

RESOLUTION
ON
LEGAL AFFAIRS
ADOPTED BY THE
THIRTY-SECOND SESSION
OF THE ISLAMIC CONFERENCE OF
FOREIGN MINISTERS
(SESSION OF
INTEGRATION AND DEVELOPMENT)

SANA'A — REPUBLIC OF YEMEN
21-23 JUMADA AL-AWWAL 1426H
(28-30 JUNE 2005)

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RESOLUTION NO. 1/32-LEG
ON
HUMAN RIGHTS

The Thirty-second Session of the Islamic Conference of Foreign Ministers (Session of Integration and Development), held in Sana'a, Republic of Yemen, from 21-23 Jumada Al-Awwal 1426H (28-30 June, 2005),

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

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

Recalling Resolution No. 49/19-P by virtue of which the "Cairo Declaration on Human Rights in Islam" has been adopted; as well as subsequent OIC resolutions the latest of which were Resolutions No. 2/31-LEG, 3/31-LEG and 4/31-LEG;

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

Recognizing the obligations and endeavors of the Member States to promote and protect internationally recognized human rights while taking into account the significance of their religious, national, and regional specificities and various historical and cultural backgrounds, and with due regard to the "Cairo Declaration on Human Rights in Islam";

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

Further recalling the UN Commission on Human Rights' Resolutions entitled "defamation of religions" which expressed deep concern over the negative stereotyping of religions and at the way Islam is frequently and wrongly associated with human rights violations and with terrorism, and which also expressed concern over the space devoted by the printed, audio-visual, and electronic media to inciting violence, xenophobia, or related intolerance and discrimination towards Islam and other religions;

Reaffirming the universality, objectivity and non-selectivity of all human rights and also the importance of promotion and protection of human rights through cooperation and consensus and not through confrontation and the imposition of incompatible, alien and inhomogeneous values;

Noting the attempts to exploit the issue of human rights to discredit the principles and rules of Islamic Shariah and to interfere in the affairs of Islamic States;

Having taken note of the relevant report of the Secretary General,

1. **Asserts** that human rights are universal in nature and must be considered in the context of dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.
2. **Emphasizes** the necessity for the international community to address the issue of human rights issue on an objective and indivisible basis, as far as all states are concerned, without selectivity or discrimination.
3. **Calls for** the necessity to consider human rights in their global conception and in all their civil, political, social, economic, and cultural facets within the framework of international cooperation and solidarity.
4. **Reaffirms** the right of states to adhere to their religious, social, and cultural specificities which constitute a heritage and streams of thought that contribute towards enriching the common international conceptions of human rights.
5. **Calls** for abstaining from using the universality of human rights as a pretext to interfere in the states' internal affairs and undermine their national sovereignty.
6. **Recalls** the states' right to reserve, where necessary, the right to express reservations on the international conventions, covenants, and agreements they subscribe to, as part of their sovereign rights.
7. **Expresses its deep concern** over the frequent and erroneous association of Islam with violations of human rights and the misuse of the printed and audio-visual media in propagating such misconceptions and calls on the Member States to undertake information activities to counter these activities.

