

THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS



UNIVERSAL RIGHTS GROUP

## INFORMAL REPORT OF THE 5<sup>TH</sup> MEETING OF THE ISTANBUL PROCESS

*'From Resolution to Realisation – how to promote  
effective implementation of Human Rights Council  
resolution 16/18'*

Jeddah, 3<sup>rd</sup>-4<sup>th</sup> June 2015

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## I. Background

On 3<sup>rd</sup> – 4<sup>th</sup> June 2015, the Organisation of Islamic Cooperation (OIC) hosted a 5<sup>th</sup> session of the Istanbul Process in Jeddah, Saudi Arabia. The meeting was entitled: ‘from resolution to realisation: how to promote effective implementation of Human Rights Council resolution 16/18.’

The meeting addressed three main themes:

1. Addressing potential areas of tension between communities and promotion of better understanding and dialogue;
2. Countering and combating advocacy to religious hatred that constitute incitement to discrimination, hostility or violence through affirmative/positive measures; and
3. Understanding the need to combat denigration, negative religious stereotyping of persons and incitement to religious hatred through adopting measures to criminalize incitement to imminent violence based on religion or belief.

### *Resolution 16/18 and the Istanbul Process*

In September 2010, the then Secretary-General of the OIC, Professor Ekmeleddin İhsanoğlu addressed the 15<sup>th</sup> session of the Human Rights Council (The Council/HRC) and presented an eight-point vision for a new, consensual approach to combatting religious intolerance:

*‘I take this opportunity to call upon all states to consider taking specific measures aimed at fostering a domestic environment of religious tolerance, respect and peace, including but not limited to:*

- a. encouraging the creation of collaborative networks to build mutual understanding, promoting dialogue and inspiring constructive action...;*
- b. creating an appropriate mechanism within the government to, inter alia, identify and address potential areas of tension between members of different religious communities...;*
- c. encouraging training of government officials on effective outreach strategies;*
- d. encouraging efforts of community leaders to discuss within their communities causes of discrimination and evolving strategies to counter them;*
- e. speaking out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;*
- f. adopting measures to criminalise incitement to imminent violence based on religion;*
- g. underscoring the need to combat denigration or negative religious stereotyping and incitement to religious hatred...;*
- h. recognising that the open, constructive and respectful debate of ideas, as well as interfaith and intercultural dialogue can play a positive role in combating religious hatred, incitement and violence.’*

Building on this speech, during the Council’s 16<sup>th</sup> session (March 2011), Pakistan, Turkey, the UK and the US took steps secure support for a new resolution on ‘combatting

intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief.’

A draft text was subsequently presented to the Council by Pakistan (on behalf of the OIC) under agenda item 9 (racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action). On 24<sup>th</sup> March 2011, the Council adopted the draft by consensus. It was a moment the OIC Secretary-General later called a ‘triumph of multilateralism.’<sup>1</sup> Resolution 16/18 remains one of the most important thematic texts ever adopted by the Council.

Recognising the importance of the achievement inherent in resolution 16/18, on 15<sup>th</sup> July 2011, the OIC hosted a ministerial meeting in Istanbul on implementation. In the words of the then US Ambassador to the Council, Eileen Donahoe, ‘it wasn’t just going to be a landmark resolution, but there is going to be concrete follow up, and [the Istanbul ministerial] was [a] symbolic and substantive manifestation of that.’<sup>2</sup>



The meeting was co-chaired by the OIC Secretary-General and the US Secretary of State, and included foreign ministers and high-ranking officials from 28 countries. In his opening address, the Secretary-General explained the purpose of the meeting as two-fold: it offered a symbolic ‘reflection of the requisite political will towards implementation of the resolution,’ and would also ‘put in place a process of sustained and structured engagement’ in order to ‘further consensus with emphasis on implementation in a results-orientated fashion.’<sup>3</sup> Secretary of State Clinton echoed the Secretary-General’s remarks, describing the meeting as ‘one of those events that has great ramifications far beyond this room.’<sup>4</sup> At the conclusion of the meeting, the co-chairs issued a joint statement in which they called upon

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<sup>1</sup> Opening remarks by His Excellency the Secretary General during the High Level meeting on intolerance, January 22, 2013.

