

THE DANISH
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THE OIC'S
HUMAN RIGHTS
POLICIES IN THE
UN

A PROBLEM OF
COHERENCE

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THE OIC'S HUMAN RIGHTS POLICIES IN THE UN A PROBLEM OF COHERENCE

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PREFACE

THE ORGANISATION OF ISLAMIC COOPERATION AND HUMAN RIGHTS

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

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>

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 involving a group of international scholars and experts on the OIC.⁵ The group of scholars and

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 in the DIHR series *Matters of Concern*.

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).

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 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.

INTRODUCTION

The Organization of Islamic Cooperation (OIC), originally known as the Organization of the Islamic Conference, has used its observer status at the UN to function as an assertive participant in debates and meetings on human rights. The adjective “Islamic” in the OIC title could be misleading; the organization is not religious in character, the criterion for membership being that of having a large percentage of citizens adhering to Islam. As will be discussed, the OIC nonetheless assumes that it is entitled to speak on behalf of Islam and Muslims -- among other things, defining Islamic positions on human rights questions. The latter positions often turn out to be at odds with international law. This presents an unresolved conundrum: how can an organization of modern nation states that officially adheres to the UN system of international law, a secular law, presume to act as a kind of Islamic Vatican and propound conflicting Islamic human rights principles?

When examined, the OIC’s record is shown to be full of confusing and even self-contradictory statements on Islam and human rights. This lack of coherence is troubling; at a minimum a prominent international organization that seeks a major role in the UN, where the OIC is trying to obtain a seat on the Security Council, and that attempts to reshape the UN human rights system, as the OIC has been doing for over two decades, should articulate a consistent policy.

This review of the OIC’s human rights record at the UN, which comprises segments of a much longer analysis, will refer to sources including the 1990 Cairo Declaration on Human Rights in Islam and the numerous UN Human Rights Council resolutions sponsored by the OIC calling for combating defamation of Islam, contrasting these with the resolutions that the OIC began sponsoring in 2011 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief. To elucidate points, references will be made to statements by the OIC Secretary General Ekmeleddin Ihsanoglu, who headed the organization in 2005-2013 and who actively defended the OIC’s positions on Islam and human rights, and to some statements made by his successor, Iyad Ameen Madani, and the OIC Independent Permanent Human Rights Commission (IPHRC) that was constituted in 2011. Some dramatic OIC interventions in international controversies will also be discussed.

The OIC has accumulated a record of self-contradictory statements on Islamic law and international human rights law, sometimes treating Islamic law as overriding UN human rights principles and at other times claiming to support the UN system. After speaking on behalf of Islamic particularism, claiming that Islam has its own distinct human rights

principles, in recent years the OIC has often chosen to speak as if it were committed to upholding international human rights law and as if Western democracies were falling short when they upheld the right to freedom of expression. Moreover, it seeks to distort human rights by making strained arguments that failing to punish blasphemy and protect Islamic sanctities are human rights violations – often trying to mesh defending the Islamic religion with a different cause, protecting Muslim minorities from the harmful effects of Islamophobia, a secular problem. As will be discussed, the OIC vigorously argues that imposing religious censorship serves the cause of human rights, being essential for fighting intolerance and protecting the rights of Muslim minorities. Awkwardly for the OIC, the notion that imposing Islamic censorship is a recipe for fostering religious tolerance is belied by the records of many of its members, which impose harsh forms of Islamic censorship but are riven by brutal and destructive religious conflicts, which have included the persecution, slaughter, and displacement of Muslims by their fellow Muslims as well as devastating attacks on non-Muslim minorities.

While the difficulties facing Muslim minorities in the West are real and deserve to be taken seriously, the OIC's vociferous denunciations of Western shortcomings have not been matched by proportionate condemnations of its members' policies where these have accommodated hate speech directed at disfavored religious communities and fostered an environment where sectarian antagonisms and attacks on religious minorities abound. The world can observe the desperate attempts of victims of religious intolerance and persecutions to escape OIC countries and find refuge in the West. The fact that the OIC largely disregards this phenomenon while repeatedly singling out the treatment of Muslim minorities in the West for condemnation involves dramatic double standards.

Why would an organization that courts the international spotlight as it promotes its views on human rights in the UN fail to take care to articulate and follow a consistent, coherent policy? If one studies the OIC's positions and the politics behind them, one can make some surmises. An initial problem seems to be that the OIC rarely has brought human rights experts into central roles in devising its policies; its positions seem to have been adopted in an ad hoc manner and as matter of political expediency. They are frequently articulated by spokesmen who have only a tenuous grasp of human rights. (Of course, this does not necessarily preclude there being knowledgeable persons in the OIC who would like to see the organization formulate more solid human rights policies.) Another seems to be that the OIC, speaking on behalf of states that have been widely criticized for their severe human rights violations, has tried to refashion human rights policies to serve short term political goals. Among its goals are strengthening its position by impressing the world as the champion of Islam, which entails reformulating human rights to embody its prioritization of certain Islamic values at the expense of human rights. In addition, the OIC aims to put Western democracies on the defensive by accusing them of violating human rights – human rights as reconfigured by the OIC -- when they fail to impose Islamic censorship, thereby creating a distraction from its own members' glaring human rights deficiencies. In pursuing these goals, it has apparently devoted little attention to whether it is leaving a record of disarray and contradictions.

Of course, the politicized and opportunistic use of human rights is hardly peculiar to the OIC. One sees ample evidence that states outside the OIC appeal to human rights in selective and politicized ways. Nonetheless, the following discussion will show that OIC stands out in terms of the extent to which it stakes out blatantly contradictory positions on human rights.

CHAPTER 1

1 THE OIC IN THE UN SYSTEM

The OIC in its 1974 charter made it clear that it was a state-centered entity, starting out by listing the states that belonged to it, repeatedly referring to “Member States,” and also stressing in Article II. B. 3 “respect of the sovereignty, independence, and territorial integrity of each Member State.”⁶ Looking at the OIC’s original 1974 charter and its significantly revised and updated 2008 charter, one can ascertain nothing that could provide a basis for any presumption to possess authority in religious matters. Instead, one encounters statements that indicate that it is an inter-governmental organization with permanent observer status at the UN that consists of states with large Muslim populations.

In the 1974 charter the OIC gave no hint of any belief that Islamic law should override all man made laws, including any conflicting rules of international law. The charter asserted in its preamble that the OIC was committed to “the UN Charter and fundamental Human Rights, the purposes and principles of which provide the basis for fruitful co-operation amongst all people.”⁷ The occasional Islamic references stated programmatic goals, such as ones calling for preserving “Islamic spiritual, ethical, social and economic values;” promoting “Islamic solidarity among member States;” and safeguarding “the Holy Places.” These vague principles seemed to assume that the Muslim citizens of OIC members shared certain affinities and common ideals, but they gave absolutely no indication that the OIC had been established as an arbiter of Islamic doctrine. This made the OIC’s 1989 assumption that it could declare that Salman Rushdie was an apostate from Islam seem grossly incongruous; the OIC acted as if it were entitled to make rulings on the most sensitive doctrinal questions – and this without offering even a pretense concern for how Islamic law applied to Rushdie’s case or an investigation to establish his beliefs and whether his novel proved that he had in fact repudiated Islam.

In the revised 2008 charter, which was equally state-centric, the OIC committed itself “to uphold the objectives and principles of the present Charter, the Charter of the United Nations and international law as well as international humanitarian law while strictly adhering to the principle of non-interference in matters which are essentially within the domestic jurisdiction of any State.”⁸ One notes that in this second version

⁶ See Hasan Moinuddin, *The Charter of the Islamic Conference and the Legal Framework of Economic Co-operation among its Member States* (Oxford: Clarendon Press, 1987), 187-188.

⁷ Ibid.