8. **Denounces** media campaigns and fabrications made by some quarters in non-Member States regarding the treatment of non-Muslim minorities and communities in the OIC Member States under the slogan of religious freedoms and so on.
9. **Expresses deep concern over** any activities which may be carried out by certain Governmental and Nongovernmental Organizations which are supported by governments that use them to attack OIC Member States for political purposes and to further their foreign policy objectives in international forums.
10. **Exhorts** all states to take all appropriate measures, in the context of their national legislations and in line with international human rights instruments, to promote understanding, tolerance, and respect in matters connected with freedom of religion or creed.
11. **Calls upon** Member States to continue their active coordination and cooperation in the field of human rights particularly in the relevant international forums in order to strengthen Islamic solidarity against any initiative that may lead to the use of human rights as a means of political pressure on any Member State, in particular for enhancement of their participation in formulation and codification of international human rights instruments based on Islamic Sharia.
12. **Decides** that the General Secretariat and the Member States shall undertake to follow up Member States' missions with the relevant international organizations, in particular, at the UN headquarters in New York and Geneva, and to hold meetings on appropriate occasions, to consider and discuss human rights issues with a view to adopting a unified position among Member States vis-à-vis campaigns and draft resolutions that target OIC Member States in relevant international fora.
13. **Calls on** the OIC Groups in Geneva and New York to highlight the concern of the Islamic countries regarding the worsening situation of Muslims in western countries since the terrorist acts of 11 September 2001 as well as the laws and practices against the rights of Muslim women.
14. **Approves** the "Covenant on the Rights of the Child in Islam", which has been finalized at the ninth Meeting of the Intergovernmental Expert Group on the follow-up of the Cairo Declaration on Human Rights in Islam, as annexed to this resolution.

15. **Requests** the Member States to sign and ratify the Covenant on the rights of the Child in Islam as soon as possible.
16. **Appreciates** the activities of the Intergovernmental Expert Group on the follow-up of the Cairo Declaration on Human Rights in Islam, and calls upon it and its sub-committee to continue expeditiously their activities, especially in developing Covenants on human rights in Islam, in accordance with their mandates, the principles enshrined in the Cairo Declaration and based on the priorities approved by virtue of resolution 60/27-P.
17. **Requests** the Secretary General to follow up the implementation of this resolution and submit a progressive report thereon to the Thirty-third Session of the ICFM.

DRAFT
COVENANT
ON THE
RIGHTS OF THE CHILD
IN ISLAM

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The States Parties to this Covenant,

Believing that the values and principles constitute the patterns of behavior of Muslim society in such a way as to realize security, stability, development and progress for the society within the family environment, which is the cornerstone of the social edifice,

Proceeding from Islamic efforts on issues of childhood, which contributed to the development of the 1989 United Nations Convention on the Rights of the Child,

Cognizant of the objectives of the Organization of the Islamic Conference enshrined in its Charter and its Summit and Ministerial Conferences resolutions and of international conventions signed by its Member States;

Affirming the principles contained in the Dhaka Declaration on Human Rights in Islam adopted by the 14th Islamic Conference of Foreign Ministers in December 1983 and the Cairo Declaration on Human Rights in Islam adopted by the 14th ICFM under resolution No. 49/19-P (1990) and in the Declaration on the Rights and Care of the Child in Islam adopted by the Seventh Islamic Summit Conference under resolution No. 16/7-C (1994),

Affirming the civilisational and historic role of the Islamic Ummah and in contributing to the international efforts on human rights,

Believing that basic rights and public freedoms in Islam are an integral part thereof that no one has a prerogative to interrupt, violate, or disregard;

Aware of the enormous responsibility towards the Child in particular as the vanguard and maker of the future of the Ummah;

Seeking to enhance Islamic performance in the Child sector so as to adapt frameworks and mechanisms to face the ever-accelerating changes and transformations and their repercussions on that sector;

Realizing that the first order of serious work is to gain a conscious insight into the accumulating and expected challenges facing the Ummah, particularly the adverse effects of economic and social transformations, the waning role of the family, the weakening feeling of belonging, the breaking-down of family-ties, the decline of values and ideals, the diminishing health and educational services, the Growing

illiteracy rate, as well as the effects of the accelerating advances in sciences and fields of knowledge and the information revolution in addition to the continuing persistence of negative and old-fashioned cultural models;

Considering that children, as part of the vulnerable sector of society, bear the burden of the greater suffering as a result of natural and man-made disasters leading to tragic consequences, such as orphanage, homelessness, and exploitation of children in military, harsh, hazardous, or illegitimate labor, and considering also the suffering of refugee children and those living under the yoke of occupation or languishing or displaced as a result of armed conflicts and famines thus fostering the spread of violence among children and increasing the number of physically, mentally, and socially disabled children;

