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UNDERSTANDING THE ROLE OF THE
ORGANISATION OF ISLAMIC COOPERATION
IN HUMAN RIGHTS



FORUM-ASIA



FORUM-ASIA Working Paper Series: Asian Perspectives on International Human Rights Landscapes

Number 1: September 2014

Understanding the Role of the Organisation of Islamic Cooperation in Human Rights



Figure 1: OIC Member States¹

1 Map of the world showing the member states of the Organisation of the Islamic Conference, available at https://commons.wikimedia.org/wiki/File:OIC_Member_States.png licensed under Creative Commons Attribution 3.0 Unported

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Understanding the role of the Organisation of Islamic Cooperation in Human Rights

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About FORUM-ASIA Working Paper Series

The FORUM-ASIA Working paper series seeks to build Asian perspectives on international human rights landscapes and open new vistas for discussion, debate, research and advocacy on a range of cross-cutting topics that touch on Asia, human rights and international political architectures. We welcome feedback from readers and ideas for further research or new research topics at una@forum-asia.org.

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About Asian Forum for Human Rights and Development (FORUM-ASIA)

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a membership-based regional human rights organisation working to promote and protect all human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia.

FORUM-ASIA (www.forum-asia.org) was founded in 1991 in Manila and its regional Secretariat has been located in Bangkok since 1994. It is an NGO in Special Consultative Status with the ECOSOC and operates an international office in Geneva as well as an ASEAN Advocacy office in Jakarta. At present, FORUM-ASIA has 47 member organisations from 16 Asian countries across South Asia, Southeast Asia and Northeast Asia.

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Executive Summary

The Organisation of the Islamic Cooperation (OIC, formerly known as the Organisation of the Islamic Conference), established in 1969, is the second largest inter-governmental organisation after the United Nations with 57 Member States including Palestinian Territories. Out of the 57 Member States, 26 States belong to Asian region.

In 2005, OIC launched a reform program that culminated in adopting a revised Charter in 2008 replacing the Charter of 1972. The new Charter seemed to reflect an increased prominence for human rights within the OIC, and it paved the way for the establishment of the OIC's Independent Permanent Human Rights Commission (IPHRC). In addition to the stipulation that IPHRC will be one of the eleven primary organs of the OIC, the new Charter expresses the OIC's determination to "promote human rights and fundamental freedoms, good governance, rule of law, democracy and accountability", and "safeguard and promote the rights of women and their participation in all spheres of life" in member States in accordance with domestic legislation. In addition to these transformations, OIC appear to be more willing to engage with civil society organisations on human rights. It is in this context, and the increasing need to understand the OIC, particularly its human rights mechanisms and discourse, as identified by civil society organisations based in OIC countries in Asia that FORUM-ASIA is undertaking this working paper. This paper is divided in to three main parts: human rights instruments and mechanisms within OIC; reaction of OIC to human rights violations; and thematic focus areas pertinent to OIC with a particular focus on defamation of religions and sexual orientation and gender identity.

1. OIC human rights instruments and mechanisms

OIC has attempted to base its perception of human rights on several sources such as the Cairo Declaration of Human Rights in Islam as well as policy documents like the OIC Ten Year Programme of Action. Furthermore the OIC has also attempted create legally binding instruments such as the Covenant on the Rights of the Child in Islam. This paper, however, looks closely at the Cairo Declaration of Human Rights in Islam and the Ten-Year Programme of Action.

OIC maintains that the Cairo Declaration of Human Rights in Islam (Cairo Declaration), adopted in 1990, should serve as general guidance on human rights for member States, and member States should coordinate their positions on human rights at international forums in accordance with the Cairo Declaration. Although the Cairo Declaration is generally complementary to the Universal Declaration of Human Rights, it has been rejected by many for its specific stipulations that freedoms and rights included in it are subject to Islamic Shari'a, and that Shari'a should be the only source of reference for explanation of its articles.

The initial excitement that surrounded the adoption of the Cairo Declaration and its centrality in OIC affairs have continued to gradually diminish. Similarly the trend of placing Shari'a at the centre of OIC's human rights documents that began with the Cairo Declaration has also declined. New human rights documents such as the Covenant of the Rights of the Child in Islam or the Statute of the IPHRC have markedly moved away from placing Shari'a in their centre. However, with the diminishing importance of Shari'a, the new OIC human rights documents have preserved and strengthened the traditional view of national sovereignty. Traditional interpretation of sovereignty in OIC documents could be seen as an attempt to institutionalise the legitimacy of claims that human rights are domestic matters. Most OIC member states are vehement supporters of this claim. This emphasis on national sovereignty also allows states to apply their own interpretation of Shari'a in domestic laws and practices.

The establishment of the IPHRC in 2011 was a first step by OIC to institutionalise human rights as stipulated in its new Charter that was adopted in 2008. According to the Statute of the IPHRC, the mandate of the 18-member institution is limited to carrying out consultative tasks for the Council of Foreign Ministers and submitting recommendations to it, rather than investigating human rights violations in member countries or undertaking protective functions. Since its inception, IPHRC has held five regular sessions and finalised its Rules of Procedures (RoP). The RoP finalised at the second session of the IPHRC and adopted by the Council of Foreign Ministers in 2012 adopts an expansive interpretation of the Statute and allows it to expand its activities to include protection and promotion of human rights, as opposed to the advisory role given to it in the Statute. IPHRC has also finalised its standing agenda. Permanent items on

the standing agenda are civil, political, economic, social and cultural rights in OIC Member States; human rights situation in Palestinian and other Arab territories; and human rights issues on the OIC agenda. Despite the statutory guarantees of IPHRC's cooperation with civil society, IPHRC has been reluctant to engage with civil society organisations. Consecutive meetings of IPHRC continue to defer the adoption of draft institutional procedure for the engagement with civil society organisations. This coupled with the selection of Jeddah, Saudi Arabia, as the headquarters of the IPHRC raise questions about IPHRC's willingness to cooperate with civil society as well as the space available for civil society to work with IPHRC.

2. OIC's reaction to human rights violations

This increase in the institutional role for human rights within OIC, has come side by side with an increase in debate within OIC about human rights situations in member countries, such as Syria and Libya, marking a significant shift from its focus on human rights in Palestine and of Muslim minorities in non-OIC member States. OIC also appears to be more open to engage in the debate on country-specific human rights situations, especially in international forums, with significant inconsistencies in OIC members' voting behaviour in the Human Rights Council on country-specific issues.

At UN human rights forums, as the second largest intergovernmental organisation, OIC holds considerable sway in global dynamics related to human rights. Influence of OIC bloc voting on UN human rights agenda has been most consequential through its positions on human rights situation in Palestine and OIC has successfully placed the issue on the Human Rights Council agenda. However on other country-specific issues, despite its fealty to traditional conceptions of national sovereignty, OIC member States' positions on country-specific resolutions at the Human Rights Council have been largely inconsistent. Such inconsistencies between communicated OIC positions on country specific resolutions and how OIC members vote on these resolutions open up new areas on inquiry on OIC's position on country specific resolutions in practice.

Safeguarding and promoting the rights of Muslim minorities in non-OIC member States is one of the primary functions and objectives of the OIC. OIC's engagement with situations involving Muslim minorities has been oriented towards mediation, conflict resolution and providing humanitarian assistance. In Asia, OIC's involvement had in the past been visible in their mediation efforts in the Philippines and Thailand, between the governments and Muslim separatists. More recently, OIC's direct involvement to resolve the communal conflict in Burma/Myanmar between Rohingya Muslims and majority Buddhists has been particularly noteworthy. However, questions remain whether OIC is open to hold itself to the same standards it demands from non-Member States when it comes to Muslim and non-Muslim minorities in OIC member States, given increasing reports of abuse of the rights of such minorities in many OIC countries.

3. Thematic focus areas concerning the OIC

On thematic issues relevant to OIC, this paper looks at two topics: 1. the evolution of defamation of religions debate; and 2. OIC's stand against recognition of the discrimination and violence based on sexual orientation and gender identity (SOGI) as a human rights concern. On defamation of religions, although OIC has for now opted for a more inclusive resolution, resolution 16/18, at the Human Rights Council, OIC's internal decisions suggest it has not yet completely abandoned its plans for a legally binding instrument against defamation of religions. On SOGI, OIC and its member States continue to stand adamantly against any reference of the rights of lesbian, gay, bisexual, transgender, intersex and questioning (LGBTIQ) people in the international human rights forums.

Recommendations

OIC should:

- Consider revising the Cairo Declaration to make it compatible with universally accepted international human rights standards.
- Actively promote and protect the rights of Muslim and non-Muslim minorities in its member States.
- Ensure transparency of its activities and decisions by adopting measures to make resolutions, decisions, policies, proceedings, reports and other relevant official outcomes and documents publicly available and accessible. To this end OIC should also work towards a progressive disclosure policy comparable to that of similar intergovernmental institutions such as the UN.
- Review the Statute of the IPHRC in order to ensure its independence, autonomy and impartiality and make the body compatible with international human rights standards and good practices from other regional human rights mechanisms. The review should be conducted in a transparent and an inclusive manner with the full participation of the IPHRC, civil society organisations as well as national human rights institutions. It should also involve extensive input from other regional and international institutions including UN human rights bodies and mechanisms.
- Empower the IPHRC to conduct investigations into allegations of human rights violations by OIC member States through appropriate amendments and/or revisions to the Statute of the IPHRC.
- Continue to move beyond the idea of defamation of religion to further build on the international consensus found in the UN Human Rights Council resolution 16/18 on combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence and violence against, persons based on religion or belief.

- Give due consideration to advice and recommendations by IPHRC in decision- and policy-making processes as well as in the coordination of OIC positions on human rights issues within Member States and at international forums.
- Take into account universally accepted international human rights standards in developing common OIC positions on human rights issues at international forums.
- Facilitate an independent and transparent review of the implementation of the Ten-Year Programme of Action 2005-2015 and ensure that the results of this review inform and serve as a basis for the process of elaborating the new Ten-Year Programme of Action (2016 to 2025).
- Coordinate its activities with other intergovernmental organisations, in particular the United Nations, and international and national non-governmental and humanitarian organisations to provide humanitarian aid and assistance to the Rohingya population in Burma/Myanmar with a view to protect and promote their rights in an inclusive and transparent manner.

IPHRC should:

- Ensure that its decisions are adequately inclusive of the views and contributions of civil society organisations and national institutions. To this end it should expedite the enactment of necessary regulations and rules of procedure to enable meaningful participation of civil society organisations and national human rights institutions in its meetings, activities and processes.
- Put in place measures to overcome unreasonable decisions by host nations or OIC member states that could affect the participation of some or all civil society organisation in IPHRC's activities.
- Amend its rules of procedure and standing agenda to address the protection of minority groups in OIC member States.

- Conduct research and advise Member States, as empowered by the Articles 16 and 17 of the Statute. In this regard, among others, it should particularly look into ways of mainstreaming international human rights standards into OIC's positions on sexual orientation and gender identity, protection of minorities in Muslim majority countries and defamation of religions.
- Utilise Article 17 of the Statute of IPHRC and proactively "submit recommendations on the refinement of OIC's human rights declarations and covenants" in accordance with international human rights standards (These include the Cairo Declaration of Human Rights in Islam and the Covenant on the Rights of the Child in Islam.)
- Take steps to make its resolutions, decisions, reports, proceedings and other documents widely available and accessible in order to enhance its transparency, accountability and accessibility.

OIC Member States should:

- Involve national civil society organisations and other stakeholders in the process of selecting nominees for the membership of IPHRC.
- At international forums ground their individual positions on human rights issues in universally accepted international human rights standards. International standards should also be the basis for their coordination and cooperation with OIC on human rights issues and situations being considered at international forums such as the UN Human Rights Council.

Introduction

The Organisation of the Islamic Cooperation (OIC)² is the second largest inter-governmental organisation after the UN, with a membership of 57³ States (including Palestinian Territories). All of these 57 States are from the global South and include several countries that are emerging today as influential players in the world stage. 26 out of 57 OIC Member States belong to Asian region. OIC's reform programme began in 2005 and culminated in 2008 with the adoption of a revised Charter which replaced the Charter of 1972. This new Charter indicated an increasing prominence for human rights within the OIC and conceived OIC's Independent Permanent Human Rights Commission (IPHRC). These changes have also been accompanied by an increasing willingness within the organisation to engage with civil society. In a global geopolitical framework where Southern countries and South based groupings are increasingly attempting to play greater roles, OIC's entry into the human rights arena in a big way may have a significant impact on human rights issues that concern the global South.

It is in this context that Asian Forum for Human Rights and Development (FORUM-ASIA) decided to commission a working paper to study the overall working of OIC as well as new initiatives such as the IPHRC and OIC's positions on human rights issues at world bodies such as the UN Human Rights Council. This working paper caters to the increasing need for civil society to understand OIC's working mechanisms, underlying norms and particularly the OIC's focus on human rights. These needs were in fact identified at a regional consultation of civil society organisations from Asia held on 26 March 2013 in Bangkok.

Methodology and structure of the paper

Findings reported in this working paper are based on a basic survey of official documents of OIC available in the public domain including the OIC website. Resolutions, declarations and official documents of OIC Islamic Summit Conferences and the Council of Foreign Ministers meetings as well as other OIC meetings and bodies were studied to understand OIC policies and positions on issues pertinent to OIC. In addition, OIC statements and records of OIC engagements at the international level, particularly at the United Nations (UN) and UN Human Rights Council shed light in to OIC's working mechanisms with a special focus on its human rights initiatives.

This working paper is organised into three parts: The first part looks at OIC's human rights instruments and mechanisms in an attempt to give an overview of the OIC's human rights framework; the second part looks at OIC's perspectives and positions with regards to human rights violations within countries; and the third part looks at two thematic areas of human rights that OIC has expended much energy on, namely: defamation of religions; and sexual orientation and gender identity.

² Formerly the Organisation of the Islamic Conference

³ Afghanistan, Albania, Algeria, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Chad, Comoros, Cote d'Ivoire, Djibouti, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Guyana, Indonesia, Iran, Iraq, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Libya, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Suriname, Syria, Tajikistan, Togo, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Yemen and Palestinian Territories.

1. OIC human rights instruments and mechanisms

This first section in FORUM-ASIA's working paper examines instruments and mechanisms that underpin the OIC's human rights positioning.

1.1 A New Charter

In 2008 OIC adopted a new Charter. The new Charter was the culmination of the organisational and institutional reform programme that OIC embarked on in 2005. Although legitimacy of human rights is recognised in the first OIC Charter adopted in 1972, the new Charter gives a greater normative and institutional role for human rights in the OIC. This Charter⁴ expresses the OIC's determination to "promote human rights and fundamental freedoms, good governance, rule of law, democracy and accountability", and "safeguard and promote the rights of women and their participation in all spheres of life" in member States in accordance with their legislation.