⁸ See OIC Charter, at http://www.oic-oci.org/oicv2/page/?p_id=53&p_ref=27&lan=en

the original phrase “the UN Charter and fundamental Human Rights” has been dropped, thereby suggesting a move away from the affirmation of fundamental human rights, although there are some references to human rights elsewhere in the charter. The changed wording in this section substitutes a new provision on non-interference in matters within the domestic jurisdiction of states, an implicit repudiation of a basic principle of international human rights law, which entitles observers to pierce the veil of state sovereignty to assess whether violations of international human rights law are occurring.

The revised 2008 charter also calls for the OIC “to promote human rights and fundamental freedoms, good governance, rule of law, democracy and accountability in Member States in accordance with their constitutional and legal systems.” The last phrase amounts to asserting that OIC member states are entitled to use their own domestic standards to set the parameters of human rights and fundamental freedoms. Because in practice their domestic standards have correlated with patterns of disregard for human rights, in context this signals the OIC’s acceptance that international human rights law will be diluted by the application of incompatible domestic standards. Further affirmation of the state-centric character of the system lies in the OIC’s express commitment “to respect, safeguard and defend the national sovereignty, independence and territorial integrity of all Member States.”

In the 2008 charter there are occasional references to Islamic concerns, including OIC pledges “to be guided by the noble Islamic values of unity and fraternity,” “to foster noble Islamic values concerning moderation, tolerance, respect for diversity, preservation of Islamic symbols and common heritage and to defend the universality of Islamic religion,” and “to protect and defend the true image of Islam, to combat defamation of Islam and encourage dialogue among civilisations and religions.”⁹ The idea that the OIC had a mission to “defend the true image of Islam and to combat defamation of Islam,” which had not been mentioned in the earlier charter, could be seen as an attempt to justify retroactively the OIC’s condemnation of Rushdie as an apostate. It was also linked to a policy embodied in a series of UN resolutions proposed by the OIC starting in 1999 that called for international law to criminalize defamation of Islam, which will be discussed subsequently. As in the original charter, there was no indication whatsoever that the OIC could determine Islamic doctrine.

Against this background one appreciates how grossly inconsistent it was on the part of the OIC to promote a set of human rights that purported to embody Islamic precepts but that could not be reconciled with UN human rights. Nonetheless, in the Cairo Declaration on Human Rights of Islam, the OIC did exactly that – and this declaration was only one of several initiatives in which the OIC arrogated unto itself the prerogative of pronouncing on questions of Islamic doctrine.

⁹ Ibid.

CHAPTER 2

2 JUSTIFYING DEVIATIONS FROM INTERNATIONAL HUMAN RIGHTS LAW

Representing as it does the interests of its member states, which are governed by regimes with generally deplorable human rights records, the OIC was motivated to look for pretexts for deviating from international human rights law. It was not alone in this quest. In the 1990s, an era when undemocratic non-Muslim countries like China were claiming that their entitlement to uphold “Asian values” justified deviating from international human rights law, many states were having recourse to supposed cultural particularisms to rationalize non-compliance with international human rights law. Of course, leaving aside the attempts of governments to rationalize their non-compliance with human rights by invoking cultural rationales, one can identify a variety of other factors that may lead to human rights being classed as culturally alien or identified with distinctly Western values.¹⁰ It is interesting that Secretary General Madani in 2014 resuscitated the idea cultural particularism, asserting that “current international human rights laws are based on Western values.”¹¹

The OIC disregarded its own charter when it promulgated the Cairo Declaration on Human Rights in Islam, setting forth distinctive Islamic standards that clashed with international human rights law, curtailing the list of human rights and subjecting all to overriding Islamic criteria. Some may claim that it has been superseded, but, indicating its continued viability, the current Secretary General has endorsed it as “the OIC’s most complete statement on human rights in Islam.”¹² In wielding Islam as the pretext for sharply limiting civil and political rights, the Cairo Declaration converted Islam into a shield that OIC members could deploy to try to deflect charges that they engaged in human rights violations. For example, having eliminated any right to freedom of religion in the Cairo Declaration, OIC members could deny that they were in violation of human rights when they executed Muslims for apostasy. In the era when it was allied with the bloc appealing to “Asian values” as a pretext for escaping the mandate of universal human rights, the OIC worked hard to convince the UN to move towards recognizing the Cairo Declaration as a legitimate Islamic alternative to the UDHR and the ICCPR. As a result of OIC pressures, in the UN the Cairo Declaration was treated as a respectable

¹⁰ An excellent analysis of the complex reasons for the “Asian Values” challenge to human rights can be found in Karen Engle, *Culture and Human Rights: The Asian Values Debate in Context*, 32 NYU JOURNAL OF INTERNATIONAL LAW & POLITICS 291-333 (2000).

¹¹ See Habib Shaikh, “OIC seeks rights debates based on Islamic values,” *Arab News*, February 4, 2014, at <http://oichumanrights.wordpress.com/>

¹² *Ibid.*

statement of human rights and was included in the UN documents issuing from the 1993 World Conference on Human Rights in Vienna and was published by the Office of the UN High Commissioner for Human Rights.¹³

Here the main concern will be the conflicts between the Cairo Declaration and international human rights standards on freedom of expression. The records of OIC member states prove that this is a right that they routinely violate, often using Islam as a pretext for harsh censorship. The OIC's Cairo Declaration sets forth Islamic criteria in Art. 22 as one basis for restricting freedom of expression and prohibits "information" that violates "sanctities and the dignity of prophets" is prohibited in Art. 22/c:

ARTICLE 22:

(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah . . .

(c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.

In their religious restrictions on freedom of expression, these principles are obviously sharply at odds with their counterparts in the ICCPR. The relevant ICCPR provisions are far more protective of freedom of expression even though they include certain limitations that could be seen as problematic.

The question arises: how could the OIC claim to have the authority to declare Islam's positions on human rights when its own foundational documents reveals no basis for claiming such authority? Underlining the strangeness, the OIC Secretary General Ihsanoglu expressly affirmed in an interview in 2013 that OIC was not a religious institution.¹⁴ The OIC's practice of speaking as if it were a kind of Islamic Vatican, ignoring the jurisprudential and theological problems this raises, warrants more critical scrutiny that it has heretofore received.

The incoherence of the OIC's mode of proceeding, which entailed following a state-centric organizational model at the same time that it effectively claimed the status of an Islamic Vatican can be seen in the method that was used to concoct the Cairo Declaration. One recalls that the 1948 UDHR was authored by representatives of UN member states, expressing their consensus on the meaning of the term "human

¹³ See *Human Rights: A Compilation of International Instruments: Volume II: Regional Instruments*, (New York and Geneva, 1997, OHCHR, Geneva), 475-476.

¹⁴ See Ekmeleddin Ihsanoglu: Combating Islamophobia. The Secretary General Of The OIC Discusses Discrimination, Freedom of Expression and Religious Persecution in The West, *Talk to Al Jazeera*, June 1, 2013, at <http://www.youtube.com/watch?v=fv0DarFDgHY>

rights,” which had already been mentioned in the 1945 UN Charter. To accord to representatives of UN member states the prerogative of defining universal human rights seemed normal in the context of the UN system of international law, where rules designed to have international application emerge from the consensus of UN members. Human rights documents have also been developed by subgroups of states that choose to fashion regional human rights instruments – such as the American Convention on Human Rights, the African Charter on Human Rights and Peoples’ Rights, and the European Convention for the Protection of Human Rights and Fundamental Freedoms. In contrast, it is highly problematic for the OIC, as state-centric as these other organizations are, to offer a human rights document that supposedly expresses definitive Islamic teachings.

As a state-centric entity, the OIC possessed no more qualifications to decree Islam’s limitations on international human rights law than, say, the Organization of American States (OAS) would have to promulgate Christian doctrines to replace international human rights law. It would be readily recognized that, even though the majority of the people in OAS member states are Christian, it would be absurd for the OAS to decree that the right to marry and divorce as guaranteed in international law had to be limited by Christian doctrine or that freedom of expression as set forth in international human rights law had to be curbed in order to protect Christian sanctities and punish sacrilegious expression. Observers would readily concur that the OAS lacked any basis to represent Christianity or to propose Christian restrictions on the human rights set forth in international law. It would be even more absurd if the OAS presumed to possess the right to decree when individuals were guilty of apostasy, which is, of course, a right that the OIC presumed to have when it announced that Salman Rushdie was an apostate.