Believing that the situation requires a stand that establishes a commitment to the Rights of the Child and confirms the determination to continue the efforts to activate these rights and overcome the obstacles standing in the way of the Ummah;

Confident that the Ummah has sufficient capabilities and resources to ensure a victory over the hurdles facing it, building on the lofty religious and social values with the family enjoying pride of place on the basis of love and mercy as well as human and material resources which afford it a real opportunity for comprehensive and sustainable development;

Recognizing the Child's right to grow up within a family environment governed by established values, love, and understanding so as to enable him to exercise his rights without discrimination;

Supporting the plans, programs, and projects aimed at improving the conditions of childhood in the Islamic world, including the elaboration of national legislations or regimes ensuring the child's exercise of his full rights;

Considering that the present Covenant affirms the rights of the child in the provisions of the Islamic Shari 'a , taking into account the domestic laws of states and the rights of children of minorities and non-Muslim communities, in affirmation of the human rights shared by the Muslim and non-Muslim child,

Have agreed as follows:

Article One
Definition of the Child

For the purposes of the present Covenant, a child means every human being who, according to the law applicable to him/her, has not attained maturity.

Article Two
Objectives

This Covenant seeks to realize the following objectives:

1. To care for the family, strengthen its capabilities, and extend to it the necessary support to prevent the deterioration of its economic, social, or health conditions, and to habilitate the husband and wife to ensure their fulfillment of their role of raising children physically, psychologically, and behaviorally.
2. To ensure a balanced and safe childhood and ensure the raising of generations of Muslim children who believe in their creator, adhere to their faith, are loyal to their country, committed to the principles of truth and goodness in thoughts and in deeds, and to the sense of belonging to the Islamic civilization.
3. To generalize and deepen interest in the phases of childhood and adolescence and to provide full care for them so as to raise worthy generations for society.
4. To provide free, compulsory primary and secondary education for all children irrespective of gender, color, nationality, religion, birth, or any other consideration, to develop education through enhancement of school curricula, training of teachers, and providing opportunities for vocational training.
5. To provide opportunities for the child to discover his/her talents and to recognize his/her importance and place in the society through the family and relevant institutions, and to encourage children to participate in the cultural life of society.
6. To provide the necessary care for children with special needs and for those who live in difficult conditions as well as address the causes that lead to such conditions.
7. To provide all possible assistance and support for Muslim children in all parts of the world in coordination with governments or through international mechanisms.

Article Three
Principles

To achieve the objectives contained in Article Two it is incumbent to:

1. Respect the provisions of the Islamic Shari'a, and observe the domestic legislations of the Member States.
2. Respect the objectives and principles of the Organization of the Islamic Conference.

3. Attach high priority to the rights, interests, protection, and development of children.
4. Ensure equality in care, rights, and duties for all children.
5. Observe non-interference in the internal affairs of any State.
6. Observe the cultural and civilizational constants of the Islamic Ummah.

Article Four
Obligations of States

States Parties to this Covenant shall observe the following:

1. Respect the rights stipulated in this Covenant, and take the necessary steps to enforce it in accordance with their domestic regulations.
2. Respect the responsibilities and duties of parents, legal guardians, or other persons that are legally responsible for the child in accordance with existing domestic regulations as required by the child's interest.
3. End action based on customs, traditions or practices that are in conflict with the rights and duties stipulated in this Covenant.

Article Five
Equality

States Parties shall guarantee equality of all children as required by law to enjoy their rights and freedoms stipulated in this Covenant regardless of sex, birth, race, religion, language, political affiliation, or any other consideration affecting the right of the child, the family, or his/her representative under the law or Shari'a.

Article Six
The Right to Life

1. The child shall have the right to life from when he is a fetus in his/her mother's womb or in the case of his/her mother's death; abortion should be prohibited except under necessity warranted by the interests of the mother, the fetus, or both of them. The child shall have the right to descent, ownership, inheritance, and child support.
2. States Parties to the Covenant shall guarantee the basics necessary for the survival and development of the child and for his/her protection from violence, abuse, exploitation, and deterioration of his/her living and health conditions.