The new Charter includes clear commitments by OIC to uphold human rights, and creates explicit obligations on member States to protect and promote human rights domestically and internationally. Members of the OIC are required "to promote and to protect human rights and fundamental freedoms including the rights of women, children, youth, elderly and people with special needs as well as the preservation of Islamic family values".⁵ It also requires the OIC to "safeguard the rights, dignity and religious and cultural identity of Muslim communities and minorities in non-Member States".⁶ Furthermore, in a significant development, the revised OIC Charter also paved the way for the creation of the Independent Permanent Human Rights Commission (IPHRC) as one of the eleven organs of the OIC.⁷

Organs of the OIC



⁴ Charter of the Organisation of Islamic Cooperation (OIC Charter), OIC Islamic Summit Resolution No. 2/11-ORG(IS) adopted at the 11th OIC Islamic Summit Conference (Dakar, 13-14 March 2008) <<http://www.oic-oci.org/english/charter/OIC%20Charter-new-en.pdf>>

⁵ Ibid., Article 1(14)

⁶ Ibid., Article 1(16)

⁷ Ibid., Article 5

1.2 OIC's Human Rights Instruments

OIC has attempted to base its perception of human rights on customary documents, legally binding instruments and policy documents. These include the Cairo Declaration of Human Rights in Islam, the OIC Ten Year Programme of Action and the Covenant of the Rights of the Child in Islam. The first two forms the core of FORUM-ASIA's research and the following are not considered in this paper: the now redundant Universal Islamic Declaration of Human Rights of 1981; and the Statute of Islamic Court of Justice (fashioned after and as an Islamic alternative to the International Court of Justice).

1.2 (a) *The Cairo Declaration of Human Rights in Islam*

The Cairo Declaration of Human Rights in Islam (henceforth the Cairo Declaration) adopted in July 1990 has been described by OIC as a "document on human rights in Islam that will serve as a guide for member States in all aspects of life".⁸ The OIC maintains that the Cairo Declaration should serve as a "general guidance" on human rights for member States,⁹ and member States should coordinate their positions on human rights at international forums in accordance with the guidelines provided in the Cairo Declaration.¹⁰ The Cairo Declaration was introduced to the international community at the World Conference on Human Rights in Vienna in 1993 as the embodiment of worldwide Islamic consensus on human rights.¹¹

OBJECTIVES OF OIC, INTER ALIA, INCLUDE:

Promoting inter-state relations based on justice, mutual respect and good neighbourliness to ensure global peace, security and harmony;

Reaffirming its support for the rights of the peoples as stipulated in the UN Charter and international law;

Supporting and empowering the Palestinian people to exercise their right to self-determination and establish their sovereign State with Al-Quds Al-Sharif as its capital;

Protecting and defending the true image of Islam, to combat defamation of Islam and encourage dialogue among civilisations and religions;

Promoting and protecting human rights and fundamental freedoms including the rights of women, children, youth, elderly and people with special needs as well as the preservation of Islamic family values;

Emphasising, protecting and promoting the role of the family as the natural and fundamental unit of society;

Safeguarding the rights, dignity and religious and cultural identity of Muslim communities and minorities in non-Member States;

Promoting and defending unified position on issues of common interest in the international fora;

Cooperating in combating terrorism in all its forms and manifestations, organised crime, illicit drug trafficking, corruption, money laundering and human trafficking.

(Article 1 of the OIC Charter)

The Cairo Declaration's content is mostly complementary to the Universal Declaration of Human Rights. It also recognises and protects many rights prescribed in the international bill of rights.¹² Most of the controversy surrounding the Cairo Declaration stems from Articles 24 and 25. Article 24 states that "all the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'a", and Article 25 establishes Islamic Shari'a as "the only source of reference for the explanation or clarification of any of the articles of this Declaration".

8 Cairo Declaration of Human Rights in Islam (Cairo Declaration), OIC Council of Foreign Ministers Resolution No. 49/19-P adopted at the 19th session of the OIC Council of Foreign Ministers (Cairo, 31 July to 5 August 1990) <[http://www.oic-oci.org/english/conf/fm/19/19%20icfm-political-en.htm#RESOLUTION NO. 49/19-P](http://www.oic-oci.org/english/conf/fm/19/19%20icfm-political-en.htm#RESOLUTION%20NO.%2049/19-P)>

9 Ibid.

10 Final Communiqué of the 20th Islamic Conference of Foreign Ministers, adopted at the 20th session of the OIC Council of Foreign Ministers (Istanbul, 4 to 8 August 1991), <<http://www.oic-oci.org/english/conf/fm/20/20%20icfm-final-en.htm>>

11 Ann Elizabeth Mayer, *Islam and human rights: tradition and politics* (Westview Press, Cumnor Hill 2007) p 31

12 Turan Kayaoğlu, 'A rights agenda for the Muslim world? The Organisation of Islamic Cooperation's evolving human rights framework' [2013] Number 6, Brookings Doha Center Analysis Paper, Doha: Brookings Doha Center <<http://www.brookings.edu/~media/research/files/papers/2013/1/08%20oic%20human%20rights%20kayaoglu/turan%20kayaoglu%20english.pdf>> Accessed on 11 March 2013

Other controversial exceptions are: restrictions on the rights to freedom of religion through prohibitions on conversion from Islam; and restrictions on freedom of expression which is confined within the limits prescribed in the Islamic Shari'a.

The declaration also adds, in an attempt to reconcile between Islam and international human rights, two specifically Islamic rights: the right to remain Muslim (Article 10) and the prohibition of usury (*riba*) (Article 14).¹³

The initial excitement that followed the adoption of the Cairo Declaration and its introduction to the world stage at the Vienna Conference as well as its centrality in OIC affairs have continued to gradually decline in recent years. The trend of interpreting Shari'a to create controversial limitations in OIC human rights documents has also declined in parallel. While the Cairo Declaration established Shari'a as the "only source of reference", there is a marked shift in new OIC human rights documents, namely the Covenant on the Rights of the Child in Islam and the Statute of the IPHRC, to move away from this trend. The Covenant on the Rights of the Child in Islam recognised Shari'a 'within the broader context of Islamic values' and the IPHRC Statute did not make any reference to Shari'a¹⁴. However, like in the Cairo Declaration, supremacy of the state and traditional view of national sovereignty are preserved and strengthened in these new documents. The IPHRC Statute, for instance, instead of allowing the IPHRC to assume the function of promoting and protecting human rights in member states, requires it to support member states' efforts to protect human rights (Article 9)¹⁵ effectively reaffirming human rights protection as an exclusive prerogative of the state. This traditional interpretation of sovereignty that permeates new OIC human rights documents attempt to institutionalise the legitimacy of claims that human rights are domestic matters. However, this diminishing emphasis on Shari'a in OIC does not suggest negation of Shari'a as a reference point for human rights documents. Rather, increasing emphasis on national sovereignty gives states freedom to apply their own interpretations of Shari'a in domestic laws and practices.

1.2 (b) Ten-Year Programme of Action

The Ten-Year Programme of Action adopted by the OIC heads of State and government at the third session of the Extraordinary Islamic Summit Conference in December 2005 acts as a cornerstone of the institutional reform embarked on in 2005. The Ten-Year Programme of Action was developed with the awareness of "the potential for the...[Muslim world] to achieve renaissance", and "to take practical steps towards strengthening the bonds of Islamic solidarity, achieve unity of ranks, and project the true image and noble values of Islam and its civilisational approaches (*sic*)".¹⁶

Specifically on human rights and democracy, it outlines a strategy to renew OIC's emphasis on "democracy, civil society, political participation and respect for human rights" in order to face the challenges of "continued marginalization of the Ummah"¹⁷ and provide stability to achieve development and progress.¹⁸ The Ten-Year Programme of Action called on OIC members to consider the establishment of an independent permanent body to promote human rights and to elaborate an OIC human rights charter. The revised OIC Charter adopted in 2008 reflected the recommendation and included an independent human rights body within its institutional framework. This human rights body, the OIC Independent Permanent Commission on Human Rights (IPHRC) was established in 2011.

Other human rights related initiatives included in the Ten-Year Programme of Action concern the rights of women and children. Cross-cutting themes addressed under women's and children's rights include the preservation of "family as the principal nucleus of the Muslim society."¹⁹ Following this, controversially OIC maintains that "the issue of family should continue to be part of the discussion of all meetings and forums related to women in the OIC."²⁰

13 Ibid.

14 Ibid.

15 Ibid.

16 OIC Ten-Year Program of Action to Meet the Challenges Facing the Muslim Ummah in the 21st Century (OIC Ten-Year Programme of Action), adopted at the 3rd Extraordinary session of the Islamic Summit Conference (Mecca, 7 to 8 December 2005) <<http://www.oic-oci.org/ex-summit/english/10-years-plan.htm>>

17 Islamic Ummah is defined as the global community of Muslims bound by faith, Islam.

18 OIC Ten-Year Programme of Action (n 16)

19 Ibid.

20 Cairo Final Communiqué of the Twelfth Session of the Islamic Summit Conference (Cairo Final Communiqué), adopted at the 12th OIC Islamic Summit Conference (Cairo, 6 to 7 February 2013) OIC Doc. No. OIC/SUM-12/F.C./FINAL <http://www.oic-oci.org/external_web/is/12/en/docs/final/is12_fc_rev2_en.pdf>

**OBJECTIVES OF THE OIC INDEPENDENT PERMANENT
HUMAN RIGHTS COMMISSION****Article 8**

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

Article 9

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

Article 10

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

Article 11

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

(Chapter III of the Statute of the OIC IPHRC)

To implement the Ten-Year Programme of Action, OIC has started the process of establishing a specialised organisation for women's development in OIC member countries with the adoption of the Statute of OIC Women Development Organisation in May 2009. The organisation, which is to be based in Cairo, Egypt, is expected to work for the "development and promotion of the role of women in the OIC Member States, with capacity, skills and competence building, through various mechanisms, including training, education and rehabilitation, in line with Islamic principles and values."²¹ Moreover, Article 5(1) of the founding statute of the OIC Women Development Organisation states that it should "highlight the role of Islam in preserving

the rights of the Muslim woman especially at the international fora in which the Organisation is involved." Organisational objectives and mandate outlined in the Statute do not allow OIC Women Development Organisation to engage directly in a women's rights discourse within the OIC member countries. Instead, its objective appears to be facilitating women's participation in development and countering the negative stereotypes of women in Muslim societies.

The current ten-year programme of action comes to an end in 2015. OIC had expressed²² its satisfaction with the progress made in the implementation of the Ten-Year Programme of Action as it approaches the end of its period. The latest report on the implementation of the Ten-Year Programme of Action presented to the 40th session of the Council of Foreign Ministers held in December 2013 claimed that with the reform programme embarked on in 2005 OIC has witnessed a paradigm shift and a conceptual change resulting in a complete overhaul of the organisation.²³ On human rights related issues, OIC notes the establishment of the IPHRC as a major achievement towards the implementation of the political agenda and institutional reform objectives included in the Ten Year Programme of Action²⁴. OIC's "remarkable progress" since the inception of the Ten-Year Programme of Action in 2005, it claims, has improved the organisation's image at the global level and enhanced the quality of its internal bureaucracy and organisational processes, and consequently the organisation has gained the confidence of Member States.²⁵ In addition, OIC professes achievements especially in implementing "institutional reforms for conflict resolution and advancement of welfare of the OIC peoples in socio-economic, cultural and humanitarian domains."²⁶

21 Statute of the OIC Women Development Organisation, adopted by the 37th session of OIC Council of Foreign Ministers (Dushanbe, 18 to 20 May 2010) OIC Doc No OIC/EGM-2009/DS-WDO/REP/FINAL, Article 2 <http://www.oic-oci.org/english/convention/Statue_of_the_oic_women_development_org_en.pdf> accessed 14 May 2013

22 OIC Resolution No. 1/40-TYPOA on Statutes [sic] of Implementation of the OIC Ten Year Programme of Action (OIC Resolution No. 1/40-TYPOA), adopted by 40th session of Council of Foreign Ministers (Conakry, 9 to 11 December 2013) in OIC Doc No OIC/CFM-40/2013/TYPOA/RES/FINAL <<http://www.oic-oci.org/oicv2/subweb/cfm/40/fm/en/docs/ECO-TYPOA-40-CFM-RES-ENG.pdf>> accessed 20 June 2014

23 Organisation of Islamic Cooperation (OIC), 'Report of the Secretary-General on the Implementation of the OIC Ten-Year Programme of Action submitted to 40th session of the Council of Foreign Ministers' (Conakry, 9 to 11 December 2013) <http://www.oic-oci.org/oicv2/subweb/cfm/40/fm/en/docs/rep/cfm_40_som_rep_typo_v2_en.pdf>

24 Ibid.

25 Ibid.

26 OIC Resolution no. 1/41-TYPOA on the status of implementation of the OIC Ten Year Programme of Action (OIC Resolution no. 1/41-TYPOA), adopted by 41st session of OIC Council of Foreign Ministers (Jeddah, 18-19 June 2014) OIC Doc No OIC/CFM-41/2014/TYPOA/RES <<http://www.oic-oci.org/oicv2/subweb/cfm/41/cfm/en/docs/TYPOA%20-%20RES%2041%20CFM.pdf>> accessed 25 June 2014

However, it is important to note that there are no comprehensive independent analyses of the Ten-Year Programme of Action or its implementation. All reports that profess OIC's accomplishments in the implementation of the current Ten Year Programme of Action are based on OIC's own evaluations without much transparency in process and of determinants of success. For instance, while the OIC celebrates the establishment of the IPHRC as a major milestone, three years after its inception, the Commission is still struggling to formalise its institutional structure and working processes.

The Council of Foreign Ministers has instigated the process of elaborating a new ten year programme of action that would set off at the expiration of the current ten-year programme of action in 2015. At the 41st session in June 2014, the Council of Foreign Ministers charged the OIC Secretary-General with convening an Inter-Governmental Expert Group Meeting to review and evaluate the implementation of the current ten year programme of action and to draft a new OIC programme of action (2016 to 2025).²⁷

1.2 (c) OIC Independent Permanent Human Rights Commission (IPHRC)

IPHRC's founding Statute²⁸ was adopted in 2011, as per the Charter of the OIC. Article 15 of the Charter specifies the broader mandate of the IPHRC as promoting "the civil, political, social and economic rights enshrined in the organisation's covenants and declarations and in universally agreed human rights instruments, in conformity with Islamic values." According to the Statute of the IPHRC, its mandate is limited to carrying out consultative tasks for the Council of Foreign Ministers and submitting recommendations to it,²⁹ rather than investigating human rights violations in member countries or undertaking protective functions.

IPHRC is composed of 18 "experts of established distinction in the area of human rights" – six members from each geographic regional group (African, Arab and Asian) represented in the OIC – nominated by member States and elected by the Council of Foreign Ministers for a period of three years.³⁰

MANDATE OF THE OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION

Article 12

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

Article 13

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

Article 14

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

Article 15

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

Article 16

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

Article 17

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

(Chapter IV of the Statute of the OIC IPHRC)

²⁷ Ibid.