A strange aspect of OIC member states assuming that they could pontificate on Islamic doctrine was the fact that their religious policies showed that they were profoundly disunited on Islamic questions, with their various state-sponsored Islams embodying sharply conflicting interpretations and with the official Islams of two of the most important OIC members, Iran and Saudi Arabia, being maximally opposed. In addition to these widely varying national policies, Islam is beset by deep splits, divisions among schools of law and sects, and clashing interpretations that reflect competing ideologies and scholarly trends. Violent and bloody clashes between rival Islamic factions have reached explosive levels in the last decades, reminding the world that Islam’s sectarian divisions correlate with febrile antagonisms.

The notion that any state-centered organization like the OIC could speak on behalf of a unified Islam was an illusion. When one is dealing with human rights, one appreciates that despite their widely diverging views on Islam, where OIC members were concerned– or, more precisely, where the states that actively participated in drawing up the Cairo Declaration were concerned, their common philosophy was not one regarding Islam but one regarding hostility toward international human rights law.

CHAPTER 3

3 ISLAMIC CENSORSHIP CRITERIA AND INTERNATIONAL LAW

A prime example of the incoherence in the OIC's human rights policies can be seen in its repeated efforts to persuade the UN to incorporate into international human rights law the duty to criminalize defamation of Islam. This principle did not belong in the UN human rights system, because it aimed to protect religion, not human beings, and was designed to restrict human rights in the area of freedom of expression in the interests of deterring blasphemy, a crime that can only be defined within the confines of a particular religious tradition. It also directly clashed with relevant language in the ICCPR. When after years of OIC efforts the prospects for the success of this initiative to change international human rights law dimmed, the OIC in 2011 sought to re-characterize its position as one that reflected the values of the ICCPR – speaking as if the OIC's concerns were religiously neutral and as if the goal were not so much to protect religion as to protect the rights of believers from harms that could flow to them from aspersions cast on their religion. At the same time that the OIC pressed this re-characterization, its spokespersons continued to reveal their belief that they wanted international law to incorporate Islamic criteria for censorship.

In 1999 the OIC launched a campaign to persuade the UN that international law should criminalize what it called “defamation of Islam,” a recent coinage. By itself the term defamation seems an odd choice, because terms like blasphemy or sacrilege would have seemed more apposite for incidents where the OIC was complaining that Islamic sanctities were offended. It seems likely that the calculation was made that terms that were too obviously linked to specific religious categories had to be avoided in a context where the OIC was hoping to persuade the UN of the suitability of its proposed measures for inclusion in international human rights law. In international human rights law, one does encounter concepts like group defamation and defamation as a violation of the right to reputation, so selecting the term “defamation of Islam” probably seemed expedient, because it could be linked to existing UN terminology.

Curiously, although it is a principle that the OIC has treated as urgently requiring attention at the UN, the OIC has not bothered to define it precisely. Observing how the OIC complains about defamation of Islam in various contexts, one gets the impression that it is a term with an amorphous character and possessed of potentially multiple, different meanings. The question arises: Why would any organization devote great energy to pursuing a campaign for incorporating a vaguely worded principle in international law when it was not prepared to settle its exact parameters? One surmises that a possible answer could be that the legal dimensions of this term were

disregarded, because the real focus was always on the political capital that the OIC hoped to harvest by inserting the principle that defamation of Islam had to be criminalized in international law. With the objective being to establish an arena where they could turn the tables on Western democracies and lambaste them for failing to uphold human rights, fussing over definitional niceties was apparently not deemed necessary; in fact, a term like defamation of Islam with its vague parameters could be useful.

CHAPTER 4

4 OIC RESOLUTIONS ON DEFAMATION OF ISLAM

The wording in the various resolutions is not identical, but by picking anyone in the series, one can get a general sense of what is comprised. The 2007 Human Rights Council Resolution 4/9 Combating Defamation of Religions is offered as an example, with references to the paragraphs in the preambular language by their order (these are unnumbered in the original) and to the numbered articles that follow.¹⁵

The resolution repeatedly seeks to portray its goal as upholding human rights by tying defamation of all religions to problems of racism and xenophobia. (par. 7) and human rights violations (par. 9) along with the claim that it serves as “an aggravating factor that contributes to the denial of fundamental rights and freedoms of target groups, as well as their economic and social exclusion” (art. 4). Seeking to obviate criticisms that the resolution is serving specifically Islamic causes, it posits a link between discrimination and intolerance affecting Muslims and Arabs and broader problems of racism, racial discrimination, xenophobia and related intolerance (par. 6).

Freedom of religion and belief is also invoked (par.8), which demonstrates how far principles in the resolution deviate from the human rights policies that the OIC actually follows. Without needing to worry that the OIC will condemn them, OIC member states have been among the most egregious violators of this fundamental human right, a right that the OIC deliberately eliminated from the Cairo Declaration. Straining to associate its campaign to win support for criminalizing defamation of religion with a mainstream human rights philosophy, the OIC was moved to disguise its actual opposition to freedom of religion. This is one of many instances where one observes the OIC opportunistically presenting its human rights positions as more congruent with principles of international law than the evidence shows that they actually are.

In a pattern commonly found in the OIC resolutions, the language shifts back and forth from concerns about religions generally to specific references to problems of defamation of Islam and discrimination against Muslims (e.g., par. 4, 5, and 6). This shifting is prompted by the OIC’s desire to highlight Islamic concerns while also needing to include wording that enables it to win non-members’ support. For example, officials are urged to show respect for different religions and beliefs (art. 9), and the use of the media to incite acts of violence, xenophobia or related intolerance and discrimination

¹⁵ The text is available at http://ap.ohchr.org/documents/sdpage_e.aspx?b=10&se=67&t=11

towards Islam or any other religion is deplored (Art. 11). A complaint is made that “religions, and Islam and Muslims in particular,” are increasingly being attacked in human rights forums (par. 10). Deep concern is expressed at attempts to identify Islam with terrorism, violence and human rights violations (Art. 2). In the aftermath of the 9/11 attacks, the problems of defamation of religions and profiling of Muslim minorities are said to be increasing (Art. 3). Measures that monitor Muslims and Arabs and legitimize discrimination are mentioned -- with the implication that these problems are concentrated in the West, where Muslim minorities face suspicions that they could have terrorist links (See Arts.3, 5). Observers who are troubled by the rise of Islamophobia in the West could empathize with the OIC’s complaints about the dangers that it poses – although this will not necessarily mean that they agree that imposing the OIC’s proposal for Islamic censorship would be an effective to curb Islamophobia.

An effort is made to portray the 2007 resolution as being compatible with Articles 19 and 20 of the ICCPR on freedom of expression. Article 7 of the resolution cites ICCPR Article 20/2 – but only with a major modification. The original provides: “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” The resolution adds wording that calls for prohibiting “material aimed at any religion or its followers.” Adding this last phrase to the original language in the ICCPR Article 20/2 means that the grounds for censorship are being widened far beyond the limits originally contemplated in the ICCPR, which has no concern for protecting any religions. Article 19/3 of the ICCPR limits restrictions on freedom of expression to what is necessary for “respect of the rights or reputations of others” as well as for “protection of national security or of public order (ordre public), or of public health or morals.” To this original ICCPR formulation the OIC resolution in Article 10 adds wording permitting curbs on freedom of expression necessary for “respect for religions and beliefs.” Again, the OIC seeks to convey the impression that it adheres to the ICCPR, but the vague wording that it adds to the original formulation significantly expands the potential scope of allowable censorship.