Article Seven

Identity

1. A child shall, from birth, have right to a good name, to be registered with authorities concerned, to have his nationality determined and to know his/her parents, all his/her relatives and foster mother.
2. States Parties to the Covenant shall safeguard the elements of the child's identity, including his/her name, nationality, and family relations in accordance with their domestic laws and shall make every effort to resolve the issue of statelessness for any child born on their territories or to any of their citizens outside their territory.
3. The child of unknown descent or who is legally assimilated to this status shall have the right to guardianship and care but without adoption. He shall have a right to a name, title and nationality.

Article Eight

Family Cohesion

1. States Parties shall protect the family from causes of weakness and disintegration and shall work, within their available resources, to care for the family members and cause cohesion and balance among them.
2. No child shall be separated from his/her parents against their will and parents shall not have their guardianship revoked save under extreme necessity, in the interest of the child and with a legal justification, in accordance with domestic procedures, and subject to judicial rules where the opportunity is provided for both the child, one or both parents, or a family member to make their views known.
3. States Parties shall take into account in their social policies the child's best interests and if separation from his/her or her parents is necessary, no child shall be deprived of maintaining relations with them.
4. The child shall be permitted to leave his/her state to stay with his/her parents/or with either of them in another country provided he is not separated from them in accordance with Paragraph 2 of this Article, or his/her leaving does not violate the restrictions imposed by virtue of applicable procedures in the state concerned.

Article Nine

Personal Freedoms

1. Every child capable of forming his/her own personal views, according to his/her age and maturity, shall have the right to express them freely in all

matters affecting him/her either orally, in writing, or through any other lawful means in a manner not contradictory to the Sharia and ethics.

2. Every child is entitled to the respect of his/her personal life. Nevertheless the parents or legal representative are entitled to exercise Islamic and humane supervision over the conduct of the child who shall not be subject to any restrictions other than those imposed in conformity with law and are necessary for the protection of public order, public security, public morals, public health, or the protection of the fundamental rights and freedoms of others.

Article Ten
Freedom of Assembly

Every child shall have the right to form and join any peaceful, civilian gathering in accordance with legal and statutory provisions in his/her society and in a way that is compatible with his/her age and does not affect his/her behavior, health or heritage.

Article Eleven
Upbringing

1. A sound upbringing is a right of the child and shall be the responsibility of his/her parents or legal guardian, as the case may be, and in which the institutions of the state, within their means, shall assist them.
2. The upbringing of the child shall aim at the following objectives:
 - i. To develop the personality, religious and moral value, and sense of citizenship and Islamic and human solidarity of the child and to instill in him/her a spirit of understanding, dialogue, tolerance, and friendship among peoples.
 - ii. To encourage the child to acquire skills and capabilities to face new situations and overcome negative customs, and to grow up grounded in scientific and objective reasoning.

Article Twelve
Education and Culture

1. Every child has a right to free compulsory basic education by learning the principles of Islamic education (as well as belief and Shari'a according to the situation) and to the provision of the necessary means to develop his/her mental, psychological and physical abilities, to allow him/her to be open to the common standards of human culture.

2. States Parties to the present Covenant shall provide:
 - i. Compulsory, free primary education for all children on an equal footing.
 - ii. Free and compulsory secondary education on a progressive basis so that, within ten years, it is made available to all children.
 - iii. Higher education, while observing the capability and interest of each child, in accordance with the education system in each State.
 - iv. The right of every child to wear clothes “compatible with her beliefs”, while complying with Islamic Sharia, public etiquette, and modesty.
 - v. Effective treatment of the problem of illiteracy, drop-outs and those who miss basic education.
 - vi. Taking care of outstanding and gifted students in all stages of education.
 - vii. Producing and publishing children’s books, setting up children’s libraries, and making use of the mass media in propagating cultural, social, and artistic materials relating to children and encouraging children education.
3. For the right of the child approaching puberty to receive proper sex education distinguishing between the lawful and unlawful.
4. The provisions of this Article and Article 11 immediately preceding it shall not be in conflict with the freedom of the Muslim child to joint private educational institutions, provided that such institutions respect the provisions of the Islamic Shari‘a and that the education given in such institutions observe the rules laid down by the State.