²⁸ Statute of the OIC Independent Permanent Commission on Human Rights, OIC Council of Foreign Ministers Resolution No. 2/38-LEG adopted at the 38th session of the Council of Foreign Ministers (Astana, 26 to 28 June 2011), OIC Doc. No. OIC/IPCHR/2010/STATUTE <http://oic-info.org/sites/default/files/user_upload/Ressolution%20on%20OIC%20IPHRC%20and%20Statute.pdf>

²⁹ Ibid., Article 12

³⁰ Ibid., Article 3

After much delay, OIC Council of Foreign Ministers has selected, in June 2014, Jeddah, Saudi Arabia as the location for the headquarters of the IPHRC.

IPHRC held its first session in Jakarta in February 2012, and the second session in Ankara in August 2012. The Jakarta session formulated the IPHRC's standing agenda and elaborated on Rules of Procedure that were finalised at the subsequent session held in Ankara. The first session in Jakarta decided that the civil, political, economic, social and cultural rights in OIC Member States, the human rights situation in Palestinian and other Arab territories, and human rights issues on the OIC agenda will be permanent items on the IPHRC's standing agenda.³¹ Under the agenda item on civil, political, economic, social and cultural rights in OIC Member States, IPHRC currently considers issues related to rights of women, rights of children, right to development and human rights education. Agenda item that require IPHRC to consider the human rights issues on the OIC agenda remains largely flexible. It requires IPHRC to take up any human rights-related issue that the Islamic Summit or the Council of Foreign Ministers consider urgent and important. Issues presently considered under this item include combating Islamophobia and incitement to hatred and violence, situation in OIC Member States and Rohingya Muslim minority in Burma/Myanmar and human rights situation in Central African Republic as part of its focus on the situation of Muslim minorities in non-OIC Member States.

The second session held in Ankara, in addition to finalising the Rules of Procedure, focused on rights of women and children and the right to development, and set up a working group to formulate approaches to address these rights in member States.³² A working group was also set up on Islamophobia and incitement of hatred and violence on religious grounds. Functions of these working groups are limited to advising the IPHRC on human rights approaches to address these issues in Member States.³³

IPHRC held its third regular session in October 2013 in Jeddah, Saudi Arabia. This session saw the establishment of four working groups on the four priority areas identified in the first session: Working Group on Palestine, Working Group on the Human Rights of Women and the Child, Working Group on Islamophobia and Muslim Minorities and Working Group on the Right to Development.³⁴ On the fifth priority area, human rights education, it was decided that all four working groups will pursue the issue. The Commission also set up an *ad hoc* working group on contact and relationship with national human rights institutions and civil society organisations. Among the other issues discussed during the third session were combating Islamophobia and discrimination based on religion, human rights of Palestinian people and situation of Rohingya in Burma/Myanmar. IPHRC decided to make visits to Occupied Palestinian Territories and Burma/Myanmar to assess the situation of human rights of Palestinian people and Rohingyas respectively.³⁵

Fourth session of the IPHRC was held in February 2014 in Jeddah. In addition to the abovementioned items on its agenda, the Commission deliberated on building relationships with national human rights institutions and civil society organisations, and decided to formulate an institutional framework for interaction with these stakeholders. IPHRC decided to finalise the framework at the fifth session to be held in June 2014.³⁶

Jeddah, Saudi Arabia, also hosted the fifth regular session of the IPHRC in June 2014. Besides the deliberations on the regular agenda items including human rights situation in the Occupied Palestinian Territories and situation of Rohingyas in Burma/Myanmar, the Commission considered reports on the situation of human rights in Central African Republic and negative impact of economic and financial sanctions on the full range of human rights of the people in the targeted OIC States.³⁷ Report on the Central African Republic which follows a visit by the IPHRC to the

31 OIC, 'IPHRC expresses deep concern about ongoing human rights violations in Syria, the Commission identifies women's rights, education, development and research as priority work areas' *OIC Newsletter* (29 February 2012) Number 9 [Online] <<http://www.oic-oci.org/newsletter.asp>> accessed 11 March 2013

32 OIC, 'OIC Human Rights Commission finalises its rules of procedure' *OIC Newsletter* (5 September 2012) Number 36 [Online] <<http://www.oic-oci.org/newsletter.asp>> accessed 11 March 2013

33 Ibid.

34 OIC, 'The Independent Permanent Human Rights Commission Closes its 3rd Regular Session in Jeddah Decides to visit Palestine and Myanmar to assess human rights situation' (31 October 2013) <http://www.oic-oci.org/oicv2/topic/?t_id=8583&ref=3452&lan=en> accessed 11 March 2013

35 Ibid.

36 OIC, 'OIC Independent Permanent Human Rights Commission (IPHRC) concludes its 4th Session' (16 February 2014) <http://www.oic-oci.org/oicv2/topic/?t_id=8872&ref=3560&lan=en> accessed 20 June 2014

37 OIC, 'OIC Independent Permanent Human Rights Commission (IPHRC) concludes its 5th Regular Session' (5 June 2014) <http://www.oic-oci.org/oicv2/topic/?t_id=9121&ref=3654&lan=en> accessed 20 June 2014

country reportedly provides an overview of the ongoing human rights situation, specific recommendations to address the state of affected Muslim population as well as steps to avoid of recurrence. According to OIC, the report sanctioned by the Council of Foreign Ministers on negative impact of economic and financial sanctions on human rights in OIC States labels “economic and financial sanctions as illegal, discriminatory and counter-productive to the purposes and principles of the UN Charter and other international human rights standards.”³⁸ While the Commission failed to adopt its arrangement for the engagement with civil society organisations, it decided to invite national human rights institutions to its future meetings. IPHRC also decided to establish an *ad-hoc* sub-working group to monitor violations of human rights of Muslim minorities.

IPHRC finalised its Rules of Procedure (RoP) at its second session held in Ankara in September 2012, and was subsequently adopted by the 39th session of the Council of Foreign Ministers in Djibouti. RoP is a relatively progressive document that allows the commissioners much space and flexibility in interpreting their mandate, within the boundaries of the OIC Charter and IPHRC Statute, to independently promote human rights. Primarily, RoP affirms IPHRC’s position as “the principal organ of the OIC in the domain of human rights” (Rule 2.1). It also specifies that IPHRC should support member states in the “promotion and protection” of human rights (Rule 2.1) and advance human rights and fundamental freedoms in member states and as well as fundamental rights of Muslim minorities in non-member states (Rule 2.2). This somewhat expansive interpretation of IPHRC’s mandate allows it to expand its activities to include protection and promotion of human rights, as opposed to the advisory role given to it in the Statute. Similarly, RoP is also an expression of the commissioners’ intention to ensure their independence, immunity from state influence and credibility. RoP stipulates that commissioners act in their personal capacity and express their own opinions (Rule 6.1) “free from any kind of extraneous influence” (Rule 6.2). Commissioners are prohibited from receiving “instructions from any state, including their own, or any other third party” (Rule 6.3). One conspicuous omission in the RoP is the protection and promotion of human rights of Muslim and non-Muslim minorities in predominantly Muslim countries.

The establishment of IPHRC symbolises the increasing prominence of human rights and institutional reforms within the OIC,³⁹ and its desire to enhance its relevance and legitimacy among the peoples of member States and promote its credibility at the international level.⁴⁰ Moreover, IPHRC, as an initiative is symbolic of the growing influence of States like Turkey, Morocco, Indonesia and Malaysia whose approach to human rights may differ from that of traditional players in the OIC like Saudi Arabia, Iran and Pakistan.

IPHRC has the potential to be a significant agent of change in human rights practices of OIC countries domestically and internationally. With IPHRC, OIC countries have established a much-needed mechanism for internal criticism and introspection. Traditionally, OIC has tended to focus more on human rights violations outside the OIC, especially of Muslim minorities in the West and other non-Muslim countries.⁴¹

Although limited, the current consultative mandate in Article 17 of the IPHRC Statute that empowers it to “submit recommendations on refinement of OIC human rights declarations and covenants as well as suggest ratification of human rights covenants and instruments within the OIC framework and in harmony with Islamic values and agreed international standards” perhaps holds the greatest potential for the IPHRC to play a positive role in shaping the OIC’s human rights focus. According to this article, interpretation of Shari’a in light of human rights norms, and vice versa, is a part of the IPHRC’s mandate.⁴² This contains in it the possibility of revising the Cairo Declaration which forms the foundation of all of OIC’s human rights programs.

39 ‘Statement by H.E. Prof. Ekmeleddin Ihsanoglu, Secretary-General of the Organisation of Islamic Cooperation at the High Level Segment of the 22nd Session of the UN Human Rights Council’ (28 February 2013) <<https://extranet.ohchr.org/sites/hrc/HRCSessions/Regular-Sessions/22ndSession/OralStatements/Islamic%20Cooperation.pdf>> accessed 1 March 2013 [log in required]

40 Kayaoğlu (n 12)

41 Marie Juul Peterson, ‘Islamic or universal human rights? The OIC’s Independent Permanent Human Rights Commission’ [2012] 3 DIIS Report 2012, Copenhagen, Danish Institute for International Studies <http://www.diis.dk/graphics/Publications/Reports2012/RP2012-03-Islamic-human-rights_web.pdf> accessed 11 March 2013

42 Ioana Cismas (2011) ‘Introductory note on the Statute of the OIC Independent Permanent Human Rights Commission’ [2011] International Legal Materials 5(6), pp.1148-1160

38 Ibid.

Another significant positive for IPHRC mandate is the requirement to promote and support Member State-accredited civil society organisations working on human rights.⁴³ OIC's engagement with civil society is currently limited to its engagement with humanitarian organisations from OIC member countries. IPHRC Statute permits it to invite non-governmental Organisations, although with the consent of host country and approval of all members, to its meetings. Accordingly, its Rules of Procedure gives a greater institutional role for civil society. In order to consolidate civil society's role in IPHRC, it has drafted '*Arrangements for Consultation with Relevant Parties Including Civil Society Institutions, Non-Governmental Organisations and Individuals*'.⁴⁴ These draft rules are modelled after UN ECOSOC Resolution 1996/31 on consultative relations with NGOs. This document was initially scheduled to be adopted during the third session of the IPHRC held in October 2013. However, after the IPHRC failed to approve the draft rules during the 3rd session, its adoption was rescheduled, ineffectively, for each session that followed. IPHRC's intentions regarding the existing draft arrangement for the engagement with civil society remains unclear following its failure to adopt the draft document during the 5th session in June 2014. In the meantime, the June 2014 session of the IPHRC has decided to invite national human rights institutions of Member States to its future meetings.⁴⁵ This continued reluctance to formally adopt a framework to engage with civil society, adds to the uncertainty surrounding IPHRC's willingness to engage with civil society organisations.

Civil society participation in IPHRC meetings is subject, as stipulated in the Article 21 of IPHRC's founding statute, to the consent of host country and approval of Member. This highlights the need for willingness of member States to create an effective enabling environment for civil society organisations, especially those working on human rights, in their countries. This also relates to the concerns within the OIC about the location of IPHRC headquarters. In order to enhance the international legitimacy of the IPHRC and enable a truly participative atmosphere for civil society, IPHRC host country should have high standards of freedom of assembly and expression. However, OIC's decision to select Jeddah, Saudi Arabia, to host the headquarters of the IPHRC,⁴⁶ only further augments concerns and uncertainties about the space available for civil society to engage with and contribute to the work of the nebulous commission. Saudi Arabia's recent record in international forums vindicates such concerns. For instance, during the 26th session of the Human Rights Council in June, representatives of Saudi Arabia repeatedly interjected to silence a statement delivered by a non-government organisation at the Council criticising Saudi Arabia's human rights record.⁴⁷

43 Statute of the OIC Independent Permanent Commission on Human Rights (n 28), Article 15

44 This document is not available for public yet. We have privileged access to the document through Human Rights Working Group, Indonesia.

45 OIC, 'OIC Independent Permanent Human Rights Commission (IPHRC) concludes its 5th Regular Session' (n 37)

46 OIC, 'At the Conclusion of the 41st Session of the OIC Council of Foreign Minister Jeddah Declaration: Welcomes the Establishment of a Ministerial Group on Al-Quds and Decides on Headquarters for the Human Rights Commission' (19 June 2014) <http://www.oic-oci.org/oicv2/topic/?t_id=9163&ref=3670&lan=en> accessed 22 June 2014

47 'Saudi Arabia attempts to silence NGO at Human Rights Council' *Middle East Eye* (24 June 2014) [Online] <<http://www.middleeasteye.net/news/saudi-arabia-attempts-silence-ngo-human-rights-council-306459059>> accessed 30 June 2014

SPACE FOR CIVIL SOCIETY IN THE OIC INDEPENDENT PERMANENT COMMISSION ON HUMAN RIGHTS

In the Statute

Article 15:

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

Article 21:

Upon the host country's consent and the approval of all its members the Commission may invite, as guests, [...] relevant OIC accredited governmental and nongovernmental Organisations, and national human rights institution.

In the Rules of Procedure of the IPHRC

Rule 21(2) – Provisional Agenda of Regular Sessions: The provisional agenda may include items proposed, inter alia, by a Member State, an inter-governmental Organisation or NGO enjoying consultative status and national human rights institution of a Member State.

Rule 39(f) – Reporting: Commission may periodically submit to the Council [of Foreign Ministers] reports which may include, inter alia, [...] the activities in support of the role of Member State-accredited national institutions and civil society Organisations active in the field of human rights.

Rule 29(h)(iv) – Reporting: Commission may periodically submit to the Council [of Foreign Ministers] reports which may include [...] a mandated thematic analysis of the status of promotion and protection of human rights in Member States to be conducted, inter alia, on the basis of [...] reports of Member State-accredited national human rights institutions and civil society Organisations active in the area of human rights.

Rule 44(2) – Participation in Commission's proceedings: After approval of the host country, Commission may invite [...] relevant OIC accredited governmental and non-governmental Organisations, international Organisations, and national human rights institutions, to participate in its sessions as guests.

Rule 45 – Participation of other individuals and Organisations: Commission may invite an individual, Organisation or other relevant entities whose aims and purposes are in conformity with the spirit, objectives and principles of Charter to facilitate exchange of views on any specific issue under consideration.

Rule 46 – Consultation: Commission may consult an individual, Organisation or other relevant entities whose aims and purposes are in conformity with the spirit, objectives and principles of Charter on issues pertaining to human rights within its mandates.

Rule 57 – Technical cooperation and capacity building: Commission may extend technical assistance for capacity building in Member States. Such projects may be conducted in cooperation with [...] accredited National Human Rights Institutions and civil society Organisation active in the area of human rights.

Rule 59 – Updates on main human rights initiatives: Secretariat [of the Commission] may assist Commission in keeping it informed of the principal initiatives undertaken and results achieved in the field of promotion and protection of human rights by Member State-accredited National Human Rights Institutions and civil society Organisations active in the area of human rights. The same information shall also be made available to Member States.

2. OIC's reactions to human rights violations

Like most intergovernmental organisations OIC's membership is also not free from reports of human rights violations including some very serious allegations. OIC's role in promoting human rights in Member States however has largely been marginal in the past. Its main focus still remains fixed on the human rights situation in Occupied Palestinian Territories and the rights of Muslim minorities in non-OIC countries. OIC has predominantly been against country specific mandates at international human rights forums, arguing that such mandates are often politically motivated attempts by Western countries to intervene in domestic affairs of developing countries. They also argue such country specific mandates are in contravention of the principles of the UN Human Rights Council. However, since the "Arab Spring" in early 2010, there appears to be an evolution in the approach of OIC States towards country specific resolutions at the UN.

