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THE OIC'S INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION: AN EARLY ASSESSMENT

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PREFACE

THE ORGANISATION OF ISLAMIC COOPERATION AND HUMAN RIGHTS

MARIE JUUL PETERSEN
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The Organization of Islamic Cooperation (OIC) is an intergovernmental organization established in 1969 with the purpose of strengthening solidarity among Muslims. Consisting in 57 member states, the OIC often refers to itself as 'the UN of the Muslim world'. But unlike the UN, the OIC has historically challenged the notion of universal human rights, instead promoting a conception of Islamic human rights. [1]

In 1990, the OIC introduced the *Cairo Declaration on Human Rights in Islam*, presenting a set of Islamically defined human rights. While there is of course nothing that hinders a combination of Islam and human rights, the particular conception of Islamic rights promoted in the Cairo Declaration does conflict with essential principles of the UN Declaration on Human Rights. Nowhere in the declaration is there any mention of universal human rights; instead the declaration is expressly based on Islamic values, stating that "[a]ll the rights and freedoms stipulated in this Declaration are subject to the Islamic shari'ah" (Article 24), thereby robbing human rights of their inalienability.[2]

More recently, the OIC has become known for its promotion of the so-called defamation of religion agenda, challenging the right to freedom of expression. In 1999, OIC countries introduced the first of a series of resolutions asking governments to combat the defamation of religions. For the OIC, this was a much-needed step in the fight against rising Islamophobia, arguing that defamation of Islam often led to anti-Muslim discrimination. Western states, for their part, considered the resolutions contrary to free speech at best and universalizing

[1] Many member states have a poor human rights record; in fact some of the members are among the world's worst human rights violators. Freedom House has listed nine OIC member states (Somalia, Sudan, Turkmenistan, Uzbekistan, Libya, Saudi Arabia, Chad, Guinea and Syria) as among the worst human rights violators in the world (Freedom House 2010).
[2] The full text of the declaration is available here: http://www.oic-oci.org/english/article/human.htm

blasphemy laws at worst. These states argued that religious people have a right to protection from discrimination and defamation—but religions do not.

In recent years, however, there are signs of the OIC moving towards a universal conception of human rights, strengthening its participation in the international human rights system. As part of a larger reform of the OIC, a Ten Year Programme of Action was launched in 2005, introducing a clear focus on universal human rights and the importance of mainstreaming them into all programmes and activities. The amended OIC Charter, adopted at the 11th Islamic Summit in Dakar in 2008, further strengthened this new focus on human rights. In his book, then Secretary General Ekmeleddin Ihsanoglu writes that the summit "ushered in a new era for the Organization and its members," and he continues:

This new approach, in the objectives of the Charter, marked a great step forward in adapting to global human rights values and involves closer alignment of principle to the international instruments and the practices of other regional or intergovernmental organizations.

In 2011, a human rights commission was established with the purpose to support member states in their implementation of international human rights obligations. And the same year, the OIC co-sponsored a UN resolution on religious discrimination, at least on the surface signaling a move away from the anti-defamation agenda.

Optimists see these initiatives as signs of the OIC's willingness to leave behind the Cairo Declaration, and instead promote a conception of rights that is more in line with international human rights. Skeptics see them as nothing but window-dressing. Some have pointed to the fact that the new human rights commission's mandate is severely restricted, and that it has little room for the commission to actually do something about the serious human rights violations of certain OIC member states.[3] Others note that despite having abandoned the term 'defamation', the OIC still works actively for the introduction of blasphemy laws and other measures to criminalize criticism of Islam, to the detriment of the right to free speech.[4]

These issues were on the agenda at a workshop on the OIC and human rights in September 2013 hosted by the Danish Institute for Human Rights and involved a

[3] See Marie Juul Petersen, *Islamic or Universal Human Rights? The OIC's Independent Permanent Human Rights Commission*, Danish Institute for International Studies, 2012, and Turan Kayaoglu, *A Rights Agenda for the Muslim World*, Brookings Doha Center Publications, 2013.
[4] See Ann Elizabeth Mayer's working paper.

group of international scholars and experts on the OIC.[5] The group of scholars and experts met again at the ISA Joint Human Rights Conference in Istanbul in June 2014, organizing a panel under the heading 'Islam and international organisations'. Some of the papers presented at the workshop and the ISA conference are now being published in the Danish Institute for Human Rights' working paper series *Matters of Concern*. With these papers, we hope to contribute to the ongoing discussion of the role of the OIC in the promotion of human rights, and more broadly, to discussions on human rights, international organizations and Islam.

[5] Prior to the academic workshop, DIHR hosted a public seminar with the participation of the international scholars as well as representatives from the OIC and its human rights commission. The discussions during the workshop and the seminar led, among other things, to the formulation of a set of recommendations to the Independent Permanent Human Rights Commission., published in the Turkish newspaper *Today's Zaman* (see http://oichumanrights.wordpress.com/2014/03/11/human-rights-experts-recommendations-to-independent-permanent-human-rights-commission/ for the full text of the recommendations).