This and other OIC resolutions on the duty to combat defamation of religions had the potential to enfeeble international human rights law. Among other things, because there are no settled parameters for what constitutes defamation of religions, the limits on freedom of expression that combating it would entail remain speculative and would potentially stretch to the point where freedom of expression could be nullified altogether – a result that most OIC member states, which are wedded to draconian censorship policies, would likely welcome.

From the standpoint of human rights activists, the OIC’S complaints that Islam has been wrongly associated with human rights violations raise the worry that under the guise of combating defamation of religions the OIC could call for stifling critical discussion of laws and policies that were violative of human rights as long as the governments involved pleaded that they were following Islamic requirements. Governments of Muslim states in carrying out acts of discrimination or repression often claim to be acting pursuant to Islamic law. This could lead them to charge that Islam is being defamed in cases where critics are attacking the states’ records of human rights violations – such as

governmental denials of freedom of expression, discrimination against non-Muslims and women, restrictions on women's freedoms, or executions for crimes like apostasy or blasphemy.

The harmful consequences for human rights of laws like the ones that the OIC favors that criminalize blasphemy have been studied by the NGO Human Rights First, which has published an account focused mostly on OIC countries detailing the numerous setbacks for human rights that are associated applying with such blasphemy laws.¹⁶ An example illustrating how blasphemy laws can exacerbate human rights problems is the 2011 Pakistani case involving the assassination in Islamabad of Salmaan Taseer, the then governor of the Punjab. In the face of great risks, Taseer, himself a Muslim, had spoken out to denounce Pakistan's blasphemy law, which had been imposed by the military dictator Zia ul Haq in the course of his Islamization campaign and which has been used against vulnerable elements of society. He took up the case of Aasia Bibi, an impoverished Christian woman who had been convicted of blasphemy and sentenced to death after a minor spat with Muslim women in her village. Reacting to Taseer's criticisms of the blasphemy law, which he called a "black law," one of his bodyguards assassinated him, shooting Taseer 27 times. Far from being condemned, the murderer was lionized as a hero by many in Pakistan, while Taseer was denounced for having challenged the blasphemy law.¹⁷ Taseer's experience was not unusual. Governments, powerful institutions, and religious zealots frequently resort to accusations of blasphemy in cases where their real aim is to stifle political dissent; critiques of the unsavory politics behind prosecutions for offending Islam are widely suppressed.

¹⁶ See Human Rights First, *Blasphemy Laws Exposed: The Consequences Of Criminalizing "Defamation Of Religions"* at http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf

¹⁷ See Mohammed Hanif, "How Pakistan responded to Salmaan Taseer's assassination," *The Guardian*, January 5, 2011, at <http://www.theguardian.com/world/2011/jan/06/pakistan-salman-taseer-assassination>

CHAPTER 5

5 THE DANISH CARTOONS

Like the Rushdie Affair almost two decades earlier, the Danish Cartoons case was artificially raised to the level of an international controversy by Muslim agitators bent on stirring up outrage against alleged Western insults to Islam. Cartoon depictions of the Prophet Muhammad were published in September 2005 in *Jyllands-Posten*, a Danish-language newspaper with a circulation of about 120,000. The cartoon that was later singled out as most outrageous was a drawing by Kurt Westergaard of the head of the Prophet with a bomb poking out of his black turban. The announced objective of the newspaper in publishing the cartoons was to assert the principle of freedom of speech in the face of mounting pressures for self-censorship that some were arguing was needed to avoid offending Muslims. The paper indicated that it wanted to break with the political correctness that did not allow treating Muslims like any other religious group.¹⁸ Of course, because there was a wave of strong anti-immigrant sentiment in Denmark, many saw the cartoons – and *Jyllandsposten's* campaign against self-censorship – as expressions of xenophobia and discriminatory attitudes.

While most Danish Muslims protested the cartoons through peaceful demonstrations and debates in the Danish media, one group launched a campaign to stir up international protests and disseminated the very cartoons that its members claimed should have been suppressed.¹⁹ Delegations travelled to Egypt, Lebanon, and Syria with a view to inciting protests against Denmark.²⁰ They presented a dossier that included pictures that were far more inflammatory than the original set of cartoons published by *Jyllands-Posten*. For example, an image from a French pig-squealing contest was included as if it had figured among the cartoons, creating the false impression that the Prophet had been depicted as a pig.²¹ As demagogues exacerbated tensions, aggrieved Muslims called for boycotting Danish products and killing the cartoonists, which had the consequence of enhancing the influence of Islamophobic demagogues in Europe. Meanwhile, various governments in the Middle East exploited the occasion and sought to whip up popular outrage in efforts to distract attention from domestic ills that were alienating their citizens. The agitation incited repeated efforts by Muslims to kill Kurt Westergaard, which meant that he had to live under guard.

¹⁸ Jytte Klausen, *The Cartoons That Shook the World* (New Haven: Yale University Press, 2009), 15.

¹⁹ *Ibid.*, 86-89.

²⁰ *Ibid.*, 89.

²¹ *Ibid.*, 91.

The OIC played an active role, undertaking to mobilize worldwide Muslim opinion against the cartoons.²² When its demands for censorship and punishing the cartoonists were rejected by the Danish government, Secretary General Ihsanoglu protested, revealing the kind of harsh censorship regime that he wanted Denmark to adopt, one where governments control all expression on their territory. He complained of European backing for Denmark's failure to prosecute *Jyllands-Posten* and protested the decision by the court system to dismiss a defamation lawsuit brought by Muslims who tried to sue *Jyllands-Posten*:

We expected from the European Governments to identify the real nature and the sources of this crisis and to take a political and ethical stand against uncivilized transgressions in the name of freedom of expression. To our dismay, what we found in return was an official common European position in support of the stance of the Danish government who refrained for a long time to take any political or ethical responsibility on the grounds that the laws of the country guarantee the freedom of the press and that there is no government authority or responsibility over this matter as it is completely up to the court to determine if what was published was within the boundaries of law or not. However, Danish public prosecutors, both at local and federal levels later ruled that the act was not illegal and the cases of the offended Muslim citizens of Denmark were either dismissed or filed away.²³

The OIC went further, speaking as if the duty to criminalize defamation of Islam were an accepted human rights principle and accusing the Danish government of violating international human rights law when it failed to censor the cartoons and to punish those involved in their publication. In January 2006, the OIC espoused the cause of the Muslims condemning the Danish cartoons at the UN and asked the UN for a binding resolution "banning contempt for religious beliefs and providing for sanctions to be imposed on contravening countries or institutions."²⁴ One notes here that the concern is not for protecting freedom of religion but for prohibiting insults to Islam.

In the course of the OIC's vociferous complaints about Denmark's refusal to impose criminal penalties on the Danes involved in the Danish Cartoons case, it inadvertently exposed the fact that what defamation of religion meant was unsettled. Ihsanoglu's comments in a June 2013 interview with al Jazeera illustrated that he had no firm grasp of the concept. He complained about the cartoons on the grounds that they insulted a prophet who was venerated by Muslims.²⁵ Like many Muslims who took offense at the cartoons, he seemed to be particularly incensed by the cartoon drawing of the Prophet with a bomb in his turban. He complained that the cartoon offended a vast number of

²² Ibid, 39.

²³ Statement of Secretary General at The first International Conference Organized by (OIC) under the Theme: "Challenging Stereotypes in Europe and the Islamic World," February 5, 2006, at [http://www.oic-oci.org/topic_detail.asp?t_id=2318&x_key=van gogh](http://www.oic-oci.org/topic_detail.asp?t_id=2318&x_key=van%20gogh)

²⁴ P.K. Abdul Ghafour & Abdul Hannan Faisal Tago, OIC, Arab League Seek UN Resolution on Cartoons, *Arab News*, January 30, 2006, at <http://www.arabnews.com/?page=1§ion=0&article=77052&d=30&m=1&y=2006>

²⁵ See Ekmeleddin Ihsanoglu: Combating Islamophobia.