The OIC group at the UN Human Rights Council did not object to the first 'Arab Spring'-related country specific resolution on Libya. At the 15th special session of the Council on 25 February 2011 focusing on the human rights situation in Libya, OIC condemned the excessive use of force by the Libyan government against civilians.⁴⁸ This resolution on the situation of human rights in Libya called for the establishment of an independent, international commission of inquiry to establish facts and circumstances of human rights violations.⁴⁹

OIC's direct involvement in Libya during this time, however, was limited to providing humanitarian assistance to refugees fleeing the conflict. OIC's intervention which focused on supporting Security Council Resolution 1973 and protecting the integrity of Libyan territory placed the body in a unique position vis-a-vis both anti-government rebels and the Libyan government⁵⁰. OIC was the only international

organisation that had access to both parties after the Arab League and the UN Human Rights Council suspended Libya. By then the African Union had lost credibility with the rebels because it was considered too supportive of the Libyan regime.⁵¹

Similarly, the OIC's reaction to the human rights situation in Syria saw a dramatic departure from OIC's usual practice. OIC's highest authority, the Islamic Summit, decided to suspend Syria from OIC in August 2012.⁵² This was also a significant reversal of OIC's position on Syria at the 16th special session of UN Human Rights Council on the situation of Syria on 29 April 2011 that praised Syrian government's "determination for restoration of peace and stability" and criticized the sponsors of the session on Syria of being guilty of human rights violations.⁵³ Reaffirming the decision in August 2012 to suspend Syria from OIC, the twelfth Islamic Summit conference in February 2013 called on the UN Security Council "to assume its full responsibilities by putting an end to the ongoing violence and bloodshed in Syria and finding a peaceful and lasting solution."⁵⁴ The 40th meeting of the Council of Foreign Ministers in December 2013 reiterated this call and applauded the agreement between the USA and Russia on the elimination of chemical weapons in Syria that paved the way for the unanimous adoption of the UN Security Council Resolution 2118 (2013)⁵⁵ regarding the framework for the elimination of chemical weapons in Syria. The meeting went further than the OIC had ever done calling for a second round of talks between USA and Russia under the auspices of the UN with the objective of "implementing a Syrian-led and Syrian-owned political transition that would allow building a new Syrian State without al-Assad and those who have blood in their hands, based on a pluralist, democratic and civilian system where the principles of equality before the law, rule of law and respect for human rights prevail."⁵⁶ The Council of Foreign Ministers meeting in June 2014, in a move that resembles interference in the domestic affairs of another state by OIC standards, rejected the June 2014 presidential elections and reiterated the calls for a transitional governing body to oversee constitutional

48 'Oral Statement by Ambassador Zamir Akram, Permanent Representative of Pakistan, on behalf of OIC Member States during the 15th Special Session of the Human Rights Council' (25 February 2011) <[http://extranet2.ohchr.org/Extranets/HRCExtranet/portal/page/portal/HRCExtranet/15thSpecialSession/OralStatements/250211/Tab15/Tab/3%20Pakistan%20\(OIC\).pdf](http://extranet2.ohchr.org/Extranets/HRCExtranet/portal/page/portal/HRCExtranet/15thSpecialSession/OralStatements/250211/Tab15/Tab/3%20Pakistan%20(OIC).pdf)> accessed 20 June 2014 [log in required]

49 UN Human Rights Council Resolution S-15/1 (25 February 2011) UN Doc No A/HRC/RES/S-15/1

50 Ibrahim Sharqieh, 'Can the Organisation of Islamic Cooperation (OIC) resolve conflicts?' [2012] *Peace and Conflict Studies* 19(2), 162-179

51 Ibid.

52 OIC Islamic Summit Conference Resolution 2/4-EX (IS) on the situation in Syria (14-15 August 2012). Available online at http://www.oic-oci.org/english/conf/is/ex-4/is_ex4_res_en.pdf

53 'Statement by Ambassador Zamir Akram, Permanent Representative of Pakistan, on behalf of OIC Member States during the 15th Special Session of the Human Rights Council' (n 48)

54 Cairo Final Communiqué (n 20)

55 UN Security Council Resolution 2118 (27 September 2013) UN Doc No S/RES/2118

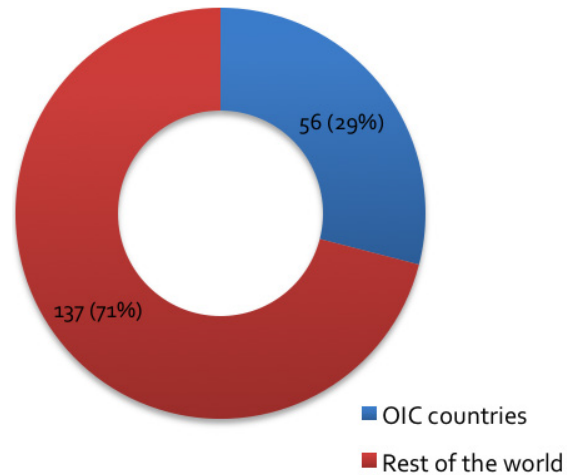
56 OIC Resolution No. 1/40-TYPOA (n 22)

reforms culminating in free and fair elections.⁵⁷ However, like in Libya, OIC's direct intervention in efforts to reach a settlement in Syria is largely absent, and OIC's direct role is limited to humanitarian assistance.

2.1 Sovereignty debate and voting patterns at the UN Human Rights Council

OIC is the second largest intergovernmental organisation, second only to the UN, and its member states often hold a considerable sway on global dynamics related to human rights at the UN General Assembly and the UN Human Rights Council - the world's apex human rights body.

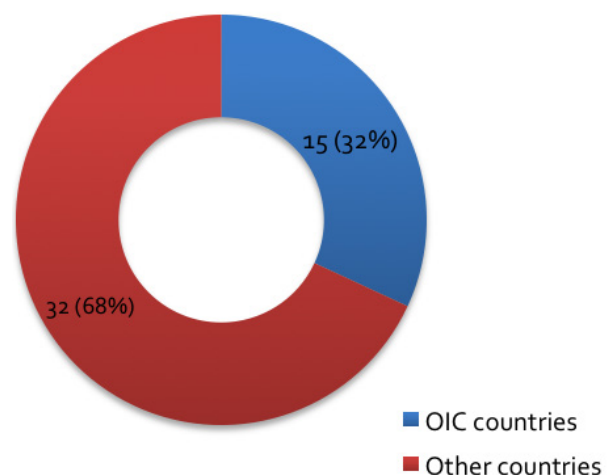
OIC's founding principles, which are based on the respect for sovereignty and non-interference in domestic affairs, impact the decisions of the OIC group in UN human rights bodies. The OIC has consistently opposed country specific⁵⁸ resolutions at the UN Human Rights Council arguing they are politically motivated attempts to interfere in the domestic affairs of targeted States without their consent, and an encroachment on national sovereignty. OIC argues that such resolutions go beyond the mandate of the Human Rights Council and consistently expresses its opposition to country specific resolutions under Items 2 (Annual report of the High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General) and 4 (Human rights situations that require the Council's attention). Instead, OIC maintains that country specific issues should generally be considered under the Council's Agenda Item 10 (technical assistance and capacity building). Resolutions considered under Agenda Item 10 in principle enjoy the consent of the concerned state as the Council's practices and norms of providing technical assistance and capacity building require. Hence, OIC reliably joins the consensus on country specific resolutions adopted under Agenda Item 10.



OIC Member Countries in the UN General Assembly:

Afghanistan, Albania, Algeria, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Chad, Comoros, Cote d'Ivoire, Djibouti, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Guyana, Indonesia, Iran, Iraq, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Libya, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Suriname, Syria, Tajikistan, Togo, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Yemen

Figure 2: Composition of the UN General Assembly (OIC countries vs. the rest of the world)



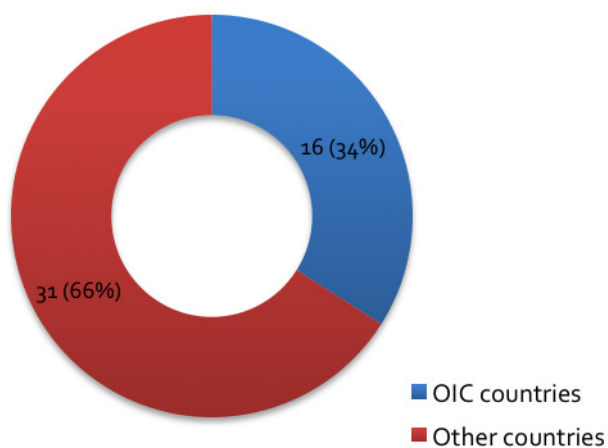
OIC Member Countries in UN Human Rights Council (19 June 2007 to 18 June 2008)

Azerbaijan, Bangladesh, Cameroon, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Mali, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal

Figure 3: Composition of UN Human Rights Council from 19 June 2007 to 18 June 2008

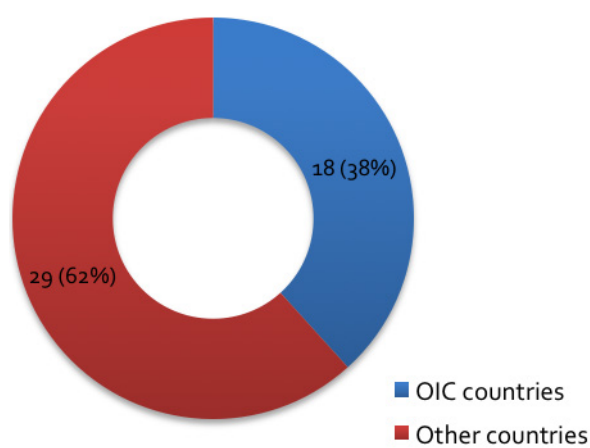
⁵⁷ OIC Resolution no. 1/41-TYPOA (n 26)

⁵⁸ Country-specific resolutions are those considered under Human Rights Council Agenda Items 2 (Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General), 4 (human rights situations that require the Council's attention), and 10 (technical assistance and capacity building). This paper also considers resolutions considered under Agenda Item 10 on situation of human rights in the Occupied Palestinian Territories as essentially country specific resolutions.



OIC Member Countries in UN Human Rights Council (19 June 2008 to 18 June 2009)

Azerbaijan, Bahrain, Bangladesh, Burkina Faso, Cameroon, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal

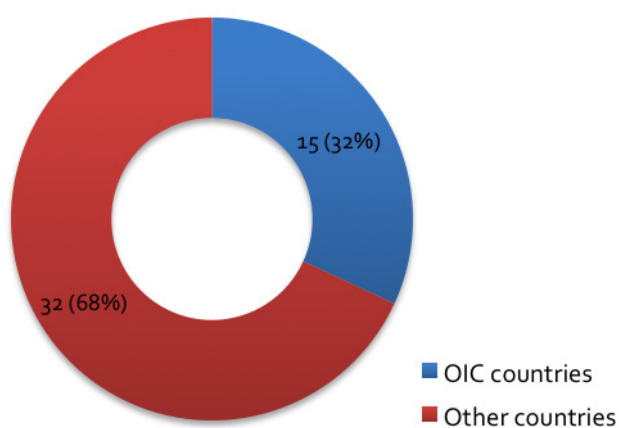


OIC Member Countries in UN Human Rights Council (19 June 2010 to 18 June 2011)

Bahrain, Bangladesh, Burkina Faso, Cameroon, Djibouti, Gabon, Jordan, Kyrgyzstan, Libya, Malaysia, Maldives, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal, Uganda

Figure 4: Composition of UN Human Rights Council from 19 June 2008 to 18 June 2009

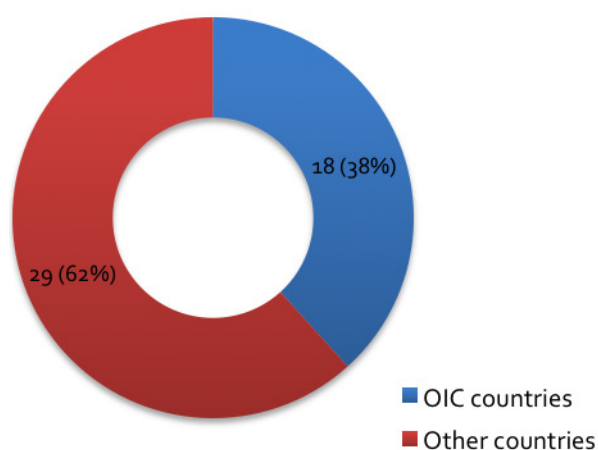
Figure 6: Composition of UN Human Rights Council from 19 June 2010 to 18 June 2011



OIC Member Countries in UN Human Rights Council (19 June 2009 to 18 June 2010)

Bahrain, Bangladesh, Burkina Faso, Cameroon, Djibouti, Egypt, Gabon, Indonesia, Jordan, Kyrgyzstan, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal

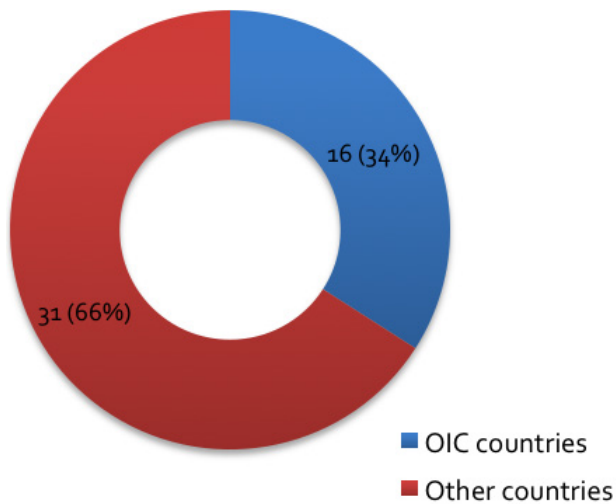
Figure 5: Composition of UN Human Rights Council from 19 June 2009 to 18 June 2010



OIC Member Countries in UN Human Rights Council (19 June 2011 to 31 December 2012)

Bangladesh, Benin, Burkina Faso, Cameroon, Djibouti, Indonesia, Jordan, Kuwait, Kyrgyzstan, Libya, Malaysia, Maldives, Mauritania, Nigeria, Qatar, Saudi Arabia, Senegal, Uganda

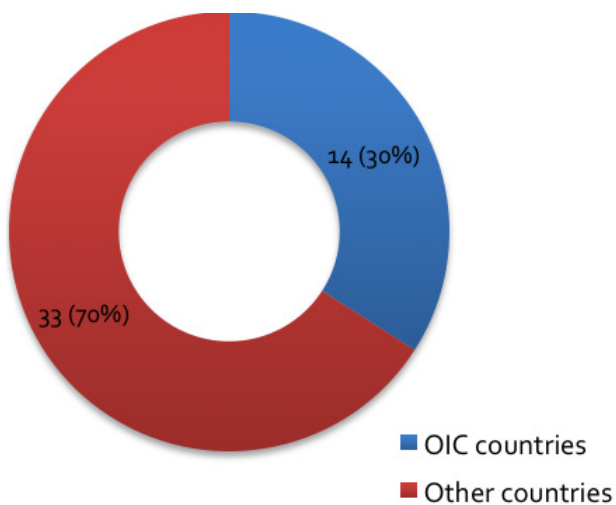
Figure 7: Composition of UN Human Rights Council from 19 June 2011 to 31 December 2012



OIC Member Countries in UN Human Rights Council (1 January 2013 to 31 December 2013)

Benin, Burkina Faso, Côte d'Ivoire, Gabon, Indonesia, Kazakhstan, Kuwait, Libya, Malaysia, Maldives, Mauritania, Pakistan, Qatar, Sierra Leone, Uganda, United Arab Emirates

Figure 8: Composition of UN Human Rights Council from 1 January 2012 to 31 December 2013



OIC Member Countries in UN Human Rights Council (1 January 2014 to 31 December 2014)

Algeria, Benin, Burkina Faso, Côte d'Ivoire, Gabon, Indonesia, Kazakhstan, Kuwait, Maldives, Morocco, Pakistan, Saudi Arabia, Sierra Leone, United Arab Emirates

Figure 9: Composition of UN Human Rights Council from 1 January 2014 to 31 December 2014

However, despite OIC rejection of country specific resolutions under Item 4 based on reasons of politicisation and violations of national sovereignty, a closer inspection of recent OIC voting records on these resolutions project a complicated picture. Voting records of the OIC group on country specific resolutions under Items 2 and 4, and Item 7 on human rights situation in Palestine – Agenda Item 7 resolutions are essentially country specific resolutions – show that OIC has consistently diverged from its own position in its voting behaviour on these resolutions. This picture also holds generally true when the effect of votes on Palestine resolutions (Agenda Item 7) are removed from the aggregate average. Even without the effect of Palestine resolutions, majority of OIC Member States have voted *in favour* of country specific resolutions more frequently.