INTRODUCTION

Despite being well-placed to advance human rights in the Muslim world, the Organization of Islamic Cooperation (OIC) has so far failed to do so. In 2008, the organization's charter was revised to include the promotion and protection of "human rights and fundamental freedoms" among its goals.[6] The revised charter also paved the way for the Independent Permanent Human Rights Commission (IPHRC) to promote the civil, social, and economic rights in the organization's human rights documents. In establishing the IPHRC, and thereby formalizing its human rights agenda, the OIC has taken an important step in the right direction.

The establishment of the IPHRC signaled a newfound commitment to human rights issues within the OIC. The commission was charged with the promotion of human rights within OIC members as well as those of Muslim minorities. Having completed its fifth session in June 2014, the IPHRC's track record and trajectory are likely to disappoint optimists' hopes and justify skeptics' fears. So far, the IPHRC has failed to develop a single major initiative to promote and protect human rights in the Muslim world. Of greater concern is that the comments of the OIC and IPHRC leaders, as well as the debates and resolutions of the Commission itself, provide a bleak picture of the commission's commitment to international human rights. The universalist and progressive tendencies towards human rights that were present at the start of the commission have been replaced by parochial and reactionary attitudes.[7]

Changes in the leadership of both the OIC and IPHRC explain the IPHRC's misdirection. The departures of the OIC's Secretary General, Ekmeleddin İhsanoğlu, and the IPHRC's Chairwoman, Siti Ruhaini Duhayatin, have greatly diminished the progressive tone of the IPHRC. Increasingly, the IPHRC looks like a tool for OIC member states, as states have come to rely on the IPHRC both to deflect criticism from their human rights records and to promote their foreign policies. In the same sense, the IPHRC merely seems to engage in human rights in the international public sphere, rather than actually advance human rights in the

[6] http://www.oic-oci.org/is11/english/Charter-en.pdf

[7] The OIC's decision to locate the IPHRC's headquarters in Saudi Arabia should be Saudi Arabia should give even the most neutral observer pause.

OIC member states. The IPHRC is a relatively new human rights organization—and some of its failings are due to its inexperience. However, the IPHRC's initial steps are likely to determine its future; initial institutional decisions, designs, and discourses will likely determine the IPHRC's path, inform its trajectory, and inform its long term success.

This paper has three sections. First, I provide a brief history of the IPHRC. Second, I discuss four reasons that indicate that the IPHRC is moving in the wrong direction: its shift away from universalism, its tendency to present biased human rights coverage, its lack of grounding in human rights discourse, and the absence of collaboration with international human rights organizations. Third, I present recommendations, prepared by a group of human rights experts, that outline ways for the IPHRC to fulfill its mandate to protect and promote human rights in the Muslim world.

CHAPTER 1

1 THE INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION

The OIC was founded in 1969 in order to promote solidarity among Muslim states. In its first decades, the organization focused especially on the Palestinian cause, the protection of Islamic holy sites, and the strengthening of economic cooperation between member states. Currently, as an intergovernmental body, it is second only to the UN in terms of its membership and scope; it has 57 members. Most—but not all—are Muslim-majority states. The OIC deals with a range of issues: peace and conflict resolution, Muslim minority communities, women's and children's rights, humanitarian assistance, combating Islamophobia, the promotion of intra-OIC trade and investment, cultural exchange, and education. The OIC has a strong record of bringing Muslim states together—at least symbolically—despite their deep ideological, national, and economic differences. The OIC has become an increasingly visible actor in the international public sphere, particularly through its work in the UN on issues such as Palestinian rights, Muslim minorities, and the dialogue of civilizations. The OIC has also attracted attention for its efforts against the defamation of religions and in favor of 'traditional values' on gender and LGBT rights.[8]

Initially, international human rights were not high on the agenda. In 1991, the organization presented the Cairo Declaration on Human Rights in Islam, which limited human rights by relying to Islamic law. The declaration introduced what many human rights scholars considered to be an alternative set of rights that were based on certain interpretations of Islamic law that are contrary to international human rights standards.[9] Together with the grave human rights

[8] For a general introduction to the OIC, see İhsanoğlu, Ekmeleddin. *The Islamic World in the New Century: The Organization of the Islamic Conference*. Hurst Publishers, 2009 and Khan, Saad S. *Reasserting international Islam: a focus on the organization of the Islamic Conference and other Islamic institutions*. Oxford: Oxford University Press, 2001. For a short introduction, see Toni Johnson, "The Organization of the Islamic Conference," Council on Foreign Relations Backgrounder, June 29, 2010, <http://www. cfr.org/religion/organization-islamic-conference/p22563>.