<sup>2</sup> ‘A Roadmap for Implementing UNHRC Resolution on Combating Religious Intolerance,’ OIC Journal, Issue no. 18, June-August 2011, p.5.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

‘all relevant stakeholders throughout the world to take seriously the call for action set forth in resolution 16/18’ and ‘go beyond mere rhetoric.’<sup>5</sup>

The Istanbul Ministerial put in place various mechanisms and processes to promote domestic implementation of the resolution 16/18 action plan. As agreed by the co-chairs in Istanbul, these mechanisms or processes would be two-fold.

First, there would be a ‘process of sustained and structured engagement’<sup>6</sup> on implementation: **the Istanbul Process**. To-date there have been five expert-level meetings of the Istanbul Process:

- The first was convened by the US in Washington DC in December 2011. The US meeting focused on the ‘training of government officials on religious and cultural awareness’ and effective outreach strategies and ‘enforcing laws that prohibit discrimination on the basis of religion or belief.’<sup>7</sup>
- The second was convened by the UK and Canada in London in December 2012. The meeting addressed three parts of the 16/18 action plan: ‘overcoming obstacles to the equal participation of all groups in society;’ ‘combatting intolerance through education;’ and ‘developing collaborative networks between government and civil society.’<sup>8</sup>
- The third was convened by the OIC secretariat at the UN in Geneva in June 2013. The Geneva meeting included three panel debates, covering: speaking out against intolerance (paragraph 5(e)); adopting measures to criminalize incitement (paragraph 5(f)); and the positive role that an open, constructive and respectful debate of ideas can play in combatting intolerance (5(h)).
- The fourth was convened by Qatar during the Doha International Interfaith Dialogue in March 2014. The Qatar meeting focused, in particular, on paragraph 5(h): ‘recognising that interfaith and intercultural dialogue at the local, national and international levels, can play a positive role in combatting religious hatred, incitement and violence.’
- The fifth meeting was convened by the OIC in Jeddah, Saudi Arabia. The meeting was entitled: ‘from resolution to realisation: how to promote effective implementation of HRC resolution 16/18.’

The latest iteration of resolution 16/18 – resolution 28/29, adopted during the 28<sup>th</sup> session of the Council – ‘welcomed international, regional and national initiatives aimed at promoting interreligious, intercultural and interfaith harmony and combating discrimination against individuals on the basis of religion or belief, in particular the series of experts’ meetings held in Washington, D.C., London, Geneva and Doha, in the framework

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<sup>5</sup> Joint Statement by the Co-Chairs of the Ministerial on Implementation of UN Human Rights Council Resolution 16/18 on Combating Intolerance, Discrimination, and Violence Based on Religion or Belief (Washington D.C.), July 15, 2011.

<sup>6</sup> Statement of HE Prof. Ekmeleddin İhsanoğlu, the OIC Secretary General, at the Ministerial Meeting, held on 15 July 2011 at the IRCICA in Istanbul, Turkey.

<sup>7</sup> ‘The Istanbul Process for Combating Intolerance and Discrimination Based on Religion or Belief,’ Implementing Human Rights Council (HRC) resolution 16/18, December Expert Level Meeting, background note, U.S. Department of State, Diplomacy in Action, [www.humanrights.gov](http://www.humanrights.gov).