Analysis of OIC countries' voting behaviour on individual country specific resolutions show that there is no general agreement among OIC Members States or a consistent official OIC political position on how it would vote on country specific resolutions. In general, OIC has not outrightly rejected any country specific resolution considered under Item 4 between 2010 and June 2014, except in the case of resolution 15/27 on the human rights situation in Sudan and Item 2 resolutions on Sri Lanka. On the resolution 15/27, majority of the OIC states in the Council (14 states) voted against, while only 3 OIC states voted in favour with one abstention. This was also the last time Sudan was considered under Item 4 before it was moved to Item 10 the following year. Other than this, OIC positions on country specific resolutions under Item 4 have largely been inconsequential: majority of OIC States have either opted to vote in favour or abstain. OIC has also not shied away from joining the consensus on a number of country specific resolutions. OIC has regularly joined the consensus on Item 4 resolutions on Eritrea, Democratic People's Republic of Korea, Burma/Myanmar, Mali, Libya, and Côte d'Ivoire.

At the 26th session of the Council in June 2014, OIC Member States joined the consensus to adopt the resolution on the situation of human rights in Eritrea (A/HRC/RES/26/24), under agenda item 4, which saw the establishment of a Commission of Inquiry on Eritrea. This decision is significant considering OIC members had in the past advocated against establishing such country-specific mandates especially when the mandate does not enjoy the support of the country concerned. Eritrea rejected the resolution and argued that the resolution violated the basic principles of the Council.

Similarly, 26th session of the Council also saw majority of OIC Member States abandoning its self-proclaimed position on resolutions under agenda item 10: that this is the appropriate venue to discuss country-specific issues and with the consent of the state concerned. However, majority of OIC Member States abstained in the vote on the resolution on cooperation and assistance to Ukraine in the field of human rights (A/HRC/RES/26/30) under the agenda item 10, sponsored by Ukraine itself. Ostensibly, the OIC did not consider Ukraine's sponsorship of the resolution as consenting to be placed on the Council's agenda.

Such inconsistencies in the way the OIC Member States vote at the Council on country-specific resolutions show that OIC does not always follow its self-prescribed position on different matters on the Human Rights Council agenda. These inconsistencies between communicated OIC positions on country specific resolutions and how OIC members vote on these resolutions open up new areas on inquiry on OIC's position on country specific resolutions in practice.

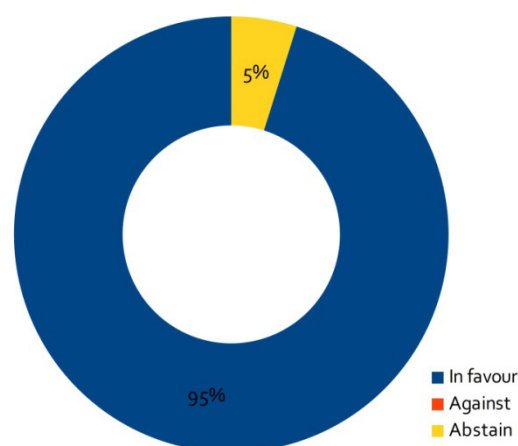


Figure 10: OIC voting on Palestine Resolutions under Agenda Item 7

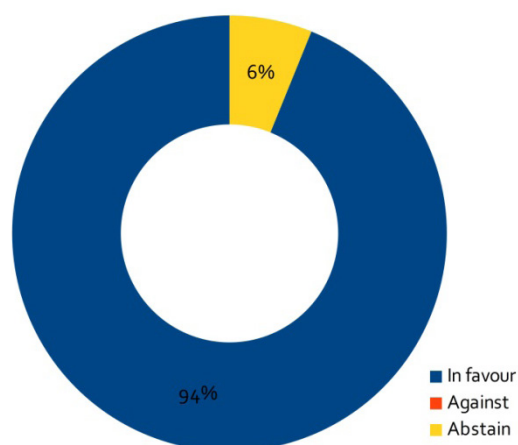


Figure 11: OIC voting on Palestine Resolutions under Agenda Item 1

Influence of OIC bloc voting on UN human rights agenda has been most consequential through its positions on human rights situation in Palestine. OIC was successful in including the human rights situation in Palestine and other occupied Arab territories (Item 7) as a permanent fixture on the agenda of every session of the Human Rights Council. During its 1st session, the Human Rights Council, passed with 29 votes for, 12 against and 5 abstentions an OIC sponsored resolution that made the human rights situation in Palestine and occupied Arab territories a standing item on the Council's agenda. Since 2010, Human Rights Council has adopted 31 resolutions on the situation of human rights in Palestinian Territories and other occupied Arab territories condemning Israel. These include 4 resolutions under Agenda Item 1 (organisational and procedural matters) following an Israeli raid on a flotilla carrying humanitarian aid to Gaza in 2010. All these resolutions on Palestine are primarily sponsored by the OIC, and its members are instructed to vote in favour of these resolutions. No OIC state voted against any of these 31 resolutions, while Burkina Faso, Cameroon, Gabon and Côte d'Ivoire were the only OIC states to abstain on some of these resolutions. Figures 10 and 11 show the aggregate average of how OIC states had voted on resolutions under Item 7 and Item 1 respectively between Human Rights Council sessions 13 and 25.

Figures below show the aggregate average of how OIC had voted on Item 4 resolutions on human rights situations in Belarus (Figure 14), Syria (aggregate average includes how OIC states voted on two resolutions on Syria adopted under Agenda Item 1) (Figure 15), Iran (Figure 16), Sri Lanka (Figure 17), and Democratic People's Republic of Korea (average of OIC vote on the resolutions at Human Rights Council sessions 13 and 16) (Figure 18). These figures show that OIC had frequently opted to abstain rather than taking a clear position on these votes.

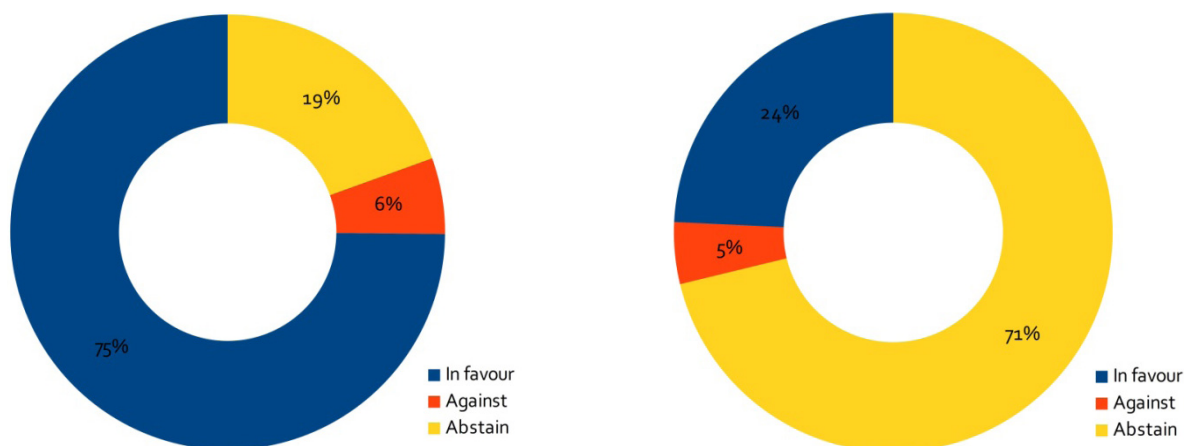


Figure 12 shows the cumulative average of OIC votes on country specific resolutions under Items 2, 4 and 10, and Item 7.

Figure 12: OIC voting on all country specific resolutions (2010 – March 2014)

Figure 14: How OIC member states voted on resolutions on the human rights situation in Belarus at the Human Rights Council

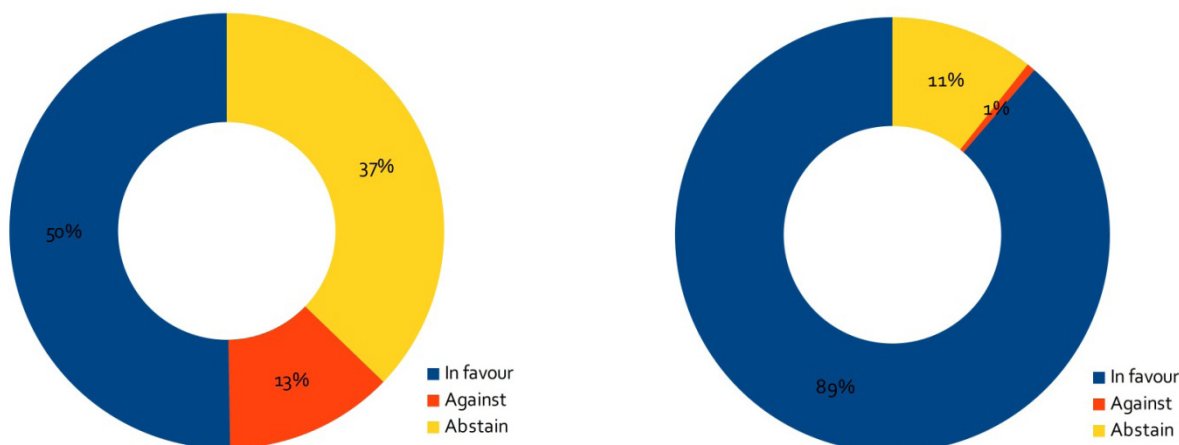


Figure 13 shows that even without the item 7 Palestine resolutions, OIC has continued its tendency of voting in favour of country specific resolutions.

Figure 13: OIC votes on country specific resolutions without taking into account votes on human rights situation related to the Occupied Palestinian Territories

Figure 15: How OIC member states voted on resolutions on the human rights situation in Syria at the Human Rights Council

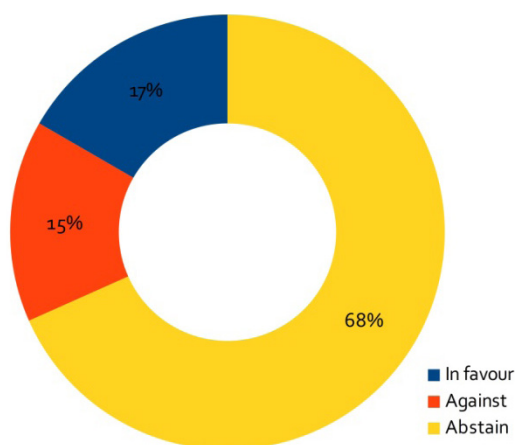


Figure 16: How OIC member states voted on resolutions on the human rights situation in Iran at the Human Rights Council

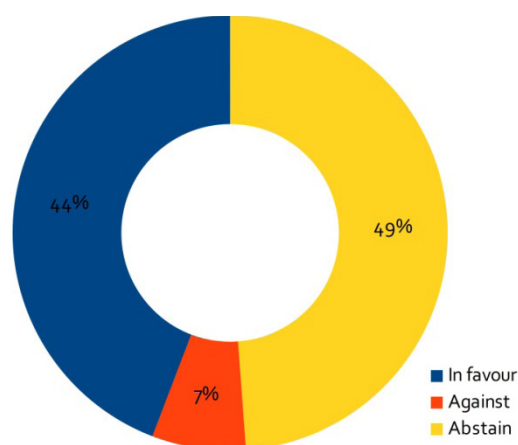


Figure 18: How OIC member states voted on resolutions on the human rights situation in the Democratic People's Republic of Korea at the Human Rights Council

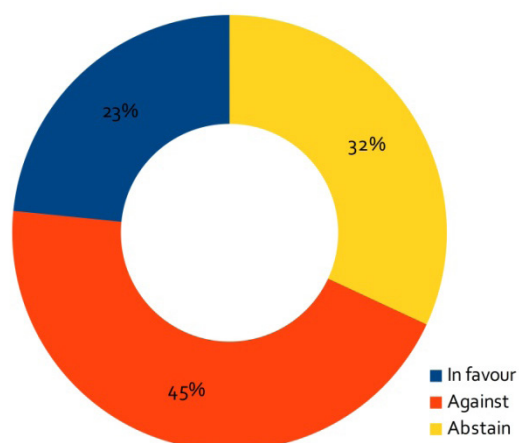


Figure 17: How OIC member states voted on resolutions on Sri Lanka at the Human Rights Council

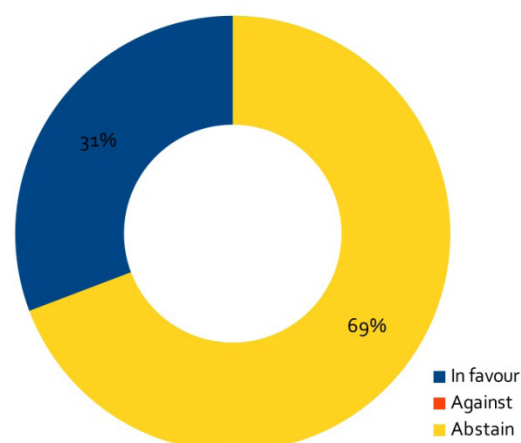


Figure 19: How OIC member states voted on the resolution on cooperation and assistance to Ukraine in the field of human rights

2.2 Minorities

Safeguarding and promoting the rights of Muslim minorities in non-OIC Member States is one of the primary functions of the OIC. OIC Charter of 2008 includes among its objectives “safeguard[ing] the rights, dignity and religious and cultural identity of Muslim communities and minorities in non-Member States”⁵⁹. OIC’s engagement in situations that involved minority Muslim populations in non-Muslim countries has, so far, been oriented towards mediation, conflict resolution and the provision of humanitarian assistance rather than direct intervention on issues surrounding human rights violations.