[9] On the Cairo Declaration and international human rights, see Elizabeth Mayer. Ann E. Mayer, *Islam and Human Rights* (Third Edition) (Boulder, CO: Westview Press, 2007) and Turan Kayaoglu 2013. "A Rights Agenda for the Muslim World? The Organization of Islamic Cooperation's Evolving Human Rights Framework." Brookings Doha Center, Analysis Paper, Issue 20. http://www.brookings.edu/research/papers/2013/01/08-oic-human-rights-kayaoglu

violations of many member states, initiatives, such as this, have given the OIC a dubious reputation with respect to international human rights.
In 2005, the "Ten-Year Programme of Action" was introduced to reform the organization, resulting in major changes.[10] An important part of this was the introduction of human rights to the OIC agenda, in particular the establishment of the IPHRC. Many in the OIC bureaucracy were hopeful: the "Establishment of an independent human rights body by the OIC Member States is considered to be one of the major steps in the transformation process of the OIC," an OIC newsletter stated.[11]

With the adoption of the "Ten-Year Programme of Action" in 2005, human rights gained greater prominence on the OIC agenda. As well as urging greater political participation, accountability, and transparency, the programme called for the establishment of "an independent permanent body to promote human rights in the member states," and for the "elaboration of an OIC Charter for Human Rights."[12] The programme also asked the OIC to "introduce changes to national laws and regulations in order to guarantee the respect of human rights in Member States."[13] A panel of five experts in international and national human rights organizations prepared the draft statute, detailing the mandate and authority of the body.

In June 2011, the OIC Council of Foreign Ministers met in Kazakhstan to approve the draft statue, effectively establishing the first Muslim human rights commission, the IPHRC. The IPHRC has held five meetings thus far: Jakarta, February 2012; Ankara, August 2012; Jeddah, October 2013; Jeddah, February 2014; and Jeddah, June 2014.

The Commission consists of 18 human rights experts; of these 18 experts, six are from the Arab member states, six are from the Asian member states and six are from African member states. All experts are elected for a period of four years. According to the statutes, the IPHRC and its 18 experts will work to "advance human rights" and "support the Member States' efforts to consolidate civil, political, economic, social and cultural rights." This is to be done through

[10] Ten-Year Programme of Action to meet the Challenges Facing the Muslim Ummah in the 21st Century http://www.oic-oci.org/ex-summit/english/10-years-plan.htm, For "The Statute of the IPHRC," see "Resolutions on Legal Affairs Adopted by the 38th Session of the Council of Foreign Ministers," June 28-30, 2011, <http://www.oic-oci.org/38cfm/en/documents/res/LEG-RES-38-CFM-FINAL-2.pdf>.
[11] OIC 2009. Organization of the Islamic Conference. *OIC Newsletter*, 18.February
[12] Source 38 38. Organization of Islamic Cooperation, "Ten-Year Programme of Action to Meet the Challenges Facing the Muslim Ummah," December 2005, http://www.oic-oci.org/ex-summit/english/10-years-plan.htm
[13] Ibid.

providing counseling and legal advice to member states, information campaigns, research, and cooperation with other human rights organizations.[14]

Given its mandate, the IPHRC had—and still has—the potential to become a much-needed forum for introspection, the exchange of ideas, and internal criticism among OIC member states. As a government representative said at the 2011 meeting in Kazakhstan: "It will be 100 times better to hear what is happening in our countries from our own people rather than from the outside world."[15] However, if the IPHRC is to live up to its potential, and not merely serve as a fig leaf for notorious human rights violators, it needs to strengthen and clarify its positions on a number of issues.

[14] For a comprehensive discussion on the Commission, see Petersen, Marie Juul. *Islamic or universal human rights? The OIC's independent permanent human rights commission*. No. 2012: 03. DIIS Reports/Danish Institute for International Studies, 2012, Ioana Cismas, "Introductory Note to the Statute of the OIC Independent Permanent Human Rights Commission," *International Legal Materials* 5, no. 6 (February 2011): 1148-1160. Turan Kayaoglu 2013. "A Rights Agenda for the Muslim World? The Organization of Islamic Cooperation's Evolving Human Rights Framework." Brookings Doha Center, Analysis Paper, Issue 20. http://www.brookings.edu/research/papers/2013/01/08-oic-human-rights-kayaoglu

[15] Siraj Wahab. "OIC sets up its own rights watchdog," *Arab News*. 29 June 2011. http://www.arabnews.com/node/382329

CHAPTER 2

2 FOUR SIGNS THAT IPHR IS WRONG-HEADED

Four signs suggest that optimism about the IPHRC advancing human rights in OIC member states has been misplaced. As skeptics had feared, over the last year the IPHRC has moved from emphasizing the implementation of universal human rights in member states to emphasizing the particularities of Islam and Muslim societies when it comes to human rights. Two personnel changes have pushed the IPHRC away from its progressive agenda: 1) The post of OIC Secretary General, formerly held by Ekmelledin İhsanoğlu, a Turkish academic-cum-diplomat, is now held by Iyad Madani, the former Saudi Minister of Culture and Information; and 2) the post of IPHRC chairperson, formerly held by Siti Ruhaini Dzuhayatin, an Indonesian academic and women's rights activist, is now held by Mohammed Kawu Ibrahim, a Nigerian diplomat.

