



# **THE ROLE AND PLACE OF NATIONAL HUMAN RIGHTS INSTITUTIONS IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (ON THE EXAMPLE OF HUMAN RIGHTS INSTITUTIONS OF THE ORGANISATION OF ISLAMIC COOPERATION)**

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<b>Received:</b> December 14 <sup>th</sup> 2023 <b>Accepted:</b> January 10 <sup>th</sup> 2024 <b>Published:</b> February 14 <sup>th</sup> 2024	This scientific article analyzes the legal status of national human rights institutions of member states of the Organization of Islamic Cooperation (OIC), as well as their place and role in the protection and promotion of human rights at the global scale.
<b>Keywords:</b> Human rights, national human rights institutions, the United Nations, the Organization of Islamic Cooperation and its Independent Permanent Human Rights Commission.	

## **NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIS)**

Today, human rights as a universal concept requires concerted efforts to be effectively protected throughout the world. The diversity of modern institutions and mechanisms contributes to the development and maintenance of international human rights norms. The international human rights order can be viewed as a three-tier system consisting of global, regional and national institutions (Held, 1999)<sup>1</sup>. Different international systems of human rights protection often overlap, as states may be subject to the jurisdiction of human rights institutions at both the global, regional and national levels. NHRIs play an important role in the implementation, monitoring and protection of human rights at various levels. The expansion of human rights norms and standards, as well as international resolutions and agreements, has led to a rapid increase in the importance of NHRIs throughout the world.

The most prominent human rights institutions and mechanisms have been created within the UN, including the UN Human Rights Council, as well as regional institutions such as the European Court of Human Rights. Along with these well-known human rights institutions, hundreds of regional NHRIs have emerged over the past 50 years. In some cases, these

mechanisms have provided the necessary basis for the further development and improvement of an interconnected network of human rights norms. In this context, institutions and the implementation of human rights norms and standards are closely linked. Human rights institutions serve as instruments for the application, assessment and monitoring of international, regional or national norms and standards in the field of human rights<sup>2</sup>.

Along with international universal and regional mechanisms aimed at ensuring the implementation of international human rights norms in the field of human rights, NHRIs have also begun to play an important role. NHRIs are government bodies with constitutional and/or legislative powers to protect and promote human rights<sup>3</sup>.

In accordance with the recommendations of the UN and other international organizations, attention is being increased to the development of NHRIs both at the international and national levels.

The UN first expressed interest in NHRIs in 1946 at the second session of the Economic and Social Council, where member countries were invited to consider establishing human rights committees in their countries for the purpose of cooperation with the UN Commission on Human Rights<sup>4</sup>.

<sup>1</sup> Held, D. et al. (1999). *Global Transformations: Politics, Economics and Culture*. Cambridge: Polity Press.

<sup>2</sup> Sulaymanov, O. R. (2022). AN INTERDISCIPLINARY APPROACH TO THE CONCEPT OF "INTERNATIONAL STANDART" IN THE MODERN THEORY OF INTERNATIONAL

LAW. *European International Journal of Multidisciplinary Research and Management Studies*, 2(12), 44-50.

<sup>3</sup> <https://ganhri.org/nhri/>

<sup>4</sup> The UN Commission on Human Rights was established in 1946 and by resolution 60/251 of the UN General Assembly



Simultaneously with the development of the concept of NHRIs in the world, the international community developed certain principles and rules for the creation and operation of these institutions.

The international legal basis for the activities of NHRIs are the **Principles relating to the status of national institutions for the promotion and protection of human rights ("the Paris Principles")**, which were subsequently approved by resolution 48/134 of the UN General Assembly of December 20, 1993, which sets out the tasks of NHRIs, their procedures formation and financing, as well as other criteria for ensuring their independence and functioning<sup>1</sup>.

Thus, the UN General Assembly resolution noted the important role of NHRIs in the UN Human Rights Council, including in the Universal Periodic Review and human rights treaty bodies<sup>2</sup>.