Role of OIC in conflicts involving Muslim minorities, in the past, has been most visible in its mediation efforts between Muslim separatists in the Philippines and Thailand and the respective governments of these countries. OIC continues to be seized of a number of conflicts involving Muslims, especially Muslim minorities in non-OIC countries, including Muslims in the Western Thrace region of Greece, the Balkans, Cyprus, the Caucasus, India and most recently the Central African Republic.

Recently, the OIC involved itself more directly to resolve communal conflict in Burma/Myanmar between Muslim minorities, especially Rohingya Muslims, and majority Buddhists. With the failure of its efforts to directly engage with the government of Burma/Myanmar, the OIC began to seek a more direct role for the UN through a Presidential Statement from the Human Rights Council on Rohingya Muslims in Burma/Myanmar.

The OIC’s response at the Human Rights Council on the situation of Muslim minorities in Burma/Myanmar has been particularly noteworthy in its more principled stance of looking beyond the immediate humanitarian concerns to addressing structural root causes as well as calling for accountability for all gross and systematic human rights violations including those perpetrated against Muslim minorities.

The question, then, is do these changes in OIC’s normative framework indicate a long-term change that binds OIC itself: would OIC hold itself to these new standards? Or, would OIC commit to protect often persecuted followers of minority religions in OIC member countries? Recent decisions by OIC suggest otherwise. The 40th regular session of Council of Foreign Ministers meeting unanimously adopted a resolution⁶⁰ that rejects many reports of abuse of human rights of non-Muslim minorities in OIC Member States. The Resolution 1/40-LEG of the Council of Foreign Ministers “[d]enounces media campaigns and fabrications made by some circles in non-Member States regarding the mistreatment of non-Muslim minorities and communities in OIC Member states under the slogan of religious freedoms and so on.”⁶¹

⁵⁹ OIC Charter (n 4), Article 1(16)

⁶⁰ OIC Resolution No. 1/40-LEG on the Follow up and Coordination of the Work in the Field of Human Rights (OIC Resolution No. 1/40-LEG), adopted by 40th session of OIC Council of Foreign Ministers (Conakry, 9 to 11 December 2013) OIC Doc No OIC/CFM-40/2013/LEG/RES/FINAL <<http://www.oic-oci.org/oicv2/subweb/cfm/40/fm/en/docs/LEG-40-CFM-RES-FINAL-ENG.pdf>> accessed 20 June 2014

⁶¹ Ibid.

OIC vs. ASEAN on Rohingya Muslims in Burma/Myanmar

Unlike other situations of conflict and human rights violations where the OIC intervened on behalf of Muslim minorities in non-OIC member countries, difference of opinion within the OIC complicates its approach on the issue of Rohingya Muslims in Burma/Myanmar. Three important members of OIC in the region – Indonesia, Malaysia and Brunei Darussalam – prefer a solution negotiated by the Association of Southeast Asian Nations (ASEAN) of which all three countries along with Burma/Myanmar are key players. It is clear that these three countries favour OIC working to support the ASEAN-led processes rather than an OIC-led intervention.

Within the OIC, Indonesia, at the highest level of its government, has been more active in pleading with OIC to join the ASEAN mediated process. Indonesian Foreign Minister, for instance, during the 4th Extraordinary session of the Islamic Summit Conference, where OIC decided to get a resolution through the UN, “enjoin[ed] the OIC to support the efforts by ASEAN member countries.”⁶² Alluding to these efforts, the President of Indonesia speaking at the Cairo Islamic Summit in February 2013, assured OIC that “Indonesia, Brunei Darussalam and Malaysia and other ASEAN countries have been working with the government of Myanmar to ensure the protection of human rights and address the humanitarian condition” of Rohingya Muslims⁶³. For Indonesia, communal conflict affecting Rohingya is a testament to the “complexit[ies] and tremendous challenges facing a country undertaking wide-ranging reform and democratisation, while at the same time ensuring unity and harmony amongst its diverse peoples and communities.”⁶⁴ Indonesia is wary of the fragility of the “conditions conducive to recent progress” that “ASEAN member countries have worked relentlessly and painstakingly to create” in Burma/Myanmar⁶⁵. It is reportedly this awareness that led the Indonesian President to suggest that OIC “must be a net contributor to ongoing discourse on democracy and the promotion and protection of human rights”⁶⁶. This statement includes a tacit warning from Indonesia against the OIC intervention independent of ASEAN position on the issue.

This underlying tension between OIC and OIC Member States from ASEAN is most visible and critical to the OIC agenda on the issue at the UN level. However, these tensions did not surface until OIC intensified its attempts to enhance multilateral engagement following the Contact Group recommendations in April 2013. These tensions were hitherto nonexistent because OIC intercessions in Burma/Myanmar were inconsequential and nonintrusive, accommodating ASEAN’s operative norms and positions. Until then, OIC had religiously opposed country specific resolutions at the UN and supported the ASEAN on the issue. Previously OIC had remained dormant in UN debates on Burma/Myanmar allowing, and tacitly endorsing, the ASEAN position. OIC members continued to abstain or vote against on resolutions on Burma/Myanmar at the UN. OIC reactivated its own position on the issue at the 67th session of the General Assembly following the escalation of violence and decree by the OIC apex body to engage with the UN and following this, it joined the consensus to adopt the resolution on the situation of human rights in Myanmar⁶⁷.

62 Ministry of Foreign Affairs, Indonesia, ‘Statement by H.E. Dr. R. Mohammad Marty M. Natalegawa, Minister for Foreign Affairs, Republic of Indonesia at the Fourth Extraordinary Session of the Islamic Summit Conference’ (Mecca, 14 to 15 August 2012) <<http://www.kemlu.go.id/Pages/SpeechTranscriptionDisplay.aspx?Name1=Pidato&Name2=Menteri&IDP=773&I=en>> accessed 20 June 2014

63 Presidential Secretariat, Indonesia, ‘Speech of the President of the Republic of Indonesia at the 12th Summit of the Organisation of Islamic Cooperation’ (Cairo, 6 February 2013) <<http://www.presidenri.go.id/index.php/eng/pidato/2013/02/06/2067.html>> accessed 20 June 2014

64 Ministry of Foreign Affairs, Indonesia, (n 62)

65 Ibid.

66 Presidential Secretariat, Indonesia (n 63)

67 UN General Assembly Resolution 67/233 (24 December 2012) UN Doc No A/RES/67/233

Tensions between OIC and ASEAN on the Rohingya issue arose when OIC moved to implement the Contact Group recommendation to submit a resolution on Rohingya or Muslim minorities in Burma/Myanmar to the 23rd session of the Human Rights Council. As recommended by the Contact Group, OIC sought through the resolution to pave the way to “dispatch an independent commission of inquiry on Myanmar to investigate all violations of human rights in Myanmar.”⁶⁸ ASEAN countries were opposed to another resolution on Burma/Myanmar, and particularly objected to sending an independent inquiry commission. Malaysia’s opposition to a resolution on Muslims in Burma/Myanmar that would pave way for an independent investigation as the OIC Contact Group recommended was implicit in its oral statement at general debate on the update by the UN High Commissioner for Human Rights at the 23rd session of the Human Rights Council⁶⁹. Malaysia opined “that Myanmar should be given the time and policy space to implement the [Rakhine Investigation] Commission’s recommendations.”⁷⁰ At the 25th session, during the informal negotiations on the Council resolution on the situation of human rights in Burma/Myanmar, several OIC Member States rejected the proposal by some states to call for an investigation by the Office of the High Commissioner for Human Rights into the violations of human rights of Rohingya people.

Malaysia’s (and presumably ASEAN’s) preference of the Rakhine Investigation Commission’s recommendation over an independent investigation is despite the rejection of the Commission findings by Muslim groups in Burma/Myanmar and international human rights groups. They argue that the Commission has lost its credibility because it excluded representatives of the Rohingya and appointed persons who were accused of propagating violence against Muslims, and number of its recommendations fall short of international human rights principles⁷¹. In addition, the Malaysian (and ASEAN) position on the issue is perplexing for OIC because Malaysia along with Indonesia and Brunei were in the OIC Contact Group on Myanmar Rohingya Muslim Minority that approved the decision to pursue a resolution on the Rohingya at the Human Rights Council in order to facilitate an independent investigation.

This incompatibility of views between OIC and ASEAN states – Indonesia, Malaysia and Brunei Darussalam – forced OIC to abandon its agenda of securing an OIC-sponsored resolution on Muslim minorities in Burma/Myanmar at 23rd session of the Human Rights Council. OIC, instead opted for a more cooperative and inclusive approach of getting a presidential statement at the end of the Human Rights Council session. While a presidential statement lacks the strength of a resolution, it is based on cooperation because such a statement by the president of the Human Rights Council would require endorsement by the government of the concerned country – in this case Burma/Myanmar. Although, OIC vowed to resubmit the resolution to the 24th session of the Human Rights Council if the government of Burma/Myanmar failed to make concrete and visible progress to redress human rights violations in the violence between Muslims and Buddhists, OIC did not attempt to revive the resolution at the 24th session or after despite the reports of escalating violence between Rohingya and Buddhist communities throughout the year.

It is plausible to assume a revival of such tensions as demonstrated at the Human Rights Council between OIC and its members in ASEAN should OIC resuscitate its attempts to adopt a resolution centred on Rohingya Muslims at a future Human Rights Council session. Such a decision could create a particularly peculiar circumstance for Indonesia, Malaysia and Brunei Darussalam. On one hand, opposition to an OIC resolution by these countries would be deemed a violation of OIC’s foundational norms of Islamic solidarity. OIC requires Member States to vote in favour of resolutions submitted by OIC and a failure to vote for resolutions or announcing a different position would be considered “a departure from the consensus

68 Final Communiqué of the OIC Contact Group on Myanmar Muslim Rohingya Minority, adopted at the meeting of the OIC Ministerial Contact Group on Myanmar Muslim Rohingya Minority (Jeddah, 14 April 2013) < http://www.oic-oci.org/oicv2/topic/?t_id=7964&ref=3219&lan=en > accessed 20 June 2014

69 ‘Oral statement delivered by Malaysia at the 23rd session of the UN Human Rights Council under Agenda Item 2: Annual report of the United Nations High Commissioner for Human rights (Update by the High Commissioner and the general debate)’ (27 May 2013) < https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/23rdSession/OralStatements/01_Malaysia.pdf > accessed 20 June 2014 [log in required]

70 Ibid.

71 Arakan Rohingya National Organisation (ARNO), ‘Joint Statement on the official report of the Rakhine (Arakan) Investigation Commission’ (17 May 2013) < <http://www.rohingya.org/portal/index.php/arno/arno-press-release/611-joint-statement-on-the-official-report-of-the-rakhine-arakan-investigation-commission-.html> > 27 June 2014

imposed by the duty of Islamic solidarity between Member States.”⁷² On the other hand, support by these countries to a resolution that could allow an independent investigation of human rights abuses could amount to a violation of ASEAN’s founding norms of respect for sovereignty and non-interference in domestic affairs of other member states. It could also breach the religiously followed ASEAN principles of conciliation, cooperation and consensual decision making.

OIC’s ongoing interventions to resolve violent conflict between Muslim minorities and majority Buddhists in Burma/Myanmar also have a profound normative influence on OIC. During the course of its interventions, OIC appeared to have realised the importance of civil society organisations in addressing situations of conflict and human rights abuse. Since the 2005 foreign ministers’ conference, OIC resolutions continued to reiterate the need for cooperation and coordination with civil society organisations to facilitate achievements of the aspirations of people to freedom, justice, equality and democracy⁷³. In 2008, OIC leaders called to “unite the efforts of...civil society institutions...to realize the hopes of the Myanmar people for freedom, justice, equality and democracy”⁷⁴.

Similarly, this conflict saw OIC utilise the international human rights discourse. OIC began to foreground international human rights law and corresponding obligations to urge the government of Burma/Myanmar to protect the rights of Muslim minorities in the country. This Human rights discourse hitherto was largely reserved for its interventions on behalf of Palestinian Territories. OIC’s demands on the government of Burma/Myanmar “to respect the texts of international legitimacy on human rights”⁷⁵ should be translated as OIC’s acceptance of legitimacy and moral force of international human rights norms. Failing this reciprocity, these calls lack legitimacy and moral force that is required to warrant action by the government of Burma/Myanmar. While it is impossible to plausibly establish a causal link, this emphasis of human rights in OIC discourse coincides with increasing attention to human rights, signified by the establishment of IPHRC.

More significantly, OIC’s involvement in conflict situations to ‘protect’ Muslim minorities in non-OIC member countries effectively challenge OIC’s founding norms of blanket non-intervention in domestic affairs of member states and respect for sovereignty. Juxtaposed with its past practices, interventions by OIC in these situations could reasonably be perceived as interference in domestic affairs of another state. However, OIC in all the previous situations, especially in the Philippines and Southern Thailand, maintained that any reconciliation to the conflict should be within the framework of respect for territorial integrity and sovereignty of countries concerned. Unlike all the previous interventions, OIC’s multi-pronged approach to conflict in Burma/Myanmar contradicts OIC definitions of non-interference, respect for sovereignty and territorial integrity.