2.1 FROM UNIVERSAL RIGHTS TO PARTICULARITIES OF ISLAM AND MUSLIM SOCIETIES

Muslim approaches to human rights establish a range between what human rights scholars would call universalism and relativism.[16] Universalists see human rights as a set of inalienable legal entitlements, or rights, people have that states are responsible to protect and promote. In our current international system, people are entitled to these rights because their states accede to the UN's standard of human rights, accept UN instruments, and in most cases, have incorporated them into the domestic legal systems. These states cannot then deny these rights in the name of religion or culture. On the other hand, relativists see human rights as an extension of moral values grounded in a society's culture or religion. For many relativists, the UN human rights instruments are based on a particular, liberal-Western value system and imposing them on other societies amounts to cultural imperialism. Relativists hold that human rights should reflect the society, taking into account national, historical, cultural, and religious particularities. As the "voice of the Muslim world," the OIC has often found itself between universalist and relativist tendencies. Its human rights schemes have

[16] For a discussion, Jack Donnelly, *Universal Human Rights in Theory and Practices* (Ithaca, NY: Cornel University Press, 2003)

tried to satisfy both tendencies, resulting in an approach to human rights that is inadequate, and, at times, inconsistent.[17]

Given the presence of both universalist and Islamic relativist tendencies, OIC leadership has considerable room to steer the direction of the OIC's human rights discourse. It is difficult to find radical universalists within the OIC who deny any role for culture or religion. On the contrary, most OIC leaders believe that human rights should accommodate Islamic values. There are three groups within the OIC leadership: 1) radical relativists who deny any legitimacy to the UN human rights system; 2) strong relativists who argue for the compatibility of Islamic and universal human rights to some degree, but ultimately prioritize Islamic-compatible rights while interpreting universal rights and rejecting universal rights in instances of apparent conflict; and 3) moderate universalists who also argue for the compatibility of Islamic and universal human rights, but prioritize universal human rights and are thus more willing to interpret Islamic values in a way to make them conform to universal rights in instances of conflict.[18]

Both İhsanoğlu and Duhayatin were moderate universalists. They wanted a "paradigm shift" situating the OIC's human rights schemes firmly within the universal human rights framework.[19] They strongly advocated for the compatibility of Islam and international human rights, arguing that international human rights are non-negotiable standards that establish the basic framework for human rights, and Islam's role is to enrich this framework. İhsanoğlu articulated his vision most clearly in the opening session of the IPHRC's third session in 2013: he stated that the purpose of the IPHRC is to help "Member States in crafting, devising, and implementing appropriate policies that are in line with fundamental human rights, but also dispel the growing misperceptions about the incompatibility between Islam and human rights."[20] In other words, the IPHRC will uphold internationally agreed-upon human rights, and, where possible, enrich these with Islamic teachings. Islamic teachings would not be interpreted in a way that conflicts with or undermines universal human rights or excuse the OIC member states from protecting and promoting human rights.

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[17] Petersen, Marie Juul. *Islamic or universal human rights? The OIC's independent permanent human rights commission*. No. 2012: 03. DIIS Reports/Danish Institute for International Studies, 2012,

[18] These categories are based on Donnelly 2003.

[19] Ibid. p. 29.

[20] Opening Statement by H.E the Secretary General of the OIC at the Third Regular Session of the OIC IPHRC http://www.oic-oci.org/oicv2/topic/?t_id=8566&ref=3444&lan=en. As described by Ann E. Mayer, İhsanoğlu's human rights messages were not always consistent with universal human rights.

This understanding of human rights fit well with İhsanoğlu's overall vision for the organization: the moderation and modernization of the Muslim world.[21] The OIC reform process and its embrace of human rights were critical to the realization of İhsanoğlu's vision. Essentially, for İhsanoğlu, human rights were "the vehicle for reforming and rebranding the OIC—from a parochial, intra-Muslim conference, to a top tier, international organization that both influences Great Power relations and shapes the policies of global governance structures on norms, values, rights, and laws questions viewed as non-negotiable for the interest of the Muslim world."[22]

Unlike İhsanoğlu and Duhayatin who were moderate universalists, Madani and Ibrahim are strong relativists. İhsanoğlu's embrace of universal human rights was replaced by Madani's questioning how the universality of human rights can fit with the particularities of Islam and the Muslim world. In his opening speech to the IPHRC's fourth session in 2014, after arguing that the "current international human rights laws are based on Western values," he says the OIC "was looking particularly at limitations on freedom of expression, gender equality, applying human rights in accordance within the OIC member states' constitutional and legal systems . . . ."[23] Referring to the Universal Declaration of Human Rights, he noted that although many OIC countries adopted and implemented it, there are aspects of UDHR "that go beyond the normal scope of human rights and clash with Islamic teachings."[24] Criticizing freedom of speech, he argues that "Muslim countries [want] to ensure respect for the sanctity and reputation of religious values, scriptures, and personalities. . .".[25] He also criticized the use of "gender equality" and advocated the use of "equality between men and women," arguing that "gender" implies a subjective definition, while "men and women" are objective categories.[26] All these— the "Western" nature of human rights, of the freedom of speech, women's rights—are usual tropes of Islamist critics of