**All international documents related to NHRIs can be divided into 3 groups:**

**first group:** international agreements and declarations adopted within the UN;

**second group:** resolutions and decisions of the UN statutory and treaty bodies;

**third group:** regional documents.

The process of widespread dissemination of NHRIs in different countries of the world has created the need to create international and regional structures to support their activities, provide them with legal and technical assistance.

At the International Conference held in Tunis in 1993, NHRIs established the International Coordinating Committee of NHRIs (ICC) with the aim to coordinate the activities of the NHRI network. In 2016, the ICC changed its name into Global Alliance of National Human Rights Institutions (GANHRI)<sup>3</sup>.

GANHRI is incorporated as a legal entity under the Swiss law, and has a Bureau consisting of 16 "A status" NHRIs representing the four regions of GANHRI. General annual meetings of GANHRI, meetings of the GANHRI Bureau and of the Sub-Committee on Accreditation, as well as international conferences of GANHRI are held in

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on March 15, 2006, the UN Human Rights Council was established in place of the Commission.

<sup>1</sup> <https://undocs.org/ru/A/RES/48/134>

<sup>2</sup> <https://nhrc.uz/uz/menu/universal-davrij-isobot>.

<sup>3</sup> <https://www.ohchr.org/ru/countries/nhri/global-alliance-national-human-rights-institutions-ganhri>

<sup>4</sup> Until 2011, the OIC was called the Organization of the Islamic Conference and at the 38th session of the Council of Foreign Ministers, held in Astana, it was renamed to the Organization of Islamic Cooperation.

cooperation with UN Human Rights in its capacity as the GANHRI secretariat.

### **Organization of Islamic Cooperation<sup>4</sup> and Human Rights**

The Organization of Islamic Cooperation advocates the development of economic, social and cultural cooperation among its members. One of the main aspects of this cooperation is the protection and promotion of human rights in the Islamic world.

In its early years, the OIC maintained a strictly religious approach, emphasizing the central role of sharia. During this period, the OIC was wary of the international human rights system, which ignored local culture, history and religious beliefs<sup>5</sup>.

Until recently, the OIC rarely paid attention to human rights issues, mainly limiting itself to the adoption of analytical and resolution documents.

The OIC is an intergovernmental organization<sup>6</sup> founded in 1969 to strengthen Muslim unity. Representing 57 member states, the OIC often calls itself the **"United Nations of the Muslim World"**. But unlike the UN, the OIC has historically opposed the concept of universal human rights, instead promoting the concept of Islamic human rights.

A significant step in lawmaking in the field of protection and promotion of human rights was made at the meeting of the Committee of Legal Experts (December 26-28, 1989, Tehran), at which a report was prepared for the XIX Conference of the Ministers of Foreign Affairs of the OIC Member States and on the basis of this report July 31 - August 5, 1990 expressed the desire to contribute to the efforts of humanity to protect human rights, to protect people from exploitation and persecution, to affirm their right to freedom and a dignified life, and considering that fundamental rights and universal freedoms in Islam are integral part of the Islamic religion, 45 members of the OIC adopted a resolution<sup>7</sup> (No. 49/19-P), as an annex to which the **"Cairo Declaration on Human Rights in Islam"**,

<sup>5</sup> Human Rights Standards and Institutions in OIC Member States / Statistical, Economic and Social Research and Training Centre for Islamic Countries (SESRIC), 2019.

<sup>6</sup> [https://www.oic-oci.org/page/?p\\_id=52&p\\_ref=26&lan=en](https://www.oic-oci.org/page/?p_id=52&p_ref=26&lan=en)

<sup>7</sup> Brems, E (2001). "Islamic Declarations of Human Rights". *Human rights: universality and diversity: Volume 66 of International studies in human rights*. Martinus Nijhoff Publishers. pp. 241–84. ISBN 90-411-1618-4.



consisting of Islamic human rights, was approved. According to this resolution, the Cairo Declaration was supposed to serve as guidance for member states in the field of human rights.

While there is, of course, nothing to prevent the harmony of Islam and human rights, the particular concept of Islamic rights promoted in the Cairo Declaration was contrary to the basic principles of the UN Universal Declaration of Human Rights. Nowhere in the declaration was universal human rights mentioned; instead, the declaration, based on specific Islamic values, stated that "all rights and freedoms provided for in this declaration are subject to Islamic Sharia" (Article 24), thereby denying the inviolability of human rights.