Muslim believers by portraying this venerated religious figure as a terrorist. Empathetic individuals, regardless of their religion, might understand why Muslims felt deeply offended to see the Prophet Muhammad portrayed in this way – without agreeing that publishing the cartoons violated human rights protected by international law. One notes that, if the cartoons were blasphemous or sacrilegious, they involved crimes that could only be determined within a given religious tradition and using religious criteria. When Ihsanoglu objected to the Danish Cartoons because they insulted Islam’s Prophet, he was revealing the fact that his objections were rested on Islamic doctrine, involving questions well outside the scope of international human rights law, where religious teachings do not set the guidelines for what is permissible to say about a long dead religious figure and what is forbidden. He was effectively using the criterion that one finds in the OIC’s Cairo Declaration in Article 22/c, which bars “information” that “may violate sanctities and the dignity of Prophets.”

But this was not Ihsanoglu’s only objection; he also claimed in the interview that by denigrating religious symbols this cartoon violated the ICCPR. He also referred to Resolution 16/18 in this connection -- as if this UN resolution strengthened his position that publishing a cartoon insulting the Prophet amounted to expression prohibited under the UN human rights system.²⁶ In this he was grievously mistaken. His statements inadvertently exposed the truth -- that the OIC had not actually moved beyond the position that it had adopted in the resolutions that it sponsored on combating defamation of religion; the OIC’s pretenses of support for the ICCPR and Resolution 16/18 masked its ongoing intention to convert international human rights law into a mechanism for attacking the West for failing to curb defamation of Islam.

He had previously gone on the record in 2008 as having claimed that under international human rights law the publication of the Danish Cartoons should be criminalized. In an interview with *Jyllands-Posten* in October 2008 he spoke as if his objections to the cartoons were not at all religiously based but concerned instead a violation of the ICCPR ban on hate speech. In this 2008 interview, far from presenting his demands as involving Islamic criteria for censorship, he lectured Denmark, a country with a particularly fine human rights record, about its supposed human rights deficiencies and positioned the OIC as the defender of human rights. Ihsanoglu spoke as if Denmark were violating secular human rights law in failing to punish the cartoonists and punish the paper that published the cartoons. He insisted on a causal link between the cartoonists’ offensive depictions of the Prophet and attacks on Muslims and discriminatory treatment that they suffered in the West.

Ihsanoglu chose to ignore the deliberate efforts by Muslim agitators to provoke a crisis and incite outrage, among other things by disseminating a dossier with more offensive depictions than the ones that the cartoonists had actually drawn. Heedless of the sharp self-contradictions that this entailed, Ihsanoglu disingenuously protested that curbing freedom of expression was not at all the OIC’s objective. Instead he maintained that the

²⁶ See Ekmeleddin Ihsanoglu: *Combating Islamophobia*.

OIC's sole concern was deterring speech that was sowing hatred against a group of people and leading to harms affecting them:

I am quite surprised to see in the Danish press insinuations that I or the OIC are opponents of freedom of expression who are endeavoring to stifle this freedom by calling for banning of criticism of religions. Everybody is entitled to criticize anybody or anything. . . We have no problem whatsoever with this. However, when freedom of expression is abused to ridicule and demonize with the intention to sow seeds of hatred against a group of peoples or citizens, then problems start because the rights of the victims of this incitement comes to the fore.²⁷

He claimed that the OIC was aiming to follow the mandate of international law in curbing speech that endangered the lives of Muslims, which in context would have been the lives of Muslims dwelling in Denmark:

What we are against is not the criticism of religion per se but rather the intended objective of this criticism which is, in this case, jeopardize [sic] Muslim rights, by creating an atmosphere of hostility and rancor which make [sic] their life unsafe and strewn with prejudices of all kinds, and this is what international law prohibits.²⁸

As a critic could observe, if the OIC's actual concern were ending the harms that hate speech can cause to targeted groups, the OIC's repeated efforts to win UN support for its resolutions on combating defamation of Islam would not have made any sense, because hate speech had already been prohibited under ICCPR Article 20/2 since 1966. It was therefore hard to believe that the OIC in its repeated demands for Islamic censorship simply aimed at achieving the same objectives as those already covered in Article 20/2.

At moments when it deems it prudent to conceal its aim to impose Islamic censorship criteria, the OIC may talk about Western failures to censor expression like the Danish Cartoons as if its objection is to Islamophobia, a secular phenomenon that is distinguishable from sacrilege. Many would concur that expressions of Islamophobia can be analogized to the offense of ICCPR hate speech. Whether or not one thinks that expressions of Islamophobia should be punished does not depend on one's adherence to a particular theology but on whether one agrees with the proposition – and this remains a contested proposition -- that international human rights law is right to prohibit hate speech. (As is well known, the U.S. position has been that it is best to tolerate hate speech, because trying to draw the lines as to what is prohibited opens a Pandora's box of problems and because the best response to hate speech is to counter it with better arguments.) To the extent that one agrees that ICCPR hate speech

²⁷ The full text of the interview of the Secretary General with the Danish Daily Jyllands Posten, published on October 28, 2008, at <http://www.oic-oci.org/english/article/Jyllands%20Posten%20Interview.pdf>

²⁸ Ibid.

encompasses expressions of Islamophobia, one may concur that international law calls for prohibiting Islamophobic expression.

Although the OIC often uses the term “Islamophobia,” it is not clear what the term encompasses in the OIC’s usage. The incoherence that characterizes the OIC’s discussions of Islam and human rights was embodied in Ihsanoglu’s stumbling, confused attempt in 2013 to define Islamophobia, a phenomenon that he had regularly condemned but apparently without bothering to think what it meant. In his 2013 interview with al-Jazeera, Ihsanoglu seemed at sea when the interviewer asked him what Islamophobia consisted of; he hesitated as if he had no sure answer. He flailed about for a bit before tossing out various ideas regarding the phenomena that it might cover. Some were offenses against religion like desecrating tombstones, defaming religion, and writing a book insulting the Prophet. (The last offense referred to was most likely intended as a reference to Salman Rushdie’s novel *The Satanic Verses*, which would mean that Rushdie’s offense was being re-characterized as the secular offense of Islamophobia, not as the quintessentially religious crime of apostasy that the OIC had accused him of committing – a particularly stark inconsistency.) Others were secular offenses like politicians using xenophobic rhetoric and discrimination against immigrants in the name of social and economic concerns.²⁹ That is, he continued to mix up two separate categories -- religious offenses that violated “sanctities and the dignity of Prophets” and secular offenses, hate speech with the potential to lead to bad treatment of and hostility towards Muslims. From his confused perspective, both types of offenses could be classed as Islamophobia and both were human rights violations.

How in OIC parlance the crucial distinctions between religious and secular categories were often collapsed, with sacrilege being included under the rubric of Islamophobia, is also shown in Ihsanoglu’s 2006 lecture in Moscow.³⁰ According to the transcript of the lecture, he complained that the Danish Cartoons were “blasphemous cartoons which offended the image of the Prophet of Islam, and depicted him in a way to arouse hatred to Islam and Muslims.” He spoke as if he knew that the cartoonists’ intentions were malign, insisting that their intended objective was “inciting hatred against Muslim population in Denmark and elsewhere and exposing them to prejudice and threats.” That is, he employed a religious category, “blasphemy,” to characterize the cartoonists’ drawings but then equated drawing an offensive image of Islam’s Prophet to the secular category of hate speech directed at Muslims. This entailed a presumption that the cartoonists were engaged in prohibited “advocacy of national, racial or religious hatred” prohibited under the ICCPR, a presumption that the OIC has never bothered to substantiate.

Intent is critical in this connection. For expression to fall in the ICCPR Article 20/2 category of hate speech that should be prohibited by law, the intention must be inciting

²⁹ See Ekmeleddin Ihsanoglu: Combating Islamophobia.