[21] İhsanoğlu, Ekmeleddin. *The Islamic World in the New Century: The Organization of the Islamic Conference*. Hurst Publishers, 2009.
[22] Prodromou, Elizabeth "OIC Opens Permanent Observer Mission to the EU: Assessment and Implications for OIC Agenda on Human Rights." http://www.globalgovernancewatch.org/docLib/20130911_OIC_Memo_3-1.pdf.
[23] Statement of His Excellency Iyad Ameen Madani Secretary General of the Organization of Islamic Cooperation at the Fourth Session of the OIC Independent Permanent Human Rights Commission (IPHRC). http://www.oic-oci.org/oicv2/topic/?t_id=8847&ref=3548&lan=en
[24] Ibid.
[25] Ibid.
[26] Ibid.

universal human rights. These critics present a traditional understanding of *Sharia* as a framework to interpret, limit, or deny universal human rights.[27]

Besides the limitations brought by this understanding of *Sharia*, Madani upholds the traditional understanding of sovereignty at the expense of universal human rights. In his opening talk, Madani reminded the IPHRC that all OIC human rights documents "stipulate that these principles should be applied in accordance with the member states' constitutional and legal systems."[28] This last comment is particularly troubling because it subsumes international human rights under the OIC member states' domestic laws—a direct challenge to universalist beliefs about human rights. Mandani's statement also contradicts İhsanoğlu's call for the IPHRC to review and update OIC instruments, including the Cairo Declaration and the Covenant on the Rights of the Child in Islam, to make them compatible with universal human rights.[29]

The difference in İhsanoğlu's and Madani's approaches to human rights can also been seen in the contrast between Duhayatin's and Ibrahim's approaches to human rights. For example, Ambassador Ibrahim said the IPHRC will work to bring "more international respect to the OIC Member-States' human rights records."[30] Thus, the Chairperson, a former ambassador, is acting more like a diplomat in defending the position of the entity he is representing, rather than acting as an advocate for human rights and challenging the OIC states. Ibrahim further highlighted that the Commission will use the "richness of Islamic values and traditions to nurture a new human rights culture within and beyond the OIC borders."[31] In other words, the IPHRC is to work on building a new—Islamic-based—human rights alternative to universal human rights.

Overall, it seems that İhsanoğlu and Duhayatin's embrace of universal human rights has been soundly replaced by Madani and Ibrahim's willingness to question the universality of human rights. The new leadership has been more willing to limit human rights by recourse to both a particular (conservative) interpretation of Islam and traditional understandings of state sovereignty.

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[27] Kayaoglu 2013. "A Rights Agenda for the Muslim World? The Organization of Islamic Cooperation's Evolving Human Rights Framework." Brookings Doha Center, Analysis Paper, Issue 20. http://www.brookings.edu/research/papers/2013/01/08-oic-human-rights-kayaoglu

[28] Statement of His Excellency Iyad Ameen Madani Secretary General of the Organisation of Islamic Cooperation at the Fourth Session of the OIC Independent Permanent Human Rights Commission (IPHRC). http://www.oic-oci.org/oicv2/topic/?t_id=8847&ref=3548&lan=en

[29] Statement by H.E. the Secretary General at the First IPHRC Session http://www.oic-oci.org/oicv2/topic/?t_id=6449&ref=2686&lan=en

[30] OIC Independent Permanent Human Rights Commission (IPHRC) concludes its 4th Session, http://www.oic-oci.org/oicv2/topic/?t_id=9121&t_ref=3654&lan=en

[31] Ibid.

2.2 PROBLEMATIC COVERAGE OF HUMAN RIGHT ISSUES

The IPHRC is unlikely to work actively towards holding the OIC member states accountable for human rights; in fact, non-member states are the main focus of the IPHRC's agenda and the IPHRC does not hesitate, implicitly or explicitly, to identify states as human rights abusers if they are non-member states. Currently, four of the IPHRC's five agenda issues relate specifically to non-OIC members: 1) human rights violations in the Occupied Territories, 2) combating Islamophobia, 3) the human rights impact of economic sanctions on member states, and 4) human rights violations of Rohingiya.[32] None of these specific items will result in IPHRC criticism of an OIC member state: concerns about human rights violations in the Occupied Territories target Israel, combating Islamophobia targets Western states, economic sanctions target great powers, and the problems of Rohingya Muslims targeted in Myanmar. The IPHRC has already taken some actions against these non-member states. It condemned Israel for human rights abuses in the Occupied Territories and requested that Israel allow the IPHRC to visit Gaza and West Bank. Regarding the Rohingiya, the IPHRC has sent a letter to the Minister of Foreign Affairs of Myanmar seeking to visit the country in order to discuss the issues of Muslims in Myanmar.