The reaction to the adoption of this declaration was mixed. While some experts argued that the adoption of the Cairo Declaration shortly before the World Conference on Human Rights held in Vienna in 1993 was an attempt to undermine the value system embodied in the Universal Declaration of Human Rights of 1948, other experts, on the contrary, viewed the Cairo Declaration as an act of accommodation between the concept of human rights and Islam. The OIC, in turn, characterized this declaration as a document complementing the "Universal Declaration of Human Rights", taking into account the religious and cultural characteristics of Muslim countries.

The Cairo Declaration consists of a preamble and 25 articles. The preamble reiterates the provisions of the Dhaka Declaration of 1983, which states that "observance of human rights in Islam is worship and violation is a grave sin for every person." Article 1 of the Cairo Declaration practically mirrored the position of the Dhaka Declaration of 1983, stating that all people are "submissive to God and form one family descended from Adam." The Cairo Declaration included articles relating to political, civil and socio-economic human rights.

However, in recent years there have been signs that the OIC is moving towards a universal concept of human rights and expanding its participation in the international human rights system. As part of the wider reform of the OIC, in 2005 a 10-year Program of Action was launched, focusing on universal human rights and

the importance of including them in all programs and activities.

It is worth noting that the OIC pays special attention to protecting the rights of socially vulnerable segments of the population, namely children and women. Currently, the process of developing regional standards on children's rights is underway<sup>1</sup>. An important step in this process was the adoption of the "Covenant on the Rights of the Child in Islam" in June 2005<sup>2</sup>. It should also be noted that this pact is a valid specialized OIC document in the field of human rights.

Comparing the text of the Covenant on the Rights of the Child in Islam of 2005 with the Cairo Declaration of 1990, it is impossible not to recognize a significant difference in the issue of the role of Sharia in regulating human rights. Thus, although both documents contain references to Sharia, the Covenant no longer defines it as the basis for the interpretation of its rules. Overall, the Pact notes the weakening influence of Sharia on human rights. Article 4 of this Covenant calls on member states to take measures "to put an end to practices, based on custom or experience, that are contrary to the rights and obligations set forth in the Covenant". At the same time, the Pact has retained a significant level of influence of Sharia on human rights, in particular, among its basic principles (Article 4, paragraph 1) is defined "respect for the rules of Sharia". While some see these initiatives as a sign of the OIC's willingness to abandon the Cairo Declaration and instead promote a concept of rights more consistent with international human rights standards, skeptics have called it little more than a formality. Some argue that the powers of the new human rights commission are severely limited and the commission lacks the ability to do anything about serious human rights violations in some OIC member states, despite the fact that there are good opportunities to promote human rights in the Muslim world, and that the OIC has so far failed to do this<sup>3</sup>.

In 2020, by resolution No. 63/47-Pol of the Council of Foreign Ministers of the OIC, a new version of the Cairo Declaration was adopted, renamed the "**The Cairo Declaration of the Organization of Islamic Cooperation on Human Rights**". The text of the

<sup>1</sup> For example, the Resolution on the Care and Protection of Children in the Islamic World, 2000 and 2003; Rabat Declaration on Child's Issues in the Member States of the OIC 2005

<sup>2</sup> Ihsanoglu, E. The Islamic World in the New Century. The Organisation of Islamic Conference, 1969–2009 / E. Ihsanoglu. – London: Hurst & Company, 2010. – 288 p.

<sup>3</sup> Marie Juul Petersen, Islamic or Universal Human Rights? The OIC's Independent Permanent Human Rights Commission, Danish Institute for International Studies, 2012, and Turan Kayaoglu, A Rights Agenda for the Muslim World, Brookings Doha Center Publications, 2013.



declaration contains references to universal international legal documents, as well as sources of Islamic international law. It provides for a broader range of human rights and covers 26 of the 32 human rights and freedoms listed in the Universal Declaration of Human Rights.