<sup>8</sup> Announcement: Conference on freedom of religion or belief, Foreign and Commonwealth Office. Available online at <https://www.gov.uk/government/news/conference-on-freedom-of-religion-or-belief>.

of the Istanbul Process to discuss the implementation of Human Rights Council resolution 16/18.<sup>9</sup>

Resolution 28/29 also welcomed a 'separate but related' series of meetings in the context of the **Rabat Plan of Action**. The resolution noted 'the efforts of the OHCHR and the holding of four regional workshops in Austria, Chile, Kenya and Thailand [...] and the final workshop in Morocco and its outcome document, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and the recommendations and conclusions contained therein.'<sup>10</sup>

During the 3<sup>rd</sup> Istanbul Process meeting in Geneva, Chile announced its intention to host an Istanbul Process meeting in Santiago during 2014. This announcement was reaffirmed during a [February 2015 meeting in Geneva on the implementation of resolution 16/18](#), organised by the Universal Rights Group.<sup>11</sup> The Chile meeting is now expected to take place in 2016. During the 4<sup>th</sup> meeting in Doha, the new OIC Secretary-General, Iyad Ameen Madani, announced that the OIC secretariat would host an Istanbul meeting in 2015 in Jeddah.

The second decision taken at the Istanbul Ministerial was that **progress on implementation would be 'underwritten and monitored by the Human Rights Council through the available reporting mechanisms.'** To fulfil this need, between 2011 and 2015 the UN adopted a number of resolutions requesting the Secretary-General (on four occasions<sup>12</sup>) and the High Commissioner for Human Rights (on three occasions<sup>13</sup>) to prepare reports on steps taken by states to implement the action plan outlined in the resolution.

Thus far, the effectiveness of this reporting mechanism has been questionable. Between 2011 and 2013, less than 15% of UN member states submitted information on implementation,<sup>14</sup> while the reports themselves have tended to be a rather superficial summary of national positions and pre-existing (i.e. irrespective of resolution 16/18) policies.

Resolution 28/29 commissioned a further report monitoring progress on implementation, to be presented by the High Commissioner to the Council at its 31<sup>st</sup> session, and encouraged more 'states to consider providing updates on efforts made in this regard as part of ongoing reporting to the Office of the High Commissioner.'<sup>15</sup>

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<sup>9</sup> Human Rights Council resolution 28/29, 'Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief,' 30 April 2015.

<sup>10</sup> Ibid.

<sup>11</sup> See <http://www.universal-rights.org/events-detail/high-level-panel-discussion-on-combatting-global-religious-intolerance-and-discrimination-2/>.

<sup>12</sup> UNGA resolutions 66/167 (2011), 67/178 (2012), 68/169 (2013) and 69/174 (2014).

<sup>13</sup> HRC resolutions 22/31 (2013), 25/34 (2014) and 28/29 (2015).

<sup>14</sup> See URG Research Box p.10.

<sup>15</sup> HRC resolution 28/29, 'Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief,' 30 April 2015, para 9.

## II. Agenda

Unlike previous Istanbul Process meetings, which have tended to focus on one or two parts of the resolution 16/18 action plan, the fifth meeting in Jeddah aimed to provide a ‘general review’ to give ‘an overall perspective of progress on different fronts of the Action Plan.’<sup>16</sup>

With this in mind, the agenda covered three broad themes:

***Panel I: Addressing potential areas of tension between communities and promotion of better understanding and dialogue:***

- i. Sharing and discussing best practices used for establishment of outreach strategies and collaborative networks as well as servicing projects in different fields stated in Res 16/18;*
- ii. Training government officials and religious and community leaders in addressing the root causes of discrimination based on religion and belief.*

***Panel II: Countering and combating advocacy to religious hatred that constitute incitement to discrimination, hostility or violence through affirmative/positive measures:***

- i. Speaking out against acts of provocation, stereotyping, insult etc. by all at all levels;*
- ii. Promoting interfaith and intercultural dialogue at different levels.*
- iii. Sharing and discussing other best practices used in various regions;*

***Panel III: Understanding the need to combat denigration; negative religious stereotyping of persons and incitement to religious hatred through adopting measures to criminalize incitement to imminent violence based on religion or belief:***

- i. Sharing and discussing best practices used in various regions;*
- ii. Benefiting from the views of legal practitioners and officials on how to use the existing legal regimes being practiced in different countries for agreeing on a universal framework to protect all affected religious groups/communities.*

See Appendix I and II for a full programme and concept note for the meeting.