The IPHRC's prioritization of combating Islamophobia also harkens back to the OIC's anti-defamation of religions efforts. Revisiting this campaign will be unhelpful and will also raise skepticism about the OIC's commitment to Resolution 16/18.[33]

The only item on the IPHRC's agenda that potentially deals with member states' human rights records is too broad to facilitate real action: the civil, political, economic, social, and cultural rights in OIC member states. In addressing these wide-ranging issues, the IPHRC has defined its objective to be the collection of information from member states in order to identify "best practices," rather than identifying problems and then holding member states accountable to rectify them.

The concern here is not that Palestinian rights, the problems of the Rohingiya, Islamophobia, or human rights issues caused by economic sanctions are unimportant; to the contrary, these are very important issues. But as an intergovernmental organization, the IPHRC has no authority over non-member

[32] Ibid

[33] For Resolution 16/18, see Marie Juul Petersen and Turan Kayaoglu 2014. Will Istanbul Process Relieve the Tension Between the Muslim World and the West? http://www.thewashingtonreview.org/pdf/articles/will-istanbul-process-relieve-the-tension-between-the-muslim-world-and-the-west.pdf. For the OIC campaign for defamation of religions, see Turan Kayaoglu. "Giving an Inch Only to Lose a Mile: Muslim States, Liberalism, and Human Rights in the United Nations." *Human Rights Quarterly* 36.1 (2014): 61-89.

states, apart from its moral authority as a human rights body. However, it has yet to build a moral authority by getting member states to improve their human rights to have influence over non-member states.

The Commission's founding statute reflects this vision and furnishes the body with some jurisdiction over member states.[34] Several of these powers, however, have been subsequently diluted or removed from the statute. For example, the initial draft included an article saying that "the Commission shall seek to ensure the promotion and protection of civil, political, economic, social, and cultural rights in the member states." That was amended by member states who inserted language that protects their sovereignty: "The Commission shall support Member States' efforts to consolidate civil, political, economic, social, and cultural rights" (Article 9). Another proposed article that would have allowed the Commission to "investigate any possible human rights violations by OIC Member States" was deleted entirely.[35]

However, as one OIC official indicated, the IPHRC members' understanding of the body's founding statute may matter more than that of member state governments. The same official explained that there are signs that the Commission is already using creative strategies in an attempt to expand its mandate. For example, although the statute does not allow "investigative state visits," the Commission asked for right to "informative state visits" among its tools. Yet, even that failed because of the member states' objections.[36]

2.3 IPHRC DISCOURSE IS LARGELY DEVOID OF INTERNATIONAL HUMAN RIGHTS

The move away from universal human rights is also evident in the IPHRC's human rights discourse. OIC press releases on several issues so far have rarely invoked international human rights standards, but instead offer some vague and problematic references to Islam.[37] For example, the press release from the IPHRC on International Women's Day in 2014 fails to refer to international human rights conventions, such as CEDAW or law. Instead, the press release refers to Islam with a questionable assertion: it recalls that "Islam forbids discrimination on any grounds including race, religion, or sex."[38] Although the press release acknowledges widespread discrimination, it does not cite any statistics to

[34] OIC, "The Statute of the IPHRC," <http://www.oic-oci.org/38cfm/en/documents/res/LEG-RES-38-CFM-FINAL-2.pdf>.
[35] Petersen, *Islamic or Universal Human Rights*, 18
[36] Author's interview with staff member of the Interim Secretariat of the IPHRC, Jeddah, April 23, 2012.
[37] "Press Release of OIC IPHRC on International Women's Day 2014," http://www.oic-oci.org/oicv2/topic/?t_id=8912&t_ref=3575&lan=en
[38] Ibid.

suggest the enormity of the problem. As a solution, it only suggests soft activities such as "awareness raising," rather than holding governments accountable for "equal access to education and employment and participation in decision making process."[39] The press release further asks OIC member states to "ratify the statute of the OIC Women Development Organization."[40]

2.4 THE IPHRC'S INSTITUTIONAL CONNECTIONS ARE GOVERNMENTAL—NOT INTERNATIONAL OR CIVIL SOCIETY

A fourth and final sign that the IPHRC is moving away from universal human rights is the institutional linkages it has been building. While İhsanoğlu emphasized the need for international connections, the IPHRC has now turned to connections with member states' national human rights institutions, many of which are government-controlled. In his opening speech in 2012, İhsanoğlu petitioned the IPHRC:

> "In order to have a better understanding of the global discourse on human rights, as well as to assist the OIC Groups on Human Rights in Geneva and New York, it is crucial that Commission Members must attend the Human Rights Council Sessions in Geneva and Third Committee deliberations in New York. Similarly, the Commission must establish strong working relationships with regional human rights mechanisms from Europe, Africa, Asia and Latin America. I strongly encourage the Commission to undertake the planned visit to [the] EU and if possible attend the ongoing session of the Third Committee in New York, this year. It would help developing better understanding of the political side of human rights as well as establish regular communication channels with important UN mechanisms and agencies."[41]