Article Thirteen
Rest and Activity Times

- 1- The child is entitled to times for rest and play, and to exercise legitimate activities that are suitable to his/her age during his/her free time.
- 2- The child is entitled to participate in cultural, artistic and social spheres.
- 3- Parents or the one legally responsible for the child, have the right to oversee the child while exercising the activities he desires in accordance with this Article in the framework of the educational, religious and moral controls.

Article Fourteen
Social Living Standard

- 1- Every child is entitled to custody and maintenance in order to save him/her from perishing due to his/her inability to preserve and maintain himself/herself.
- 2- States Parties shall recognize the right of every child to benefit from social security in accordance with their national laws.
3. States parties shall be obliged to reduce the prices of services and exempt children from tariffs and taxes.
- 4- Every child is entitled to a living standard suitable to his/her mental, psychological, physical and social development.
- 5- The States Parties shall guarantee for the child mandatory measures to compel his/her parents or legal guardian under Shari'a law to offer him/her support according to their abilities.

Article Fifteen
Child Health

The child is entitled to physical and psychological care. This shall be realized through:

1. Providing care for the mother since the onset of pregnancy and during natural nursing either by the mother or someone else if the mother is unable to suckle the baby.
2. The right of the child to mitigate some Shari'a and judicial rules in favour of his/her legitimate wet-nurse under Shari'a law, and to postpone some punishments given against her as well as lessening work assignments of a nursing and pregnant woman and reduce their working hours.
3. His/her right to necessary measures to reduce infant and child mortality rates.
4. A compulsory medical examination for prospective couples in order to ensure the absence or causes of hereditary or contagious diseases which portend danger for the child.
5. The right of a male child to circumcision.
6. Non-interference of both parents or others in medically altering the colour, shape, features or sex of the fetus except for medical necessities.

7. Providing preventive medical care, disease and malnutrition control, as well as providing the necessary health care for him/her and for his/her mother.
8. The right of the child from the State and society to extend medical information and services for mothers in order to raise awareness and help them improve the health of their children.
9. Guaranteeing the right of the child to be protected from narcotics, intoxicants and other harmful substances as well as from infectious and endemic diseases.

Article Sixteen

Disabled Children and Children with Special Needs

- 1- A disabled child, or one with special needs, is entitled to receive a special care that guarantees his/her full rights and is commensurate with his/her case and the conditions of his/her parents or of the one responsible for him/her, as well as with available capabilities; the services should, as much as possible, be provided free of charge or with nominal fees.
- 2- The objectives of care for a disabled child, or one with special needs are education, rehabilitation and training; providing appropriate mobility means (medical, psychological, social, educational, professional, and entertainment services); to enable him/her to be integrated into society.

Article Seventeen

Child Protection

States Parties shall take necessary measures to protect the child from:

1. Illegal use of drugs, intoxicants and harmful substances, or participation in their production, promotion, or trafficking.
2. All forms of torture or inhumane or humiliating treatment in all circumstances and conditions, or his/her smuggling, kidnapping, or trafficking in him/her.
3. All forms of abuse, particularly sexual abuse.
4. Cultural, ideological, information and communication invasion which contradicts the Islamic Shari'a or the national interests of states parties.
5. To protect children by not involving them in armed conflicts or wars.

Article Eighteen
Child Labour

- 1- No child shall exercise any risky work, or work which obstructs his/her education or which is at the expense of his/her health as well as physical or spiritual growth.
- 2- Domestic regulations of every State shall fix a minimum working age, as well as working conditions and hours. Sanctions shall be imposed against those who contravene these regulations.