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<sup>16</sup> Inaugural Statement by His Excellency Iyad Ameen Madani, Secretary General of the OIC, during the 5<sup>th</sup> Meeting of the Istanbul Process, held in Jeddah, Kingdom of Saudi Arabia, 3-4 June 2015.

### III. Participants

Approximately 90 people participated in the meeting. Participants included representatives from the UN and other international and regional organisations, diplomats, academics and experts, and NGO representatives.

Participants came primarily from OIC states. Just three Western Group states, the US, the UK and Turkey (also a member of the OIC), sent high-level human rights/religious discrimination experts from their capitals or from their Geneva missions. Only one government outside the OIC or the Western Group sent a high-level expert representative: Chile (the host of the next Istanbul Process meeting). Consequently, as with previous rounds of the Istanbul Process, the Jeddah meeting became a bilateral conversation between the West and the OIC.

The Jeddah meeting, unlike previous rounds of the Istanbul Process, benefitted from the active engagement of international civil society and NGOs. Notwithstanding, the Process would benefit from involving more actors from national and local civil society and religious communities, as noted by a number of participants during the meeting.



Nazila Ghanea (University of Oxford) and others stressed the need to further include **local civil society**, noting the 'very serious contribution' they can make to effective implementation on the ground. She stressed the importance of providing them with the 'protection, security and space' they require. Moreover, a number of participants highlighted the important contributions **religious leaders** could make to the process, with

some stressing the importance of reaching out to both traditional and non-traditional religious leaders to ensure all voices are heard.

Ambassador Maurás (Chile) encouraged greater efforts to improve **gender balance**, noting the low female representation at the meeting, and stressed the importance of incorporating a gender approach in future meetings.

Marie Juul Petersen (Danish Institute) highlighted the important role that **NHRIs and regional mechanisms** could play in the Istanbul Process, noting the disconnect between UN and national level activities. She suggested that their involvement could be facilitated by the International Coordinating Committee of National Human Rights Institutions (ICC).



## IV. High Level Plenary Session

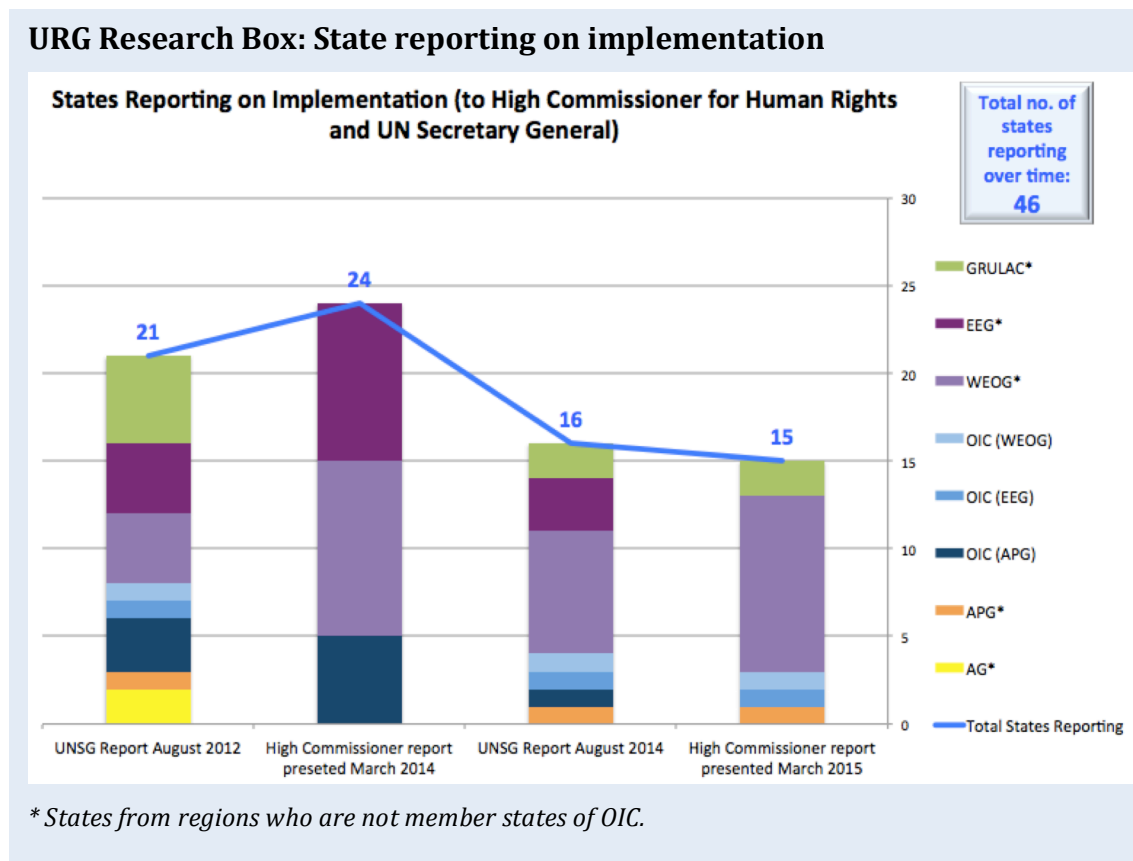
The following people delivered statements during the High Level Plenary Session in the morning of the first day, Wednesday 3<sup>rd</sup> June:

