPCHHR/2010/DR.STATUTE.

1. **Expresses** its thanks and appreciation to the Secretary General for his efforts in preparing the necessary documents for the establishment of the Independent Permanent Commission on Human Rights, and to the Intergovernmental Group of Experts on the establishment of the Commission for their diligent work in preparing the Commission's draft statute;
2. **Adopts** the draft statute of the Independent Permanent Human Rights Commission as per document No. (OIC/IPHRC/2010/DR.STATUTE);
3. **Decides** that the IPHRC should start its operation within the OIC General Secretariat, until a decision on its headquarters' location is taken at the 39th Session of the CFM, and **requests** the Secretary General to provide secretarial services to the IPHRC within the adopted budget of the General Secretariat.
4. **Requests** the Secretary General to follow up the implementation of this resolution and to present a report thereon to the 39th session of the CFM.

OIC/IPCHR/2010/STATUTE

Statute of The OIC Independent Permanent Human Rights Commission

Statute of the OIC Independent Permanent Commission on Human Rights

Preamble:

Taking into account the Islamic values and principles on human rights which call for the need to respect human rights and dignity,

Pursuant to the provisions of article 5 and article 15 of the Charter which stipulate that: “The Independent Permanent Commission on Human Rights shall promote the civil, political, social and economic rights enshrined in the Organisation’s covenants and declarations and in universally agreed human rights instruments, in conformity with Islamic values,”

Pursuant to the provisions of the Ten-Year Programme of Action adopted by the Third Extraordinary Session of the Islamic Summit Conference held in Makkah Al Mukarramah in December 2005, which called for consideration of the possibility of establishing an independent permanent body to promote human rights in Member States,

Recalling the Cairo Declaration on Human Rights in Islam adopted in 1990,

Pursuant to relevant international instruments, charters and conventions,

Member States agreed on the statute of the Independent Permanent Commission on Human Rights as follows:

CHAPTER I DEFINITIONS

Article 1:

Wherever they appear in the present Statute, the following terms shall be interpreted as indicated below:

CHARTER:	Charter of the Organization of the Islamic Conference.
ORGANIZATION:	Organization of the Islamic Conference (OIC)
COMMISSION:	Independent Permanent Human Rights Commission of the Organization of the Islamic Conference.
SUMMIT:	Islamic Summit Conference.
COUNCIL:	Council of Foreign Minister.
SECRETARY GENERAL:	OIC Secretary General.
MEMBER STATES:	OIC Member States.
GENERAL SECRETARIAT:	OIC General Secretariat.
EXPERTS:	Experts nominated for the membership of the Independent Permanent Human Rights Commission.
MEMBER:	Member of the OIC Independent Permanent Human Rights Commission.
STATUTE:	Statute of the OIC Independent Permanent Human Rights Commission.

CHAPTER II COMPOSITION AND MEMBERSHIP OF THE COMMISSION

Article 2:

There shall be established within the Organization of the Islamic Conference a commission called the OIC Independent Permanent Human Rights Commission.

Article 3:

The Commission shall be composed of 18 members nominated by the Member States' governments among experts of established distinction in the area of human rights and elected by the Council of Foreign Ministers for a three-year period renewable once.

Article 4:

The General Secretariat collects nominations and coordinates with the Member States on the list of candidates which it then circulates prior to its submission to the Council of Foreign Ministers.

Article 5:

In the event of any expert's incapacity to continue his functions, his State shall appoint an alternate expert to complete his term in line with the standards and procedures laid out in this Statute.

Article 6:

The Member States shall encourage the nomination of women to the membership of the Commission.

Article 7:

In the election of the experts due consideration shall be given to equitable geographical distribution among Member States.

CHAPTER III OBJECTIVES OF THE COMMISSION

Article 8:

The Commission shall seek to advance human rights and serve the interests of the Islamic Ummah in this domain, consolidate respect for the Islamic cultures and noble values and promote inter-civilizational dialogue, consistent with the principles and objectives of the OIC Charter.

Article 9:

The Commission shall support the Member States' efforts to consolidate civil, political, economic, social and cultural rights.

Article 10:

The Commission shall cooperate with the Member States to ensure consolidation of civil, political, economic, social and cultural rights in the Member States in accordance with the OIC Charter, and to monitor observance of the human rights of Muslim communities and minorities.

Article 11:

The Commission shall support the Member States' efforts in terms of policies aimed at enhancing legislation and policies in favour of advancing the rights of women, the young and those with special needs, in the economic, social, political and cultural fields as well as eliminating all forms of violence and discrimination.