³⁰ See Lecture of His Excellency Prof. Ekmeleddin Ihsanoglu, Secretary General of The Organization of The Islamic Conference, at The Mgimo University, Moscow, on Islam and Dialogue Among Civilizations, June 8, 2006, at <http://rushkolnik.ru/docs/362/index-933915.html>

“discrimination, hostility or violence” It is not hard to identify prominent Islamophobes in the West who do intentionally incite hostility towards Muslims and Islam; some notorious ones include Ayaan Hirsi Ali, Steven Emerson, Pamela Geller, Robert Spencer, and Geert Wilders. One can potentially ascribe a variety of motives to the Danish cartoonists, but the grounds are shaky for asserting that their aim was inciting hatred and provoking harms to Muslims. In practice, as noted, the poisoning of intercommunal relations and exacerbated tensions in the wake of the cartoons resulted not from the cartoons themselves but from an international controversy quite deliberately ginned up by the machinations of Muslim demagogues bent on stirring up outrage.

In publishing their cartoons of the Prophet in a Danish newspaper in the Danish language for a local audience, the stated motive of the cartoonists was pushing back against what they saw as illegitimate pressures for Danes in Denmark to abide by Islamic criteria for censorship. This amounted to advocacy for challenging religious restrictions on freedom of expression. It was natural for Danish cartoonists to be reacting against what they found an absurd situation, one where the result of the protracted process of European secularization had left Europeans free to express negative and scornful views about Christianity, Europe’s dominant religion, without fear of prosecution or punishment but feeling pressured to refrain from any expression that could be encompassed by Islamic definitions of blasphemy. Apparently being determined to portray the cartoons as hate speech, Ihsanoglu elected not to probe the cartoonists’ views on freedom of expression or, indeed, to give any weight to the concerns of those defending freedom of expression. His failure to distinguish the issues in this case, where there were legitimate grounds to assert that freedom of expression was at stake, and in the simpler cases of Islamophobic venom being spewed by famous and powerful Islamophobes both indicates his disinclination to confront such Islamophobes and his disregard for the value of protecting freedom of expression.

CHAPTER 6

6 THE OIC AND DEFAMATION OF ISLAM IN THE WEST

The OIC decided to change tactics after years of unsuccessful campaigning in the UN to have the requirement of criminalizing defamation of Islam incorporated in international human rights law. The OIC realized that, in order to achieve its ultimate objective of getting international law to endorse censoring expression that offended Islam, a smart tactic was to claim that it was adhering to ICCPR principles but to argue that the rights of human beings were being harmed by blasphemous or sacrilegious speech. This led the OIC to try to slip charges of blasphemy and sacrilege under the umbrella of ICCPR hate speech.

As of 2011 the OIC elected to pose as being supportive of the ICCPR and the related principles in the UN Human Rights Council Resolution 16/18 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief. Subsequent OIC statements show that under the rubric of Resolution 16/18 the OIC believes that it can still promote its own goals. Resolution 16/18 only concerns a narrow category of hate speech, condemning any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence -- that is, hate speech that aims to harm living human beings. It does not condemn insults aimed at religions or sacred figures of any religion, but the OIC has disregarded this.

Being committed to attacking the West for failing to curb defamation of Islam, the OIC worked to redefine the principles in Resolution 16/18 as incorporating the idea that defamation of Islam had to be criminalized. The OIC's new tactics involved insisting that it was the West that was failing to comply with Resolution 16/18 by resisting OIC demands that it clamp down on manifestations of Islamophobia -- with Islamophobia being so loosely defined by the OIC that it stretches to encompass religious offenses.

A factor discrediting the OIC's sincerity in campaigning for Resolution 16/18 is the organization's stark hypocrisy and double standards. It is not unusual for states to show a disinclination to engage in self-critical assessments of the human rights violations on their own territory while lambasting other states against which they have political grievances. In the case of the OIC's stances on defamation of Islam and hate speech that is harmful to Muslims, however, the lack of consistent standards is particularly troubling. Counterparts to the evils that the OIC decries in the West are present in far greater magnitude inside OIC member states. Of course, religious antagonisms among Muslims within OIC states do not embody what is conventionally understood as Islamophobia, which people expect to involve hostility to Islam on the part of non-Muslims. Still, in

terms of the impact that it has, the hatred shown by spokesmen for individual groups of Muslims for other groups of Muslims should be seen as a closely related phenomenon, one that often involves Muslims hurling gross insults at the beliefs of rival Islamic factions and sects and expressing virulent antagonisms towards their adherents³¹ The OIC may plausibly claim that incidents of what typical Muslims would deem blasphemous expression occur more frequently in the West than in OIC members; what it cannot plausibly maintain is that the hate speech prohibited under ICCPR Article 20/2 or Resolution 16/18 occurs with greater frequency in the West. In fact, the evidence shows that this kind of hate speech has proliferated inside OIC member states and has exacerbated socio-religious tensions and sectarian antagonisms to the point that much of the region from North Africa to Pakistan is being ravaged by violent religious conflicts and turmoil. One has only to consider the bloody clashes involving antagonistic Islamic sects during conflicts in Bahrain, Egypt, Iraq, Lebanon, Libya, Nigeria, Pakistan, Saudi Arabia, Syria, and Yemen to be reminded how extensive and destructive religiously-motivated hostilities have been inside the OIC. Over the last two decades hate speech involving the hostile denunciations of one sect of Muslims by another sect have escalated and correlated with hostage takings, lynchings, bombings of mosques and religious ceremonies, assassinations, and terrorist violence. Often these attacks are condoned or abetted by governments. By itself the violence resulting from efforts to inflame Sunni hostility to Shi'is had grown so extensive and so intense that in November 2013 the Iranian foreign minister asserted that it was probably most serious security threat not only to the Middle East but to the world at large.³² After tracking religious restrictions and religious hostilities around the world since 2007 the Pew Research Center reported in 2014 that it had found many increases in the level of social hostilities involving religion. In 2012 the Middle East and North Africa was the region most afflicted by sectarian violence, with the sharpest rise in incidents and with half of the countries wracked by such violence. In contrast, these hostilities had not increased in the Americas.³³

Given its posturing as a supporter of Resolution 16/18 in a period when Muslims within the OIC member states were being subjected to vilification, discrimination, persecution, lethal attacks, and terrorist bombings by other Muslims on the basis of their religious affiliations, the OIC should logically have placed these problems in the spotlight. But, it turned out that the OIC did not follow through by inaugurating a campaign to eradicate the problems targeted by Resolution 16/18 that were causing acute sufferings, displacements, and mass deaths among Muslims in OIC member states. It is particularly telling that the OIC shows little disposition to denounce the politics that have set the stage for vitriolic attacks directed by Muslims at other Muslims. There is a dramatic lack of coherence in OIC policies when it claims to be aiming to protect Muslims under

³¹ For examples of the invective hurled by Muslims at Islamic sects and communities that they revile, see BBC, Freedom to Broadcast Hate, at <http://www.bbc.co.uk/programmes/n3csv0c4>

³² Iran FM: Sectarian strife is worst threat in world, *BBC*, November 10, 2013, at <http://www.bbc.com/news/world-middle-east-24893808>

³³ Pew Research, Religious Hostilities Reach Six-Year High, January 14, 2014, at <http://www.pewresearch.org/fact-tank/2014/01/17/key-findings-about-growing-religious-hostilities-around-the-world/>

Resolution 16/18 from harms caused by “intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief” when it has not criticized the political systems in its members under which these ills have been condoned or allowed to flourish.

It is awkward for the OIC, which keeps positing a causal connection between the Western failure to impose Islamic censorship and manifestations of Islamophobia, to confront the reality that, in its members, where Islamic censorship is rigid and where blasphemy and sacrilege are criminalized, the problems of religious intolerance are far worse and the violations of Muslims’ human rights far more extensive. The OIC refuses to deal with the on the ground reality that precisely the kinds of human rights violations that Resolution 16/18 aims to end plague Muslims living in OIC countries, where any insults to Islam – or, more often, strained or contrived charges of insults to Islam -- are severely punished with penalties that may include execution.