- **Mr. Iyad Ameen Madani**, Secretary General of the Organisation of Islamic Cooperation
- **Ambassador Joachim Ruecker**, President of the Human Rights Council
- **Mr. Faissal Muammar**, Secretary General of the King Abdullah bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue (KAICIID)
- **Prof. Ibrahim Saleh Al Naimi**, Chairman of the Doha International Centre for Interfaith Dialogue (DICID)
- **Mr. Zeid Ra'ad Al-Husseini**, United Nations High Commissioner for Human Rights (statement delivered by Ibrahim Salama, Director of the Human Rights Treaties Division at the OHCHR).
- **Mr. John Kerry**, US Secretary of State (statement delivered by Arsalan Suleman, US Acting Special Envoy to the OIC)
- **Ms. Federica Mogherini**, High Representative of the European Union for Foreign Affairs and Security (statement delivered by Ambassador Adam Kulack, EU Ambassador to KSA and the Gulf)
- **Ambassador Marta Maurás**, Permanent Representative of Chile to the United Nations in Geneva
- **Mr. David Kaye**, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (statement delivered via video link).



### Summary of Key Points

- Most of the high-level participants underlined the importance of maintaining **consensus** on 16/18.
- Most participants recognised that demonstrable progress on **implementation** is crucial to maintaining that consensus, stressing the importance of paying equal attention to ‘every aspect of the action plan with a uniform and universal approach.’<sup>17</sup>
- Participants stressed the need for greater **self-reporting** and **introspection**, including through Istanbul Process participation and more regular and substantive reporting to the High Commissioner for Human Rights. As Ambassador Ruecker (HRC President) noted, just 15 states have responded to the most recent call for information (see URG research box below).



- A number of participants (including the President of the HRC and the UN High Commissioner for Human Rights) suggested concrete methods for **strengthening the Istanbul Process**, including through the informal institutionalisation of the process.

<sup>17</sup> Inaugural Statement by His Excellency Iyad Ameen Madani, Secretary General of the OIC, during the 5th Meeting of the Istanbul Process, held in Jeddah Saudi Arabia 3-4 June 2015, p.3.

- A number of participants stressed the **important role the UN system** (including UPR, Treaty Bodies, Special Procedures and the Rabat Plan of Action) **and civil society** can play in the implementation process. Some representatives stressed the complementarity of the HRC's freedom of religion or belief<sup>18</sup> and 16/18 resolutions, which run parallel, and are both tabled at the March session.
- Despite the emphasis on the importance of maintaining consensus and focusing on practicalities of implementation, it was clear from the beginning of the high-level segment the **threshold for the criminalisation of speech**, and how to deal with 'hate speech or incitement to hatred or discrimination,' remains the great fault line of discussions.
- A number of participants noted the importance of recalling that **individuals – not religions – are the subjects of international human rights law**.
- Participants were unanimous in stressing the timeliness of the Jeddah meeting, given the **rising religious tensions worldwide**.