The evolution of the New Cairo Declaration has been very warmly received by the United Nations, Western governments and non-governmental human rights organizations (NGOs). Because it demonstrated the OIC's willingness to move closer to core international human rights standards, providing opportunities for dialogue on initial differences and close cooperation. Rights previously granted only to men were now extended to women too.

The new declaration also makes clear that its provisions should not be interpreted in such a way as to prejudice the rights and freedoms provided for by the national legislation of the OIC member states, the obligations of states and their sovereignty and territorial integrity.

### **National human rights institutions in OIC member states**

Historically, the first institutions for the protection of human rights were created in medieval Muslim countries, which was the institution of mukhtasibs. Mukhtasib was guided in his activities by the Islamic religion and Sharia laws, performing a control function. Mukhtasib was an official who monitored compliance with Islamic rites, customs and Sharia laws, the behavior of people in public places and compliance with many rules. These overseers, who are classified as officials specific to the Sharia system, have served as an important foundation for the activities of all NHRIs in the world.

Over time, the OIC became more actively involved in international and regional human rights structures. In recent years, the OIC has gradually begun to move towards a compatible approach between Islamic values and universal human rights, adopting a number of human rights documents and establishing relevant institutions in order to increase its effectiveness and capacity in this area.

Apart from the various human rights documents adopted by the OIC, significant progress has been made

in terms of institutionalizing international norms and standards through the establishment of relevant organizations and institutions to implement and monitor regional and international resolutions, laws and norms on human rights.

Based on amendments made to the OIC Charter in 2008, the promotion and protection of human rights and fundamental freedoms also took place among its goals<sup>1</sup>. OIC countries face unique human rights challenges given their diverse cultural, religious and political differences.

Human rights institutions play an important role in finding the right solutions to these problems, as well as in developing comprehensive strategies to address many issues such as discrimination, gender inequality and minority rights on a global scale<sup>2</sup>.

To understand the current role of human rights institutions in OIC member states, it is first of all important to understand their historical development. Over the years, these institutions have evolved to reflect changing global perspectives and to align their national practices with generally accepted human rights standards<sup>3</sup>.

One of the distinctive features of the NHRIs of the OIC member states is the promotion of a unified approach to human rights, taking into account their cultural aspects. NHRIs of OIC member states actively participate in international events, making a huge contribution to the development of an international system for the protection of human rights that respects various cultural and legal traditions<sup>4</sup>.

The majority of OIC member states (almost 60%) have established NHRIs in their countries. These NHRIs are part of the international human rights system, working closely with the UN and OIC institutions. Their goal is to ensure the application, monitoring and protection of the international and regional norms and standards at the national level. The establishment of a large number of NHRIs in OIC member states, a similar institution at the OIC level, indicates significant progress in their efforts to integrate into the international human rights system. Although OIC member states NHRIs make significant contributions to the global human rights agenda, they still face many challenges. Some of these involve finding a balance between cultural relativism and universal principles, overcoming internal divisions among

<sup>1</sup> <http://www.oic-oci.org/is11/english/Charter-en.pdf>

<sup>2</sup> Addressing Global Human Rights Challenges: Insights from OIC Countries, Human Rights Quarterly, Volume 38, Issue 4, 2016.

<sup>3</sup> Historical Development of OIC Human Rights Institutions, OIC Journal of Human Rights Studies, Volume 10, Issue 2, 2005.

<sup>4</sup> Cultural Sensitivity in OIC Human Rights Initiatives, Journal of International Human Rights, Volume 15, Issue 3, 2020.



member countries, and addressing geopolitical complexities. At the same time, these challenges provide opportunities for learning, adaptation, and increased partnerships and collaborations<sup>1</sup>.

Although these institutions face certain limitations in terms of functions and capabilities, there is ample reason to look positively at their strengthening and transparency in the near future to enhance the integration, protection and promotion of human rights within the OIC.

Imagining the future role of NHRIs of OIC member states involves strengthening institutional capacity and developing intercultural dialogue<sup>2</sup>.

### **Independent Permanent Human Rights Commission of The Organisation of Islamic Cooperation (IPHRC OIC)**

The IPHRC is an important institution within the OIC, whose main task is to develop cooperation and solving human rights issues on a global scale<sup>3</sup>.