Traditionally OIC has argued that any outside action, including those approved by the UN, that is not endorsed by the concerned country is an infringement of concerned states’ territorial integrity. The government of Burma/Myanmar has repeatedly argued that conflicts inside the country are its internal affairs and do not require OIC intervention⁷⁶, and declined to allow an OIC presence and a fact-finding mission⁷⁷. Similarly, the government has rejected the calls by the UN Special Rapporteur on the situation of human rights in Myanmar to amend the 1982 citizenship law and the constitution to bring them in line

72 Cairo Final Communiqué (n 20)

73 OIC Resolution No. 4/32-MM on the Muslim Minority in Myanmar (OIC Resolution No. 4/32-MM), adopted at 32nd session of OIC Council of Foreign Ministers (San’a, 28 to 30 June 2005) in OIC Doc No OIC/ICFM-32/2005/MM/RES.4 <<http://www.oic-oci.org/english/conf/fm/32/ICFM-32-2005-MM-RES-FINAL.pdf>> accessed 15 June 2014

74 OIC Resolution No. 4/34-MM (IS) on the Muslim minority in Myanmar (OIC Resolution No. 4/34-MM(IS), adopted at the 11th session of Islamic Summit Conference (Dakar, 13 to 14 March 2008) in OIC Doc No OIC/SUM-11/2008/MM/RES/Final <<http://www.oic-oci.org/is11/english/res/11SUM-MM-RES-FINAL.pdf>> accessed 24 June 2014

75 OIC Resolution No. 4/37-MM on the Muslim community in Myanmar (OIC Resolution No. 4/37-MM), adopted by the 37th session of OIC Council of Foreign Ministers (Dushanbe, 18 to 20 May 2010) in OIC Doc No OIC/CFM-37/2010/MM/RES/FINAL <<http://www.oic-oci.org/37cfm/en/documents/res/37-CFM-MM-RES-ENGLISH-FINAL.pdf>> accessed 14 June 2014

76 Nyein Nyein, ‘No need for OIC intervention, Burma govt says’ *The Irrawaddy* (18 April 2013) [Online] <<http://www.irrawaddy.org/oic/no-need-for-oic-intervention-burma-govt-says.html>> accessed 26 July 2014

77 ‘Oral statement by H.E. Mr. Maung Wai, Permanent Representative of Myanmar at the 23rd session of Human Rights Council under Agenda Item 4: General Debate on human rights situations that require the Council’s attention’ (5 June 2013) <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/23rdSession/OralStatements/Myanmar_22.pdf> accessed 14 July 2014 [log in required]s

with international human rights standards⁷⁸. The Permanent Representative of Burma/Myanmar to the UN in Geneva cited these recommendations as “intrusive and prescriptive, infringing upon my country’s sovereignty.”⁷⁹ On this issue, OIC was also willing to break its tradition of opposing country specific resolutions at the UN which it contends are against the spirit of the UN and infringes principles of non-interference in domestic affairs and sovereignty. Therefore, OIC’s internal resolutions as well as OIC-sponsored resolutions at UN could, by its own standards, be perceived from a hard-line perspective as going against the norms of respect for sovereignty and territorial integrity, and non-interference in domestic affairs. The question, then, is do these changes in OIC’s normative framework indicate a long-term change that binds OIC itself: would OIC hold itself to these new standards?

Timeline of OIC engagement on Rohingya Muslims in Burma/Myanmar

June 2000	27th Islamic Conference of Foreign Ministers, Kuala Lumpur, Malaysia
	<ul style="list-style-type: none"> Assigned the Islamic Contact Group on Conditions of Muslim Communities and Minorities to follow up on the violations of the rights of Muslims in Burma/Myanmar and urged the Member States to provide moral and political support to Muslims in Burma/Myanmar Called on Member States to facilitate dialogue between this community and the government to ensure they are on an “equal footing” with citizens of Burma/Myanmar
November 2000	9th Islamic Summit Conference, Doha, Qatar
	Reiterated the calls of the 27 th Conference of Islamic Foreign Ministers
October 2003	10th Islamic Summit Conference, Putrajaya, Malaysia
	<p>Adopted the first OIC resolution on the situation of Muslim minority in Myanmar (Resolution number 4/10-MM(IS)). This resolution:</p> <ul style="list-style-type: none"> lends further support to the calls made by previous OIC meetings in 2000; commissioned the contact group on minorities to monitor violence against Muslims in Burma/Myanmar; calls on Member States to lend moral and political support; facilitate dialogue; called on government to review treatment of Muslims; and requested OIC to establish contact with concerned parties. <p>Since then, violent insurrections involving Muslims in Burma/Myanmar has remained on OIC official agenda.</p>
June 2005	32nd session of the Council of Foreign Ministers
	OIC Foreign Ministers declared their intention to be more directly involved in the situation on the ground. During the meeting, OIC Foreign Ministers requested the Secretary-General to explore the possibility of sending an OIC delegation to Burma/Myanmar, neighbouring countries and countries of Association of Southeast Asian Nations (ASEAN) to discuss the issue and study modalities of intervention to end violence.

⁷⁸ United Nations Office of the High Commissioner for Human Rights (OHCHR), ‘Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana’ (6 March 2013) UN Doc No A/HRC/22/58

⁷⁹ ‘Oral statement His Excellency U Muang Wai, Permanent Representative of Myanmar at the 22nd session of the UN Human Rights Council under Agenda Item 4, interactive dialogue with Special Rapporteur on the situation of human rights in Myanmar’ (11 March 2013) <<https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/22ndSession/OralStatements/Statement%20by%20U%20Maung%20Wai.pdf>> accessed 20 June 2014 [log in required]

April-May 2008	<p>Cyclone Nargis</p> <ul style="list-style-type: none"> Humanitarian crisis caused by Cyclone Nargis led OIC to devote more attention on humanitarian assistance. Number of OIC countries heeded the OIC call to assist the cyclone hit country. The Cyclone Nargis and its aftermath bared underlying tensions and discriminations between Muslims and other ethnic groups especially in the Rakhine State. This led OIC to reorient its priorities and take a more focused approach to the conflict that centered primarily on Rohingya ethnic group in Rakhine State (formerly Arakan).
May 2009	<p>36th Session of the Council of Foreign Ministers, Damascus, Syria</p> <ul style="list-style-type: none"> Resolution on Muslim Community in Myanmar adopted at this session recognised Rohingya as a distinct ethnic group in Burma/Myanmar. OIC Foreign Ministers decided to intensify its efforts to “gain recognition for Rohingya as one of its ethnic minorities and to stop all forms of violence, expulsion and violation of human rights against them, and to remove all restrictions imposed on their freedom to move, learn and to own property” (OIC Resolution No. 4/36-MM on the Muslim Community in Myanmar).
March 2009	<p>10th session of the UN Human Rights Council adopted resolution 10/27 the situation of human rights in Myanmar</p> <p>Resolution 10/27 recognised “Rohingya ethnic minority in Northern Rakhine State” as a distinct ethnic minority in Burma/Myanmar. The resolution calls on the government of Burma/Myanmar to “to recognize the right of these persons to nationality and to protect all of their human rights” (UN Doc. No. A/HRC/RES/10/27 (27 March 2009), Paragraph 10).</p>
December 2009	<p>64th session of the UN General Assembly resolution 64/238 on the Situation of Human Rights in Myanmar</p> <p>Resolution expressed concern “about the continuing discrimination, human rights violations, violence, displacement and economic deprivation affecting numerous ethnic minorities, including, but not limited to, the Rohingya ethnic minority in Northern Rakhine State, and calls upon the Government of Myanmar to take immediate action to bring about an improvement in their respective situations, and to grant citizenship to the Rohingya ethnic minority” (UN Doc. No. A/RES/64/238 (24 December 2009), OP14).</p>
May 2010	<p>OIC foreign ministers sanctioned the Secretariat to devise a mechanism to coordinate the work and unite the ranks of Rohingya Muslim organisations under a “united coordination council” (OIC resolution No. 4/37-MM on the Muslim Community in Myanmar).</p>

May 2001	Formation of Arakan Rohingya Union under the patronage of the OIC General Secretariat
	<ul style="list-style-type: none"> At the time of inception, Arakan Rohingya Union was composed of twenty-five organisations working for the rights of Rohingya in Burma/Myanmar. Arakan Rohingya Union was formed “with a view to coordinating amongst themselves to find a political solution to their problems, achieve peaceful co-existence, democracy and human rights” (OIC Resolution No. 4/38-MM on the Muslim Community in Myanmar). The Union was formed “on the agreed principles of an indivisible Arakan State within the territorial integrity of the Union of Myanmar and seeking peaceful co-existence, democracy, human rights and federalism” (Senior Rohingya Leaders agreed to form the Arakan Rohingya Union (ARU) at a Convention held at the OIC General Secretariat (4 June 2011). Available online at http://www.oic-oci.org/topic_detail.asp?t_id=5387&x_key=myanmar)
June 2012	Full scale eruption of violence between Buddhists and Muslims
	<ul style="list-style-type: none"> OIC sought to intensify its efforts to assist Rohingya in Rakhine state with direct engagement with the government. The government of Myanmar, following talks between President Thein Sein and OIC-affiliated humanitarian organisations, allowed OIC to deliver urgent humanitarian assistance to Rakhine state.
August 2012	4th Extraordinary Session of the Islamic Summit Conference, Mecca, Saudi Arabia
	<p>OIC heads of state and government agreed on the immediate OIC position and prospective directions to intervene to resolve the conflict. These include:</p> <ul style="list-style-type: none"> sending an OIC fact-finding mission to Burma/Myanmar; setting up a special OIC contact group to consider the issue of Rohingya; and holding special session of the Human Rights Council and submit draft resolution on the Rohingya to 67th session of the UN General Assembly.
September 2012	OIC dispatched a high-level fact-finding mission to Burma/Myanmar
	<p>The fact-finding mission was mandated</p> <ul style="list-style-type: none"> to make preliminary observations about the root causes and effects of the violence in Rakhine state; explore conditions and aspects of a prospective visit by the OIC Secretary-General; and to make necessary contacts to facilitate humanitarian and relief operations in Rakhine state.
September 2012	During the mission, the government of Burma/Myanmar and the OIC signed a landmark agreement – a memorandum of cooperation – to implement OIC humanitarian programme in Rakhine state
	<p>The memorandum allows the OIC to establish “a coordination and monitoring presence” in Yangon and Sitwee to conduct humanitarian activities. This represents significant turnaround of positions previously held by both OIC and the government of Burma/Myanmar. For OIC, this involves first explicit attempt at direct intervention in a conflict situation. For the government of Burma/Myanmar, agreeing to allow an OIC presence, which potentially entails a monitoring function, is noteworthy given its ongoing resistance to setting up of a presence of UN Office of the High Commissioner for Human Rights. However, the government has purportedly reversed its position and moved to rescind the agreement contained in the memorandum.</p>

April 2013 **OIC Contact Group on Rohingya Muslims in Burma/Myanmar met at the Foreign Minister-level on 14 April 2013**

OIC Contact Group consist of Afghanistan, Bangladesh, Brunei, Djibouti, Egypt, Indonesia, Malaysia, Saudi Arabia, Senegal, Turkey, and the United Arab Emirates. Recommendations of the Contact Group form the foundations of OIC's immediate direction of engagement and orientation of its advocacy to protect Muslim minorities in Burma/Myanmar. These recommendations also mark a significant departure from OIC's intervention in the situation until then. Historically, OIC has insisted on engaging directly with the government of Burma/Myanmar and this shaped OIC's past interventions in the situation whether it constituted providing humanitarian assistance or advocating an end for violence against Muslims. Contact Group meeting recommended diversification of intervention modalities to mobilise the UN, international community as well as transnational civil society organisations to narrow their focus to the plight of Rohingya minority instead of looking at Burma/Myanmar as a whole.

November 2013 **High level OIC delegation led by Secretary-General Ekmeleddin Ihsanoglu visits Burma/Myanmar**

During their visit the OIC Secretary-General and his delegation met Dr. Sai Mauk Kham, the Vice President of Burma/Myanmar. OIC delegation stressed their readiness to contribute to humanitarian and rehabilitation assistance to all affected communities, including those in Rakhine State, without any discrimination. OIC delegation also visited the camps of internally displaced people in Rakhine State. OIC delegation's visit to Burma/Myanmar, especially Rakhine State was met with protests and demonstrations by Buddhist communities against the OIC visit.

November 2013 **40th session of the OIC Council of Foreign Ministers**

Endorsed the April 2013 recommendations of OIC Contact Group on Rohingya Muslims in Burma/Myanmar and called for the implementation of these recommendations.

May 2014 **OIC Secretary General Appoints a Special Envoy on Myanmar**

The Secretary General of OIC appointed *Tan Sri Dato Seri Syed Hamid Albar*, former Foreign Minister of Malaysia, as the Secretary-General's Special Envoy on Myanmar. According to OIC, the role of the Special Envoy will be to advance the OIC's diplomatic efforts with the concerned authorities in Burma/Myanmar and other regional and international stakeholders to bring about peaceful coexistence and restore inter-communal harmony through dialogue and reconciliation.

3. Thematic focus areas concerning the OIC

Having looked at human rights instruments and mechanisms within the OIC as well as the body's actions at UN human rights mechanisms on violations, FORUM-ASIA's working paper considers two thematic areas of interest to OIC member countries. The following two thematic focus areas were chosen keeping in mind the high level of OIC involvement in these issues:

3.1 Defamation of Religions

Since its introduction by the OIC at the erstwhile UN Commission on Human Rights in 1999, under the agenda item on racism,⁸⁰ the issue of 'defamation of religions' has been a permanent feature of international human rights debate. The objective of that resolution was to have the Commission on Human Rights stand up against what OIC described as a campaign to defame Islam in different manifestations, which OIC feared had "become as widespread and endemic as anti-Semitism had been in the past."⁸¹

The agenda gained further traction with a number of violent incidents in early 2000s which OIC stated were the result of defamation of Islam and the Prophet, and was followed by entrenched debates as part of a General Assembly resolution 60/150 on combating defamation of religions in December 2005. The violent incidents also gave a veneer of legitimacy to OIC's calls for a legally-binding international instrument against defamation of religions.⁸² OIC's rationale for demanding legal measures to prohibit defamation of religion is based on its interpretation of Articles 19 and 20 of the ICCPR: i.e. defamation of religion laws are consistent with conditions permitted in the two

articles for the restriction of free speech.⁸³ Human rights groups, however, argue that defamation of religions resolutions protect an ideology, whereas limitations on free speech envisaged in articles 19 and 20 protect individuals. Similarly, UN High Commissioner for Human Rights Navi Pillay has unequivocally stated that the UN Office of the High Commissioner for Human Rights subscribes to the this position on the issue of defamation of religions.⁸⁴ She said, "[h]uman rights law protects individuals and groups, not belief systems." She went on to assert that ability to "scrutinise, openly debate or even harshly criticise religions or belief systems [...] is absolutely intrinsic to the right to freedom of expression."⁸⁵ While it appears as a solution to persecution and discrimination based on faith and religion, defamation of religions resolutions are seen as providing justifications and legitimacy for existing government restrictions and national laws that punish blasphemy and criticism of faith in many Muslim countries.⁸⁶

Due to declining international support for the defamation of religions agenda, in March 2011 the OIC announced at the UN Human Rights Council its plans to change the language of the resolutions to focus primarily on addressing religious intolerance and incitement to hatred. In a move that was hailed as a "diplomatic feat"⁸⁷, the 16th session of the UN Human Rights Council adopted by consensus the resolution on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (UN Human Rights Council Resolution 16/18). This was followed by a parallel resolution (A/RES/66/167), introduced by the OIC, at the General Assembly adopted by consensus at the 66th session in December 2011.⁸⁸

80 The Becket Fund for Religious Liberty, "Defamation of Religions": Submission to OSCE Human Dimensional Meeting 2008' [2008] Issue Brief (October 2008) <<http://www.osce.org/odihr/34182>> accessed 15 November 2013

81 UN Commission on Human Rights (UNCHR), Summary Record of the 61st meeting of the Commission on Human Rights (3 May 1999) UN Doc No E/CN.4/1999/SR.61 Paras 1 & 2

82 Final Communiqué of the 11th session of the Islamic Summit Conference, adopted at the 11th session of the Islamic Summit Conference (Dakar, 13 to 14 March 2008) <<http://www.oic-oci.org/is11/english/FC-11-%20SUMMIT-en.pdf>> accessed 15 July 2013

83 OIC Resolution No 36/39-POL on Combating defamation of religions (OIC Resolution No 36/39-POL), adopted by the 39th session of the Council of Foreign Ministers (Djibouti, 15 to 17 November 2012) in OIC Doc No OIC/CFM-39/2012/POL/RES, paras 9 and 10 <http://www.oic-oci.org/english/conf/fm/39/POL-RES-39%20-FINAL_rev2.pdf> accessed 15 July 2014

84 UN Office of the High Commissioner for Human Rights (OHCHR), 'High Commissioner's Statement on Freedom of Expression at OSCE Permanent Council' (3 July 2014) [Online] <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14818&LangID=E>> accessed 30 July 2014

85 Ibid.

86 Leonard A. Leo, Felice D. Gaer & Elizabeth K. Cassidy, 'Protecting religions from "defamation": a threat to universal human rights standards' [2011] Harvard Journal of Law and Public Policy 34(2), 769-784

87 Robert C. Blitt, 'Defamation of religion: rumors of its death are greatly exaggerated' [2011] Case Western Reserve Law Review 62(2), 347-397

88 UN General Assembly Resolution 66/167 (19 December 2011) UN Doc No A/RES/66/167

The resolution 16/18 sponsored by OIC expresses “concern at the continued instances of derogatory stereotyping, negative profiling and stigmatisation of persons based on their religion and belief,” as well as acts by “extremist organisations[...] aimed at creating and perpetuating negative stereotypes about religious groups.” The resolution also “condemns deeply any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audiovisual or electronic media or any other means.” Like the resolution 16/18, all successive resolutions at the Human Rights Council on the issue (resolutions 19/25 (2012), resolution 22/31 (2013) and resolution 25/34 (2014)) reiterate the actions that states should take “to foster a domestic environment of religious tolerance, peace and respect.”