### *Participants' Key Points*

While a selection of the full statements delivered during the high level segment can be found in Appendix IV, below are brief summaries of the key points made:<sup>19</sup>

- **Mr. Iyad Ameen Madani, Secretary General of the OIC**, reflected on the controversies surrounding the former 'defamation of religions' resolutions, noting the importance of 16/18's consensual and action-oriented approach, firmly based in existing human rights law.

At the same time, however, he noted the importance – for the OIC – 'of avoiding defamation and insults to religions and their symbols,' and called for a 'distinction between criticism and constructive discussion – which is a legitimate part of freedom of expression – and sheer disrespect, defamation, insult and negative stereotyping – that falls into the category of inciting religious hatred.' In this regard, he quoted the New York Times editorial on the recent Muhammad art exhibition, which stated that the exhibition was 'an exercise in bigotry and hatred posing as a blow for freedom,' saying he 'fail[s] to understand how the right to offend or to insult, discriminate or negatively stereotype, can produce a positive outcome.'

Finally, he called for 'frank, open and constructive discussions that will help find practical solutions to the difficult issues that can be universally applied across different legal regimes,' and to 'help ensure full and effective implementation of this text at different levels,' recalling previous suggestions including the use of the UPR, involvement of treaty bodies and special procedures and the establishment of a mechanism under OHCHR to give effect to some concrete agreements on these or other useful ideas.

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<sup>18</sup> The latest of which is HRC resolution 28/18.

<sup>19</sup> Note: the summaries of discussions which took place during the Istanbul Process meeting in Jeddah, 3<sup>rd</sup>-4<sup>th</sup> June 2015 are based on official statements that were circulated to participants, as well as notes taken by the authors of this report – Hilary Power (Universal Rights Group) and Marie Juul Petersen (Danish Institute of Human Rights). The discussions were recorded – and have been reported – as accurately as possible.

- **Ambassador Joachim Ruecker, President of the Human Rights Council**, noted the importance of ‘each State [focusing] on implementation of the resolution,’ in order to ‘overcome the politicisation of this important subject-matter more easily.’

He highlighted the important contributions civil society and the UN system can make to implementation, specifically referring to the Rabat Plan of Action and the reports of the Special Procedures and UPR. He also noted the importance of better cooperation with those mechanisms, and with the OHCHR, noting that only 15 member states have reported to the High Commissioner’s latest call for information.<sup>20</sup>

Ruecker emphasised the complementarity between 16/18 and the other HRC resolution on freedom of religion or belief<sup>21</sup> – calling the two resolutions two ‘aspects of the same fundamental rights.’ He stressed the importance of the HRC maintaining consensus on both, expressing hope that ‘one fine day these important subjects can be even jointly addressed in one single text.’

Noting a number of key challenges (including the need for a balanced approach, sharing of good practices and achieving wider ownership of Istanbul Process events), he said that the creation of a roadmap of future Istanbul Process meetings, covering all parts of the 16/18 action plan, would ‘lead in the right direction.’

- **Mr. Faissal Muammar, Secretary General of the King Abdullah bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue (KAICIID)**, emphasised the need to overcome misconceptions in the context of the secularisation of society in Europe and extremism in the name of religion. He also called for religion to be used in a useful way.
- **Mr. Ibrahim Saleh Al Naimi, Chairman of the Doha International Center for Interfaith Dialogue**, noted that the report of the Doha Istanbul Process meeting (2014) was ‘the first collaborative document of its kind, written by the interfaith community addressing an organ of the UN.’
- **Mr. Zeid Ra’ad Al Hussein, United Nations High Commissioner for Human Rights** (in a statement delivered by Dr. Ibrahim Salama, OHCHR), hailed resolution 16/18 as a ‘clear call for action by all Member States,’ and said the Istanbul Process is unique ‘in the sense that it constitutes a collective follow-up by States of a HRC resolution.’