As an independent organization, the IPHRC plays an important role in coordinating human rights efforts, sharing best practices, and advocating for culturally sensitive interpretations of human rights principles.

The IPHRC is one of the main organs of the OIC, as well as the main institution paying special attention to human rights issues in the OIC system. The idea of establishing the IPHRC was originally proposed in 2005 as part of the Ten Year Program of Action recognized in the OIC Charter of 2008, officially launched with the adoption of the IPHRC OIC Charter in accordance with the Resolution adopted at the 38th session of the Council of Foreign Ministers of the OIC member states, held in Astana (Republic of Kazakhstan) on June 28-30, 2011. The Charter of 2008 recognizes the IPHRC as the main body of the OIC (Article 5). The Commission is mandated to promote civil, political, social and economic rights enshrined in the organization's treaties and declarations, as well as generally accepted human rights documents, in accordance with Islamic values (Article 15).

IPHRC supports the efforts of OIC member states to improve legislation aimed at strengthening the rights of women, youth and people in need. In this regard, it

pays special attention to ensuring rights in the economic, social, political, cultural and educational spheres, and ending all forms of violence and discrimination.

In addition, the revised OIC Charter paved the way for the promotion of civil, social and economic rights in the documents of the IPHRC on human rights. By establishing the IPHRC, the OIC has taken an important step in the right direction towards universal human rights.

The creation of the IPHRC marked a new approach to human rights within the OIC. The Commission was tasked with promoting human rights among OIC member states, as well as the rights of Muslim minorities.

The creation of the Commission should not be seen as a step towards the creation of an alternative, specific system of human rights, parallel to the existing system developed within the UN, of which all OIC members states are members<sup>4</sup>. In addition, in cooperation with the Office of the United Nations High Commissioner for Human Rights, the Commission tries to work within the existing system, taking into account its characteristics related to traditional Islamic values.

The establishment of the IPHRC OIC, together with other institutions, is a clear indication of the efforts aimed at institutionalizing human rights standards and norms in member states.

Thus, the creation of the IPHRC OIC became evidence to efforts to create a holistic human rights strategy and guidance for all member states, including not only international but also regional norms and standards. This marked a major turning point in the OIC's human rights agenda, as it marked the first time that a formal institutional human rights body was empowered to promote and protect human rights in its 57 member states. It was also seen as a step forward in terms of the OIC's engagement and human rights legitimacy at the international level.

### **The Department of Humanitarian Affairs of the OIC**

Humanitarian assistance of the OIC began in the mid-1990s after the war in Bosnia and Herzegovina. Since then, the OIC's humanitarian agenda has expanded

<sup>1</sup> Challenges and Opportunities in OIC Human Rights Institutions, OIC Human Rights Forum, 2022.

<sup>2</sup> Future Prospects and Recommendations for OIC Human Rights Institutions, OIC Journal of International Relations, Volume 23, Issue 1, 2023.

<sup>3</sup> Establishment of the OIC Independent Permanent Human Rights Commission (IPHRC), OIC Official Website.

<sup>4</sup> With the exception of Palestine, which has been a member of the OIC since 1969, but is not a member of the UN.



significantly, which culminated in the institutionalization of this humanitarian function with the creation of the The Department of Humanitarian Affairs (ICHAD) of the OIC in June 2008.

The Department of Humanitarian Affairs of the OIC plays a critical role in addressing global humanitarian issues. The Department is one of the main mechanisms through which the OIC implements its humanitarian efforts and initiatives, as well as policies to alleviate human suffering around the world.

The OIC is committed to addressing the profound humanitarian challenges with which facing communities and individuals around the world and to promoting international peace and harmony. At the center of the OIC's humanitarian efforts is the Department of Humanitarian Affairs, which serves as a beacon of hope for millions of people affected by conflict, natural disasters and poverty.

The main goal of the Department of Humanitarian Affairs of the OIC is to provide rapid, effective and sustainable humanitarian assistance to communities in need, regardless of religion, ethnicity or geographical location. This includes both short-term relief efforts and long-term development initiatives aimed at empowering vulnerable populations and increasing their resilience to future crises. In addition, the department is committed to strengthening international cooperation, defending humanitarian principles and coordinating with various stakeholders to maximize the effectiveness of its interventions.