Although the OIC’s attacks on Western Islamophobia and related evil are presented as aiming to protect Islam and Muslims, in reality they turn out to be little more than devices to try to place the West on the defensive. The OIC’s blind spots were exposed in remarks made by Ihsanoglu at a Geneva meeting on the implementation of Resolution 16/18 in June 2013. He insisted that the OIC was attuned to the urgency of fighting discrimination and intolerance: “Combating discrimination and intolerance forms a most daunting challenge of our times. It constitutes a matter of vital concern at the OIC.”³⁴ In actuality, the OIC’s actual conduct suggested a preference to downplay the need to address this daunting challenge where people living in OIC member states were the ones affected. Despite having gone through the motions of effecting a reorientation towards upholding the ICCPR, Ihsanoglu evinced a continued preoccupation with relatively minor or peripheral incidents in the West that he placed under the label of Islamophobia but that were actually more redolent of sacrilege. Thus, in this 2013 meeting on Resolution 16/18 he asserted:

The increasing trend of Islamophobia is indeed ominous in a globalized world. There has been an alarming increase in intolerance and discrimination against Muslims. It must be appreciated that there is mounting public pressure on OIC Member States to take concrete action. Alarming increase in Islamophobic incidents like the Utoya massacre in Norway, the burning of Quran by the Florida Pastor and release the reprehensible trailer [meaning Innocence of Muslims] on You tube continue to hurt the religious sentiments of over 1.5 billion Muslims. [sic]³⁵

³⁴ 3rd Istanbul Process Meeting on the follow -up of Implementation of HRC Resolution 16/18 Geneva, Switzerland (19 – 21 June 2013), at http://71.18.253.18/en/topic_details.asp?tID=346

³⁵ Ibid.

That is, in June 2013 Ihsanoglu continued to ignore the gross human rights violations afflicting Muslims in OIC member states, many related to the concerns of Resolution 16/18, and to focus instead on incidents of sacrilege in Western democracies. The incidents in 2012 in the USA included the Florida pastor Terry Jones, a disreputable figure with no significant stature or following, publicly burning the Qur'an and the posting on the Internet of the video "Innocence of Muslims," a short and clumsy production by an obscure and bigoted Coptic immigrant with a criminal record that vilified the character of the Prophet Muhammad. When one reviews these cases, one realizes that it was a stretch for the OIC to class these as serious human rights violations under Resolution 16/18, because the desecration of a volume containing what Muslims regard as Divine Revelation and insults to the Prophet actually would fit better in the OIC's category of defamation of Islam. That Ihsanoglu made a point of denouncing these in the context of an international meeting designed to deal with the follow up to Resolution 16/18 showed that he still remained preoccupied with insults to Islam in the West. He thereby revealed that, despite his efforts to convince the world that the OIC had moved away from combating defamation of Islam and towards embracing the human rights philosophy embodied in Resolution 16/18, this had not occurred.

The OIC's disinclination to grapple with powerful interests could be seen in this singling out of the two U.S.-based non-entities for excoriation while ignoring the far more damaging activities and propaganda disseminated by famous and well-funded Islamophobes in the West. Strikingly, Ihsanoglu focused on isolated individual provocateurs lacking any credibility or political influence who were acting in contexts where the wellbeing of Muslims was not directly threatened. Both miscreants clearly manifested hostility towards Islam, but their activity would probably have been of little consequence if not for certain Muslim agitators' determined efforts to stir up controversy. Ihsanoglu's reference to the Utoya incident deserves more scrutiny than there is space for here, but this savage massacre of young Norwegians by a deeply disturbed and isolated Norwegian who hated multiculturalism and feminism and who plagiarized from the Unabomber Manifesto, trying to twist it into an Islamophobic screed, while imagining himself a paladin of the ancient order of the Knights Templar was another distraction from the real concerns of Resolution 16/18.³⁶

One might have hoped that the IPHRC, being an organ specialized in human rights, would show more discernment in distinguishing incidents of sacrilegious speech, which could be deeply offensive from a religious perspective, from speech that the ICCPR allows to be curbed. In actuality, it denounced "Innocence of Muslims" for "ridiculing Islam and Prophet Mohamed" as if such ridicule were violative of ICCPR Article 19 and Human Rights Council Resolution 16/18. It reasoned that believers felt injured by such speech, claiming that "denigration of religions for many of their followers becomes a direct assault on their own selves," a statement that, while true, does not show that under ICCPR standards the speech should be censored. Following the lead of the OIC, the IPHRC presented itself as being concerned to uphold UN human rights, even where experience proved that the rights had no place in the OIC system. It portrayed its

³⁶ This case is discussed at length in the original paper.

concerns as being that “denigration of religions” could lead to “impairing the enjoyment of the right to freedom of thought, conscience and religion,” thereby invoking a human rights principle that the OIC has deliberately excluded from the Cairo Declaration.³⁷ One notes that the IPHRC ignores real world evidence when it presents claims that suppressing sacrilege is needed to protect freedom of religion; in fact, some OIC members that impose the most draconian punishments for what in OIC terms could be called defamation of Islam are among the states whose policies and laws have been most destructive of freedom of religion.

If one gave credence to the OIC’s regular complaints about what it decries as the particularly nefarious problems caused to Muslims by defamation of Islam in the West, one would tend to believe that, because of their religious affiliation, Muslims fare particularly badly in the West. No one should minimize the dangers of Islamophobia, a pernicious force like homophobia, misogyny, racism or anti-Semitism. The spread of Islamophobic groups and their bigoted propaganda has been facilitated in the West by a variety of circumstances too complex to review here. But, while conceding that the OIC’s warnings about Islamophobia are justified, one can nonetheless plausibly maintain that the human rights protections enjoyed by Muslims in the West remain generally strong, which is why Muslims suffering from repression and religious persecution in OIC member states keep fleeing to Europe and other Western democracies. The flow of Muslim refugees from OIC members to Europe has greatly augmented as religious warfare and terrorist attacks have devastated many parts of the Middle East. Like other refugees, Muslims have demonstrated their appreciation for the human rights protections that are afforded in Western democracies. Muslims hungry for expanded freedoms endure severe hardships and expose themselves to great risks to reach havens in the West even when this means that they will be facing Islamophobic demagogues who seek to demonize Islam and mobilize popular opinion against Muslims.

The fact that inhabitants of OIC countries find that their human rights are better protected in Western democracies is an inconvenient truth for someone like Ihsanoglu, who while in office was an aggressive promoter of the idea that Western Islamophobia imperils and severely harms Muslims. When an al-Jazeera interviewer in 2013 asked him why, if Western Islamophobia was endangering Muslims, so many Muslims were fleeing Muslim countries and seeking asylum in the West, he abruptly deflected the question, refusing to discuss the issue and abruptly launching into a digression on an unrelated issue.³⁸ Because the OIC wants to deflect attention away from the lethal religious conflicts going on inside its member states, the OIC avoids honestly confronting the alarming scale of harms to human rights that result from the policies of OIC member states in the religious domain.