However, as noted by many the OIC has increasingly attempted to dilute the emphasis on the duties and responsibilities of States in combating intolerance and discrimination based on religion. The resolution 25/34 (2014) for instance continues the practice, that began with resolution 22/31 in 2013, of adding explicit reference to “special duties and responsibilities” of individuals included in the Article 19 of International Covenant on Civil and Political Rights in exercising their rights to freedom of expression and opinion. Although resolution 25/34 at the 25th session of the Human Rights Council was adopted by consensus, it was pointed out by many States that the resolution lacks a stronger human rights focus which emphasises the intrinsic link between freedom of religion or belief and freedom of opinion and expression, and that freedom of expression is crucial to combating intolerance, discrimination and religious hatred. Restrictions on freedom of expression could weaken or be counterproductive to efforts to combat intolerance.

Internally, the OIC continues to call for a legally binding instrument to ban defamation of religions. Most recently, the last Islamic Summit Conference held in Cairo, Egypt, in February 2013, OIC heads of State and Government reaffirmed “the importance of expediting the implementation process of its decision on *developing a legally binding international instrument* to prevent intolerance, discrimination, prejudice and hatred on the grounds of religion, and defamation of religions and to promote and ensure the respect for all religions.”⁸⁹ Similarly, with explicit reference to now-abandoned resolutions on defamation of religions,

40th regular session of the Council of Foreign Ministers meeting in December 2013 “expressed the need to pursue, as a matter of priority, a common policy aimed at preventing defamation of Islam perpetrated under the pretext and justification of the freedom of expression in particular through media and Internet.”⁹⁰

This indicates that OIC may not have necessarily abandoned its plans for a legally binding international convention against defamation of religion.

3.2 Sexual Orientation and Gender Identity

Another thematic human rights issue that OIC has been active on is discrimination and violence based on sexual orientation and gender identity (SOGI). OIC’s opposition to the notion of sexual orientation and gender identity, or the rights of lesbian, gay, bisexual, transgender, intersex and questioning (LGBTIQ) individuals, was expressed in their boycott of the UN’s first ever panel debate on SOGI. The OIC argued that “behaviour promoted under the concept of sexual orientation is against the fundamental teachings of various religions including Islam.”⁹¹ OIC continues to challenge the admissibility of the rights of LGBT people within the purview of international human rights law, and condemned, what it calls, a systematic attempt by a group of nations to introduce the notion of sexual orientation in the universally agreed human rights framework.⁹²

OIC’s vehement opposition to consideration of discrimination and violence based on sexual orientation and gender identity as a human rights concern has begun to manifest as attempts to protect the concept of family. A number of OIC Member States introduced a draft resolution on protection of the family (A/HRC/22/L.25) to the 22nd session of the UN Human Rights Council in March 2013. At the 22nd session, sponsors decided to postpone the consideration of the resolution until the 23rd session of the Council citing polarisation in the Council and the desire to

⁹⁰ OIC Resolution No. 1/40-LEG on the Follow up and Coordination of the Work in the Field of Human Rights (OIC Resolution No. 1/40-LEG), adopted by the 40th session of OIC Council of Foreign Ministers (Conakry, 9 to 11 December 2013) in OIC Doc No OIC/CFM-40/2013/LEG/RES/FINAL <<http://www.oic-oci.org/oicv2/subweb/cfm/40/fm/en/docs/LEG-40-CFM-RES-FINAL-ENG.pdf>> accessed 30 May 2014

⁹¹ ‘Oral statement by Pakistan on behalf of OIC on the panel discussion on “discrimination and violence based on sexual orientation and gender identity” at the 19th session of the UN Human Rights Council’ (7 March 2012) <<https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/19thSession/OralStatements/Pakistan%20OIC.pdf>> accessed 12 May 2013

⁹² Ibid.

⁸⁹ Cairo Final Communiqué (n 20) [emphasis added]

avoid further divisions as a result of the resolution.⁹³ However, it remained shelved until the 26th session in June 2014 when the same group of States led by Egypt with the support of several OIC States⁹⁴ resurrected the resolution under the pretext of preparing for the commemoration the 20th anniversary of the International Year of the Family. The Human Rights Council adopted the resolution on 'the protection of the family' (A/HRC/RES/26/11) with 26 votes in favour, 14 against and 6 abstentions. All 14 OIC States represented in the Council, at the session, voted in favour of the resolution.

Proponents of the resolution makes reference to international standards especially Article 16(3) of the Universal Declaration of Human Rights which states that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State" to justify their claim for special protection for the family. However, human rights organisations rejected this resolution as an attempt to misuse international standards to imply that the family is subject of human rights protection and subvert the rights of individuals and pointed to the resolution's "potential to dangerously narrow the definition of 'family'".⁹⁵ Events that transpired during the adoption process vindicate these criticisms especially those that bespeak restricted definition of the family. Before the adoption of the resolution, the Council with the support of 12 out of 14 OIC Member States in the Council, voted in favour of the no-action motion on the amendment to acknowledge the existence of various forms of family.⁹⁶ It was only the

rejection of this amendment led to the withdrawal of an amendment proposed by Saudi Arabia and Pakistan to define marriage as "a union between a man and a woman."⁹⁷

Although there is no official endorsement of the resolution by OIC, opposition to LGBTIQ rights and emphasis on the family juxtaposed with OIC Member States' attempts and their support to circumscribe 'the family' makes the resolution appear as a response to OIC's call to protect 'the Muslim family' from what OIC refers to as 'contemporary' challenges. The OIC Ten-Year Programme of Action, which defines "the family as the principal nucleus of the Muslim society," calls on member States "to exert all possible efforts, at all levels, to face up to the contemporary social challenges confronting the Muslim family and affecting its cohesion."⁹⁸ OIC Member States were not alone in supporting the protection of the family resolution. The resolution in fact was backed by an unlikely alliance between Muslim States and number of predominantly Christian countries that are vehemently opposed to LGBTIQ rights. Strong objections to recognising the various forms of family and attempts to define marriage strictly as a union between a man and a woman validates the concerns of human rights organisations that see the resolution as "a step towards cementing the patriarchal and heteronormative family and is part of a broader, long-term strategy of some States" to undermine advances made in the protection and promotion of LGBTIQ rights, among others.⁹⁹

93 Ryan Kaminski, 'Family Guise: Egypt Dumps Problematic Resolution on "Protection of the Family" at the Last Minute during 22nd Session of Human Rights Council' *United Nations Association of the United States of America* (22 March 2013) [Online] <<http://www.unausa.org/membership/members-only/member-discussion/article/egypt-dumps-problematic-resolution-on-protection-of-the-family>> accessed 30 May 2013

94 The resolution was submitted by a cross-regional group of thirteen states out of which nine States belong to the OIC group (Bangladesh, Côte d'Ivoire, Egypt, Mauritania, Morocco, Qatar, Sierra Leone, Tunisia and Uganda). The remaining four States are China, El Salvador, Namibia and Russian Federation.

95 International Service for Human Rights, 'Urgent action needed on harmful 'Protection of the Family' resolution' (22 June 2014) [Online] <<http://www.ishr.ch/news/urgent-action-needed-harmful-protection-family-resolution>> accessed 15 July 2014

96 UN Doc No A/HRC/26/L.37 (24 June 2011)

97 UN Doc No A/HRC/26/L.38 (24 June 2011)

98 OIC Ten-Year Programme of Action (n 16), Paragraph VI(9)

99 International Service for Human Rights (n 95)

ANNEXES

1. Organs of the OIC and their functions as defined in the Charter of the OIC

Islamic Summit

- The Islamic Summit consists of heads of state and government of OIC member countries and is the supreme authority of the organisation (*Article 6 of the OIC Charter*).
- The Islamic Summit shall deliberate, take policy decisions and provide guidance on all issues pertaining to the realization of the objectives as provided for in the Charter and consider other issues of concern to the Member States and the Ummah (*Article 7 of the OIC Charter*).
- The Islamic Summit shall meet every three years; preparation of agenda and all necessary arrangements of the Summit will be done by the Council of Foreign Ministers (*Article 8 of the OIC Charter*).

Council of Foreign Ministers

- The Council of Foreign Ministers (CFM) shall meet once a year; extraordinary sessions may be convened with the approval by simple majority of member states.
- The CFM can recommend convening other sectoral ministerial meetings on issues of specific concern for the Ummah.
- The CFM shall consider the means of implementing the general policy of the OIC by adopting decisions and resolutions; reviewing progress of implementation of previous decisions and resolutions; considering and approving programme, budget and financial and administrative reports of the General-Secretariat and Subsidiary Organs; recommending to establish new organs or committees; electing Secretary-General and appointing Assistant Secretaries General; and considering any other issue it deems fit.

(*Article 10 of the OIC Charter*)

Standing Committees

OIC Standing Committees

- Al Quds Committee
- Standing Committee for Information and Cultural Affairs (COMIAC)
- Standing Committee for Economic and Commercial Cooperation (COMCEC)
- Standing Committee for Scientific and Technological Cooperation (COMSTECH)

Standing Committees are chaired by heads of state and government and are established by the Islamic Summit upon the recommendation of CFM and membership of such committees.

(*Article 11 of the OIC Charter*)

Executive Committee

The Executive Committee is comprised of the Chairmen of the current, proceeding, and succeeding Islamic Summits and Councils of Foreign Ministers, the host country of the headquarters of the General Secretariat and the Secretary-General as an ex-officio member.

(Article 12 of the OIC Charter)

International Islamic Court of Justice

The International Islamic Court of Justice (fashioned after the International Court of Justice) established in 1987 in Kuwait shall, upon the entry into force of its Statute, be the principal judicial organ of the OIC.

(Article 14 of the OIC Charter)

Independent Permanent Commission on Human Rights

The Independent Permanent Commission on Human Rights shall promote civil, political, social and economic rights enshrined in the OIC's covenants and declarations and in universally agreed human rights instruments, in conformity with Islamic values.

(Article 15 of the OIC Charter)

Committee of Permanent Representatives

The prerogatives and modes of operation of the Committee of Permanent Representatives will be defined by the CFM.

(Article 13 of the OIC Charter)

General Secretariat

The General Secretariat will comprise a Secretary-General, who is the chief administrative officer of the OIC and staff. The Secretary-General is elected by the CFM for a period of five years, renewable only once. Responsibilities of the Secretary-General include:

- Bringing to the attention of the organs of the OIC matters which, in his/her opinion, may serve or impair the objectives of the OIC
- Following up and providing working papers and memoranda to member states on the implementation of decisions, resolutions and the recommendations of the OIC
- Coordinating and harmonising the work of organs of the OIC
- Preparing the programme and the budget of the General Secretariat
- Promoting communication, facilitating consultation and exchange of views between member states, and disseminating information to member states
- Performing other functions assigned by the Islamic Summit or the CFM
- Submitting annual reports of the OIC to the CFM

(Chapter XI, Articles 16-21 of the OIC Charter)

Subsidiary Organs

Subsidiary Organs are established within the framework of the OIC in accordance with the decisions taken by the Islamic Summit or the CFM, and their budgets are approved by the CFM (*Articles 23 of the OIC Charter*).

Subsidiary Organs within the OIC are:

- Statistical, Economic, Social Research and Training Center for Islamic Countries (SESRIC)
- Research Center for Islamic History, Art and Culture (IRCICA)
- Islamic University of Technology (IUT)
- Islamic Center for the Development of Trade (ICDT)
- International Islamic Fiqh Academy (IIFA)
- Islamic Solidarity Fund and its Waqf (ISF)

Specialised Institutions

Specialised Institutions are established within the framework of the OIC in accordance with the decisions of the Islamic Summit or the CFM. Membership in these institutions is open and optional for OIC member states, and their budgets are independent and approved by their respective legislative bodies (*Article 25 of the OIC Charter*). Specialised Institutions within the OIC framework are:

- Islamic Development Bank (IDB)
- Islamic Educational, Scientific and Cultural Organisation (ISESCO)
- Islamic Broadcasting Union (IBU)
- International Islamic News Agency (IINA)
- Islamic Committee of the International Crescent (ICIC)
- The Science, Technology and Innovation Organisation (STIO)

Affiliated Institutions

Affiliated institutions are entities or bodies whose objectives are in line with the objectives of the OIC Charter, and are recognized as affiliated institutions by the CFM. Their budgets are independent of the OIC budget, and may be granted observer status by a resolution of the CFM (*Article 25 of the OIC Charter*).

2. Member States of the Organisation of Islamic Cooperation

Afghanistan	Malaysia
Albania	Maldives
Algeria	Mali
Azerbaijan	Mauritania
Bahrain	Morocco
Bangladesh	Mozambique
Benin	Niger
Brunei Darussalam	Nigeria
Burkina Faso	Oman
Cameroon	Pakistan
Chad	Qatar
Comoros	Saudi Arabia
Cote d'Ivoire	Senegal
Djibouti	Sierra Leone
Egypt	Somalia
Gabon	Sudan
Gambia	Suriname
Guinea	Syria
Guinea-Bissau	Tajikistan
Guyana	Togo
Indonesia	Tunisia
Iran	Turkey
Iraq	Turkmenistan
Jordan	Uganda
Kazakhstan	United Arab Emirates
Kuwait	Uzbekistan
Kyrgyzstan	Yemen
Lebanon	Palestinian Territories
Libya	