Building international linkages was also an important element in İhsanoğlu's broader vision for the OIC. Increasing the IPHRC's profile, skillset, and knowledge about international human rights would not only put the OIC in a much better position to defend the human rights of Muslim minorities, but also to engage productively with organizations such as the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE) and its office for Democratic Institutions and Human Rights (ODHIR), as well as the European Union. These

[39] Ibid.
[40] Ibid.
[41] Opening Statement by H.E the Secretary General of the OIC at the Third Regular Session of the OIC IPHRC
http://www.oic-oci.org/oicv2/topic/?t_id=8566&ref=3444&lan=en

efforts would elevate the profile of the OIC, strengthen the OIC's human rights advocacy, and position it well to lobby for the rights of Muslims in Europe.[42]

Specifically, İhsanoğlu's sought "to integrate [the OIC's human rights system] with the United Nations system"; İhsanoğlu noted that the IPHRC would be a means to an end.[43] One staff member saw a role for the OIC in improving its members' relations with the UN Human Rights Council on issues such as providing technical support and preparing state reports for periodic reviews.[44] The former OIC leadership saw the IPHRC drawing the UN human rights system and OIC member states closer together; the IPHRC was introduced not as an "alternative human rights system . . . but rather as an attempt to . . . work within the existing system."[45] Ihsanoglu saw this sort of cooperation would strengthen the Commission's capabilities as a promoter and protector of human rights in the Muslim world and a means to elevate the OIC's profile in international community.

Although the Commission members have attended the UN Human Rights Council meetings and have visited some think tanks such as in Washington DC and met human rights groups in New York, the Commission has yet to establish formal relationships with the international human rights community. Moreover, it is in the process of establishing institutional cooperation with the national human rights institutions (NHRIs).[46] This is a risky strategy. On the one hand, since the NHRIs are state institutions, cooperating with them may bring some benefits to the IPHRC in terms of accessing information and resources. On the other hand, as the IPHRC works in tandem with NHRIs, the influence that member states over the IPHRC will likely increase. This is particularly worrisome since there is no clear policy preventing the member states from unduly influencing the IPHRC. Given the IPHRC's lack of resources and its infrequent and short meetings, it is likely that the IPHRC will rely on the NHRIs and act like an intergovernmental NHRI for OIC members. In essence, the institutional connections with NHRIs may diminish the IPHRC's already limited autonomy.

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[42] Prodromou, Elizabeth "OIC Opens Permanent Observer Mission to the EU: Assessment and Implications for OIC Agenda on Human Rights." http://www.globalgovernancewatch.org/docLib/20130911_OIC_Memo_3-1.pdf

[43] Toni Johnson, "The OIC on Democracy and Human Rights," Council on Foreign Relations, October 1, 2010.

[44] Author's interview with Rizwan S. Sheikh, Executive Director of the Interim Secretariat of the IPHRC, Jeddah, May 14, 2012.

[45] Petersen, Islamic or Universal Human Rights, 30.

[46] OIC Independent Permanent Human Rights Commission (IPHRC) concludes its 5th Regular Session. http://www.oic-oci.org/oicv2/topic/?t_id=9121&t_ref=3654&lan=en

CHAPTER 3

3 A BETTER PATH FOR THE IPHRC

In September 2013, the Danish Institute for Human Rights invited a group of international human rights researchers to discuss the OIC's new human rights approach; the conference focused on the IPHRC. Due to the relative novelty of the IPHRC, the scarcity of concrete initiatives, and the small number of statements and activities proposed by the Commission thus far, the researchers did not find that there was sufficient ground for an evaluation of the IPHRC.

The specialists noted that despite its shortcomings, the IPHRC has the potential to become an advocate of human rights in OIC member states. To this end, the group formulated a number of recommendations for the Commission to take into consideration in its future work. Proposed by the international human rights experts,[47] the following recommendations offer concrete suggestions for how the IPHRC can fulfill its mission. The developments I discussed above suggest the IPHRC's implementation of these recommendations may be less likely. However, the recommendations are, quite possibly, the only way for the IPHRC to become an effective human rights body.

The IPHRC should affirm and uphold internationally agreed-upon human rights standards and instruments. This includes:

- Recognition by Commissioners that OIC member states are bound by international human rights obligations.