³⁷ The Anti-Muslim Film & the Human Rights; Release by the OIC Human Rights Commission, *onislam*, September 20, 2012, at <http://www.onislam.net/english/family/muslims-4-humanity/humanitarian-issues/459129-the-anti-muslim-film-a-the-human-rights-.html>

³⁸ See Ekmeleddin Ihsanoglu: Combating Islamophobia

CONCLUSION

Self-contradictions are manifest in the OIC's continuing efforts to use international human rights law to extend its regime of Islamic censorship to the West now that it is also attempting to portray itself as respectful of the values in the ICCPR. Thus, one has Ihsanoglu's statement made in his al-Jazeera interview in June 2013 in which he denied that the OIC wanted to place any restrictions on freedom of expression – this after many years of seeking to impose Islamic censorship on the West. Although Ihsanoglu's concern remained curbing expression that offended Islamic sanctities, he was motivated to distort the OIC's actual human rights policies. When asked about the OIC's stance on freedom of expression, in a statement that directly contradicted the record, he insisted that the OIC did not call for limits on freedom, merely wanting freedom of expression "with dignity," speaking as if expression-with-dignity were a meaningful human rights concept.³⁹ That is, having promulgated the Cairo Declaration with its explicit Islamic limits on freedom of expression, having been on the record for years as asserting that Islamic requirements entailed imposing curbs on freedom of expression, and having repeatedly sought to give extraterritorial extension to its members' draconian censorship policies by putting a rule criminalizing defamation of Islam in international law, the OIC Secretary General, with stunning disregard for the self-contradiction involved, claimed that the OIC respected the right to freedom of expression.

One dimension of the incoherence of OIC's efforts since 2011 to position itself as being allied with mainstream human rights policies is that it neglects to disavow its earlier commitment to upholding the supremacy of Islamic law at the expense of human rights. Instead of making an unequivocal break with the idea that Islamic law overrides international human rights law, it has simply taken steps to downplay its support for Islamic censorship. Emblematic of the OIC's current nervousness about its association with Islamic exceptionalism is the way that the Cairo Declaration has been relegated to an inconspicuous position on its website. For many years if one went to the opening page of the OIC website and clicked on the rubric Human Rights, the Cairo Declaration would pop up. When in 2013 the OIC belatedly appreciated that the Cairo Declaration could be used by critics to disprove OIC claims to be committed to uphold the ICCPR, the declaration disappeared from the main page of the OIC website.

³⁹ Ibid.

Based on a superficial impression, some may be persuaded by the OIC's self-presentation, agreeing that the OIC's positions on human rights have significantly evolved in the decades since it produced the Cairo Declaration and deciding that its 2011 sponsorship of Resolution 16/18 points to an acceptance of the principles in the ICCPR regarding freedom of expression. When carefully examined, however, the OIC's record indicates that a different conclusion is called for: The OIC has superficially reached an accommodation with the principles set forth in Resolution 16/18, but in actuality it remains wedded to its original position as articulated in the Cairo Declaration that Islamic criteria should limit freedom of expression. Significantly, on the IPHRC website there is a list of human rights documents "OIC Human Rights Related Instruments and Texts" that includes the Cairo Declaration but eliminates the ICCPR.⁴⁰ The positions that it advocated when seeking UN endorsements of its many resolutions on combating defamation of Islam still express its priorities, which involve winning support for the idea that the West is wronging Islam and thereby wronging Muslims by failing to censor expression that Muslims deem blasphemous or sacrilegious. Its overall objective is to tailor international human rights law by reading into it the rule that Islamic sanctities must be protected from insults. Criminalizing expression that is offensive according to Islamic criteria is a policy that may make sense within the framework of a system designed to enforce Islamic doctrine, but it is incongruous in the context of civil and political rights that are designed to have universal application and to protect human beings from governmental overreaching.

There is also a strong political slant in the OIC's complaints about defamation of Islam. It turns out that the targets are Western democracies, where prestigious human rights NGOs are based that have lambasted OIC members for their deplorable human rights performances and where the governments also have criticized OIC members for failing to meet their human rights obligations. That is, in the area of freedom of expression, the OIC seems to have been seeking to establish a basis for attacking Western democracies as a means of retaliation, hoping to place them on the defensive, with the result that its complaints about insults to Islam focus on instances where it can cast blame on Western democracies for shirking their duty to curb such expression. Because the politics of retaliation are central, one has bizarre instances like Ihsanoglu's complaint about the Utoya massacre, a case that seems to be classed under the rubric of Islamophobia merely so that the OIC would have a pretext to attack Norway.

The OIC shows remarkable indifference to the gross violations of the principles set forth in Resolution 16/18 that have been occurring with increasing frequency on the territories of its members. One is struck, for example, by its failure to respond vigorously to the desperate humanitarian crises in many OIC member states, where ferocious religious conflicts – Muslims against other Muslims and Muslims against non-Muslim minorities – have proliferated. The OIC reacted with more intense outrage to the Danish Cartoons than it did to the religiously-based vilifications hurled by antagonistic sects of

⁴⁰ See <http://www.oic-iphrc.org/legal/>

Islam that were integral components of the lethal intercommunal violence in which civilians became targets of terrorist assaults and were slaughtered with heinous weapons like poison gas and barrel bombs. In 2014 the IPHRC at least acknowledged “the ongoing state of political, sectarian and security chaos in various parts of the Muslim world,” adding that it “strongly condemned all forms of intolerance, fanaticism, extremism and discrimination.” Nonetheless, the IPHRC showed a disinclination to blame OIC member states, treating them as the victims of sedition and calling for them “to unite against sectarian policies, which lead to the emergence of sedition pervading the political arena and creating chaos that endanger peace, stability and sovereignty of affected States.”⁴¹

Whatever deficiencies and blind spots Western democracies have shown in the human rights domain, and they are many, they pale into insignificance when measured against the flagrant double standards that the OIC has exhibited when it pretends to be concerned with protecting Muslims’ human rights. A reappraisal of the OIC’s human rights policy is called for. The OIC needs to end a situation where its positions on human rights are riddled with blatant contradictions and inconsistencies. Questions arise, including: Does the OIC conceive of its mission as an essentially religious one of working to prioritize Islamic concerns, broadly defined, and protecting Islamic sanctities even when this entails sacrificing human rights? In this connection, does it intend to concentrate its energies on attempts to place Western democracies on the defensive? Or, does it want to act like a partner with the UN in the domain of secular human rights law and gain respect and credibility by working based on coherent principles to advance human rights generally and the human rights of Muslims in particular? If it wants credibility, it is time to choose.

In what could be seen as at least a tentative sign that some in the OIC had moved a considerable distance from the position that it had taken in the Rushdie Affair, when it implicitly legitimated Iran’s call for assassinating Rushdie on the grounds that his novel was “against Islam,” in January 2015 the IPHRC “condemned in the strongest terms possible the terrorist attack . . . on the offices of Charlie Hebdo.” Instead of lambasting France for allowing the publication of cartoons that insulted the Prophet, the IPHRC stated that it “regretted the barbaric act and expressed solidarity with the bereaved families, and the French nation for this tragic loss.” IPHRC voiced no sympathy for the killers of the cartoonists, who claimed to be avenging insults to the Prophet, instead using terms that suggested support for international human rights law, proclaiming:

its strong rejection of radicalism, intolerance and terrorism in all its forms and manifestations, wherever they exist. The Commission further noted

⁴¹ IPHRC calls upon OIC Member States to observe Islamic Human Rights and Human Dignity Day, August 5, 2014, at <http://www.oic-iphrc.org/data/docs/Media/Press%20Statements/EV/IPHRC%20Press%20Release%20-%205th%20August%20-%202014%20-%20EV.pdf>

the need now more than ever before to consolidate regional and international efforts to address and put an end to these phenomena. It is indeed the collective duty of the international community to consolidate universal values of humanity, to combat intolerance, discrimination and hatred and promote inter-religious and inter-cultural dialogue for better understanding and peaceful co-existence; while observing respect for all human rights and fundamental freedoms.⁴²

Moreover, instead of using this incident as a pretext for invoking Cairo Declaration principles to legitimize calls for Islamic censorship, the IPHRC is reported as saying that “responsible use of freedom of expression in accordance with international human rights law is fundamental for building peaceful and progressive democratic societies.”⁴³

Does this signal a turning point? Those eager to see the OIC change course and embrace the values of international human rights law as its guidelines must hope so.

⁴² IPHRC condemns terrorist attack on Charlie Hebdo Magazine in France, January 12, 2015, at http://www.oic-oci.org/oicv2/topic/?t_id=9678&t_ref=3849&lan=en

⁴³ Ibid.

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