CHAPTER IV MANDATE OF THE COMMISSION

Article 12:

The Commission shall carry out consultative tasks for the Council and submit recommendations to it. It shall also carry out other tasks as may be assigned to it by the Summit or the Council.

Article 13:

The Commission shall support the OIC's position on human rights at the international level and consolidate cooperation among the Member States in the area of human rights.

Article 14:

The Commission shall provide technical cooperation in the field of human rights and awareness-raising about these rights in the Member States, and offer approving Member States consultancy on human rights issues.

Article 15:

The Commission shall promote and support the role of Member State-accredited national institutions and civil society organizations active in the area of human rights in accordance with the OIC Charter and work procedures, in addition to enhancing cooperation between the Organization and other international and regional human rights organizations.

Article 16:

The Commission shall conduct studies and research on priority human rights issues, including those issues referred to it by the Council, and coordinate efforts and information exchange with Member States' working groups on human rights issues in international fora.

Article 17:

The Commission may cooperate with Member States, at their request, in the elaboration of human rights instruments. It may also submit recommendations on refinement of OIC human rights declarations and covenants as well as suggest ratification of human rights covenants and instruments within the OIC framework and in harmony with Islamic values and agreed international standards.

CHAPTER V PROCEDURAL PROVISIONS

Article 18:

The headquarters of the Commission shall be in one of the OIC Member States and the Commission shall convene bi-annually in ordinary meetings. It may also hold extraordinary meetings at the request of any Member State or of the Secretary General with the approval of the Member States' simple majority.

Article 19:

Two thirds of the Commission's members shall constitute the quorum for its meetings.

Article 20:

The Commission adopts its recommendations by consensus and if not possible, by a two-third majority of the voting members present.

Article 21:

Upon the host country's consent and the approval of all its members the Commission may invite, as guests, OIC subsidiary organs and specialized and affiliated institutions relevant OIC accredited governmental and nongovernmental organizations, and national human rights institution. Member States and OIC observers may also participate in the Commission's meetings as non-voting observers, in accordance with OIC standards.

Article 22:

The Commission shall be assisted in the performance of its duties by a Secretariat headed by an Administrative Director appointed by the Secretary-General in consultation with the Member States. The Secretariat shall be governed by the OIC Personnel Regulations.

Article 23:

The Secretary General shall appoint the Commission's staff from a list of Member State nominees submitted by the Administrative Director. He shall also avail the Commission of the services necessary for it to assume its duties effectively.

Article 24:

The Commission submits its draft annual operating budgets to the OIC Permanent Finance Committee. The budgets are adopted by the Council and governed by the OIC financial regulations.

CHAPTER VI TRANSITIONAL PROVISIONS

Article 25:

Mindful of the provisions in this present Statute, the Commission shall temporarily apply the rules and procedures of OIC meetings pending its elaborating of its own procedural rules and their adoption by the Council, within a year from the entry in force of the present Statute.

CHAPTER VII FINAL PROVISIONS

Article 26:

The Commission's headquarters State and the States hosting the Commission's meetings shall provide the necessary facilities, privileges and immunities for the Commission to perform its functions. The provisions of the OIC Agreement on privileges and immunities apply to the Commission.

Article 27:

The Commission's languages are Arabic, English and French.

Article 28:

The present Statute may be amended by a decision from the Council, based on a request from any Member State. Amendments are approved by a decision from the Council.

Article 29:

The present Statute shall enter into force upon its adoption by the Council of Foreign Ministers.

RESOLUTION NO. 3/38-LEG**ON****THE SIGNING/RATIFICATION OF (ACCESSION TO) THE CHARTER AND THE AGREEMENTS
CONCLUDED UNDER THE ORGANIZATION OF THE ISLAMIC CONFERENCE**

The Thirty-eighth Session of the Council of Foreign Ministers, (Session of Peace, Cooperation and Development), held in Astana, Republic of Kazakhstan, from 26 to 28 Rajab 1432 A.H. (28 - 30 June 2011 A.D.),

Having considered the signing, ratification and accession status of the agreements concluded under the Organization of the Islamic Conference,

Noting that the minimum number of ratifications by Member States required for the entry into force of some of these agreements has not been reached as required by their provisions, and the importance of accelerating the ratification in order to support the role of the Organization and widen the scope of cooperation among Member States,

Taking note of the Report of the OIC Secretary General contained as Document No. (OIC/CFM-38/2011/LEG/SG-REP.2),

1. **Urges** Member States again to sign, ratify or accede to, as soon as possible, the various agreements concluded within the framework of the Organization of the Islamic Conference.
 2. **Requests** the Secretary General to implement this resolution and to report thereon to the 39th Session of the Council of Foreign Ministers.
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