The Department of Humanitarian Affairs of the OIC is actively involved in emergency operations, health programs, food security projects and educational support for refugee children. Some examples of this include successfully providing relief to areas affected by armed conflict, creating sustainable infrastructure in low-income areas, providing clean drinking water to scarce areas and facilitating the use of sewage systems. Through its collaborative approach with international and local partners, the Department of Humanitarian Affairs of the OIC has played an important role in promoting inclusive and sustainable development, thereby making a significant contribution to the achievement of the United Nations Sustainable Development Goals.

The Department of Humanitarian Affairs of the OIC makes determined efforts to alleviate human suffering and promote the well-being of all people, regardless of circumstances, in OIC member states. Through its

strategic approach, impactful initiatives and global partnerships, the Department continues to make a significant difference in the lives of millions of people. As the Department of Humanitarian Affairs of the OIC continues to lead global humanitarian efforts, its importance in shaping a more inclusive, just and humane world cannot be overstated.

The OIC strives to inspire a collective global response to humanitarian crises by promoting a culture of solidarity and compassion.

### **The Peace, Security and Conflict Resolution Unit of the OIC**

The Peace, Security and Conflict Resolution Unit of the OIC is an important organization in the field of international relations. The creation of the OIC laid the foundation for cooperative efforts covering issues of peace, security and conflict resolution in addition to economic and cultural cooperation among member states. The Unit was created in response to the growing need for a collective approach to mitigating conflicts and promoting stability among member states<sup>1</sup>.

The Peace, Security and Conflict Resolution Unit of the OIC was established in the General Secretariat on 20 March 2013 to strengthen the role of the OIC in conflict prevention and resolution. The goal of this unit is to provide culturally sensitive mediation and preventive diplomatic solutions to conflicts in OIC countries. The OIC is actively involved in some of the world's most protracted and antagonistic conflicts, including Syria, the Palestinian Territory, Somalia, Sudan, Kashmir and Yemen. The unit's goal is to promote stability and peace in the Muslim world through diplomatic initiatives, mediation efforts and cooperation strategies, working towards the prevention and peaceful resolution of current conflicts and disputes in OIC member states<sup>2</sup>.

### **The OIC Women's Development Organization**

OIC member states are slightly behind other countries in terms of women's empowerment and development. Increased awareness of the issue led to the adoption of a special Plan of Action for the Development of Women and a Ten-Year Program of Action in 2008.

Following this, in May 2009 was established the OIC Women's Development Organization to ensure the full development of women and gender equality in the Muslim world. The organization is based in Cairo and is

<sup>1</sup> "About the OIC." Organization of Islamic Cooperation. [https://www.oic-oci.org/about\\_oic.asp](https://www.oic-oci.org/about_oic.asp)

<sup>2</sup> "Peace and Security." Organization of Islamic Cooperation. [https://www.oic-oci.org/page/?p\\_id=53&p\\_ref=29&lan=en](https://www.oic-oci.org/page/?p_id=53&p_ref=29&lan=en)



an important component of human rights institutions at the OIC level.

The main objectives of the OIC Women's Development Organization are to conduct large-scale events in OIC member states aimed at promoting women's rights within the framework of Islamic values.

Including contributions to social change in member states, educational initiatives to improve women's skills, health programs, vocational training and economic empowerment through entrepreneurship, legal advocacy for women's rights and awareness campaigns to combat stereotypes.

Its creation reflects a wider recognition of the importance of women's empowerment as a catalyst for the development of society in accordance with the principles set out in the OIC Charter<sup>1</sup>.

The organization collaborates with other specialized agencies and structures to implement its programs and initiatives. Its organizational structure usually includes special departments or divisions dedicated to economic empowerment and legal advocacy.

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<sup>1</sup> Organization of Islamic Cooperation. (n.d.). Charter of the Organization of Islamic Cooperation. <https://www.oic-oci.org/docdown/?lan=en&id=3>