Article Nineteen
Justice

- 1- No child shall be deprived of his/her freedom, save in accordance with the law and for a reasonable and a specific period.
- 2- A child deprived of his/her freedom shall be treated in a way consistent with dignity, respect for human rights and basic freedoms. Needs of persons of his/her age shall be observed.
- 3- States Parties to the Covenant shall observe the following:
 - (a) A child deprived of his/her freedom shall be separated from adults in special places for delinquent children.
 - (b) A child shall be informed immediately and directly about the charges against him/her upon his/her summoning or apprehension, and his/her parents, guardian or lawyer shall be invited to be present with him/her.
 - (c) The child shall be provided with legal and humanitarian assistance where needed including access to a lawyer and an interpreter if necessary.
 - (d) Expeditious consideration of the case by a specialized juvenile court, with the possibility of the judgment being contested by a higher court, once the child is convicted.
 - (e) No child shall be compelled to plead guilty or to offer testimony.
 - (f) Punishment shall be considered as a means of reform and care in order to rehabilitate the child and reintegrate him/her into the society.
 - (g) A minimum age under which the child may not be tried shall be determined.

- (h) Respect for the child's privacy during all stages of the lawsuit shall be ensured.

Article Twenty

Parents Responsibility and Protection from Detrimental Practices

- 1- Parents or the one legally responsible shall be obliged to provide good education and upbringing for the child.
- 2- Parents or the one legally responsible and States Parties to the Covenant shall protect the child from practices and traditions which are socially or culturally detrimental or harmful to the health, and from practices which have negative effects on his/her welfare, dignity or growth, as well as those leading to discrimination between children on basis of sex or other grounds in accordance with the regulations and without prejudice to Islamic Shari'a .

Article Twenty-One

Child Refugees

States Parties to this Covenant shall ensure, as much as possible, that refugee children, or those legally assimilated to this status, enjoy the rights provided for in this Covenant within their national legislation.

Article Twenty-Two

Signing, ratification and or accession to the Covenant

- 1- The present Covenant shall be open for signature by all Member States of the Organisation of the Islamic Conference.
- 2- The present Covenant shall be open for ratification and/or accession by all Member States.
- 3- The instruments of ratification shall be deposited with the Secretary General of the Organisation of the Islamic Conference

Article Twenty-Three

The Covenant's Entry in force

- 1- The present Covenant shall enter into force on the thirtieth day following the date of deposit with the Secretary General of the Organization of the Islamic Conference of the twentieth instrument of ratification.
- 2- For each State acceding to this Covenant, the Covenant shall enter into force on the thirtieth day after the deposit by such State of its instrument of accession.

Article Twenty-Four
Implementation Mechanism of the Covenant

- 1- States Parties to the present Covenant agree to establish an Islamic Committee on the Rights of the Child. The Committee shall be composed of the representatives of all the States Parties to the present Covenant and shall meet every two years, starting from the date of entry into force of this Covenant, at the headquarters of the Organisation of the Islamic Conference, to examine the progress made in the implementation of this Covenant.
- 2- The proceedings of the meeting, for which two thirds of the States parties to the present Covenant shall constitute a quorum, shall be governed by the rules of procedure for the meeting of the conferences of the Organization of the Islamic Conference.

Article Twenty-Five
Reservation, withdrawal and Amendment

- 1- Member States shall have the right to make reservation on some sections of this Covenant or to withdraw their reservation after notifying the Secretary General.
- 2- Every Member State shall have the right to withdraw from this Covenant whenever they so wish. The withdrawal shall become effective on the thirtieth day following the Secretary General's receipt of the notice.
- 3- Any state party may present a request to amend this Covenant through a written notice; the amendment will only enter into force with the approval of two-thirds of the OIC Member States.

Article Twenty -Six
Official Languages

The present Covenant has been done in the Arabic, English, and French languages, all of which are equally authentic.