[47] **Evelyn Aswad**, Professor, College of Law, Oklahoma University, US; **Mashood Baderin**, Professor, School of Law, University of London; **Verena Beittinger-Lee**, Ph.D., Researcher, School of Politics and International Relations, University of Kent, UK; **Anthony Chase**, Associate Professor, Diplomacy and World Affairs, Occidental College, US; **Ioana Cismas**, Ph.D., International Human Rights Lawyer, Switzerland; **Turan Kayaoglu**, Associate Professor, Interdisciplinary Arts and Sciences, University of Washington, US; **Ann Elizabeth Mayer**, Associate Professor, Legal Studies and Business Ethics Department, University of Pennsylvania, US; **Mahmoud Monshipouri**, Associate Professor, Department of International Relations, San Francisco State University, US; **Johannes Morsink**, Professor, Department of Political Science, Drew University, US; **Marie Juul Petersen**, Ph.D., Researcher, Danish Institute for Human Rights, Denmark; **Heini Skorini**, Ph.D. student, King's College, University of London, UK

- Agreement among Commissioners that international human rights treaties constitute minimum standards and that regional human rights instruments must always meet or exceed these minimum standards.

- Agreement among Commissioners to use only international human rights law as the benchmark in assessing all human rights issues, and clarification of the status of the Cairo Declaration to this end.

- Review of existing member states' reservations to international human rights treaties, and an elaboration of recommendations to remove reservations that undermine the object and purpose of the treaty in question.

- Affirmation of *Sharia* as consistent with international human rights law by rejecting interpretations of *Sharia* that violate or undermine international human rights law and by elaborating alternative interpretations that respect and further international human rights law.

The IPHRC should encourage and practice transparency and accessibility in its activities. This includes:

- Publication of a comprehensive calendar of meeting times and places well in advance to facilitate participation from civil society, media, and other actors interested in the IPHRC.

- Establishment of a system for the rotation of sessions across member states.

- Development and maintenance of a regularly updated website with information on IPHRC activities and statements as well as other human rights-related OIC activities.

- Establishment of an IPHRC secretariat in a place that is easily accessible to civil society, media, and others within and outside the OIC.

The IPHRC should engage with civil society and encourage its participation in the IPHRC's work. This includes:

- Facilitation of civil society access to IPHRC sessions.

- Organization of civil society forums in parallel with all IPHRC sessions.

- Establishment of cooperation with human rights-related think tanks and research institutions inside and outside the OIC member states.

- Facilitation of inter-sessional dialogue with civil society organizations.

- Facilitation of access for human rights and civil society organizations so that they can lobby member states' governments.

The IPHRC should engage in regional and international collaboration. This includes:

- Adoption of a common strategy with regional organizations (e.g., the OSCE, or Organization for Security and Co-operation in Europe) for addressing issues of religious intolerance.
- Establishment of institutionalized relations with international human rights mechanisms. These relations could be maintained by holding every third IPHRC session in Geneva or New York.
- Establishment of relations with OIC member states and other relevant experts in UN bodies, possibly by the establishment of an external advisory board to the IPHRC.
- Appointment of an IPHRC focal person in Geneva to facilitate regular communication with UN human rights bodies.

The IPHRC should strengthen its internal composition. This includes:

- Promotion of gender diversity among IPHRC Commissioners.
- Promotion of religious diversity among IPHRC Commissioners.
- Ensuring the independence of Commissioners.
- Establishment of transparent mechanisms for selecting candidates, ensuring public access to and information on the pool of candidates.
- Establishment of a mechanism that ensures nomination and election of experts with a strong record of defending international human rights standards.

The IPHRC should strengthen OIC and member state capacities and knowledge on human rights. This includes:

- Promotion of peer-to-peer capacity development.
- Promotion of capacity development by external human rights experts.
- Mainstreaming of outputs to relevant OIC agencies and departments.
- Regular publication of thematic reports on human rights in member states.
- Regular publication of country-specific reports.

After completing the above steps, the IPHRC (and the OIC) should ensure sustainable resources for its work. This includes:

- Upgrading human resources in the IPHRC secretariat.
- Strengthening the IPHRC and its secretariat's fundraising capacity.
- Encouragement of in-kind support by international human rights experts, institutions and organizations.
- Advertisement of volunteer positions and internships with the IPHRC.
- Introduction of a system for secondment with other international human rights institutions and organizations.

CONCLUSION

In the three years since its establishment, the IPHRC has produced disappointing results and a worrying tendency of embracing a parochial and reactionary attitude towards universal human rights. The path that the IPHRC is taking is one that will, at best, be unable to hold its member states accountable, and, at worst, defend the human rights records of member states uncritically. The IPHRC has embraced abstract generalities when dealing with human rights in member states but state concrete and specific criticism about the problems of Muslim minorities in non-member states. Not only is this unproductive, it is a disservice to the citizens of OIC member states. The IPHRC should be a force for human rights, not an instrument of diplomacy for member states to carry out their foreign policy agendas.

The OIC has struggled to be taken seriously on the world stage. The reforms of the past decade gave the OIC a firm foundation; the IPHRC was part of those reforms. Looking at IPHRC's poor start on human rights, it is likely that the OIC will continue to lack serious engagement and credibility regarding human rights. The IPHRC still has the potential to be a credible advocate for human rights within the OIC's member states. The OIC received the recommendations of the international human rights experts; these are a good place to start if the IPHRC wishes to become a significant force for protecting and promoting human rights in the Muslim world.


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