The High Commissioner stressed the importance of grounding the fight against religious intolerance in relevant international human rights norms and standards, noting that international human rights law ‘offers protection to individuals and communities, including the right to comply or not comply with specific religious dogma, and to freely profess the religion or belief of one’s choice, including non-belief.’ He remarked that ‘the complexity of religion is how to distinguish between the sanctity of the sources of the dogma and the relativity of its interpretation by humans,’ concluding this point by remarking that ‘putting aside prophets, nobody has the authority to speak on behalf of the divine.’

The High Commissioner proposed ‘five guiding principles’ designed to foster a more effective Istanbul Process:

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<sup>20</sup> See ‘URG Research Box,’ p.10.

<sup>21</sup> *Supra note 17.*

1. **Introspectiveness** and ‘honest self-evaluation;’
2. **Implementation** – 16/18 is not merely a ‘political statement,’ but ‘a plan of action, that lends itself to changing realities at the national level;’
3. **Concreteness** – meetings should focus on ‘learning from practical experiences across the world;’
4. **Continuity** – Istanbul Process meetings should be complementary rather than duplicative. To this end, he suggested the adoption of a ‘forward agenda’ to ‘ensure that balanced importance is accorded to all parts of the 16/18 action plan;’
5. **Leadership** – ‘continuity needs to be entrusted to a collective rotating leadership,’ e.g. a steering committee or Troika composed of officials from the previous, current and forthcoming events ‘to ensure institutionalisation [and] shared ownership of the process, in a collective, rotating, transparent manner.’

He noted that if more states provided substantive contributions to his calls for information, OHCHR would be able to play a more valuable role ‘[generating] higher quality reports, containing better analysis of trends, compiling detailed best practices, or even [mapping] the progression of case law,’ and also ‘[offering] and [implementing] more relevant technical assistance programmes for States.’

Finally, he noted the importance of the Rabat Plan of Action, noting that while ‘16/18 scopes the areas for action [...] the Rabat Plan of Action presents specific measures to be taken within those areas.’

- **Mr. John Kerry, US Secretary of State** (in a statement delivered by Arsalan Suleman, acting U.S. Special Envoy to the OIC), noted that 16/18 provides a ‘comprehensive action plan,’ and clear ‘blueprint’ that ‘has the consensus of the international community,’ adding that now is the time to ‘focus our attention on implementation.’

In terms of way forward, he emphasised the need ‘to continue having expert-focused meetings to discuss best practices for implementing each step of resolution 16/18,’ and that ‘governments should then follow through and implement the experts’ findings and recommendations as appropriate.’

He stressed that implementation ‘should focus on all aspects of the comprehensive action plan, not just one prong,’ and stressed the need for ‘greater and more effective state reporting on implementation.’

He noted the important role to be played by civil society in promoting and monitoring implementation, as well as contributing to implementation directly as appropriate. He welcomed civil society contributions, noting ‘the Universal Rights Group’s recent study on 16/18 implementation,’ which he said ‘provided useful analysis on the lack of reporting and gaps in implementation.’

- **Ms. Federica Mogherini, High Representative of the EU for Foreign Affairs and Security** (in a statement delivered by Ambassador Adam Kulach, Head of the EU Delegation to the Kingdom of Saudi Arabia), went into detail on EU implementation of 16/18. She explained that the EU ‘is equipped with specific legislation on combatting racism and xenophobia by means of criminal law.’ She noted, for example, the 2009 EU

Framework Decision on combatting racism and xenophobia<sup>22</sup> and a new ‘ambitious Directive to support the victims, including all victims of hate crime, due to enter into effect as of November 2015.’

She also noted several European Commission initiatives on ‘human rights education and encouraging interfaith and intercultural understanding,’ including a high level meeting in June ‘with religious leaders and non-confessional organisations,’ and the ‘first ever Annual Colloquium on Fundamental Rights,’ scheduled for 1-2 October 2015, devoted to ‘fostering tolerance and respect, with a focus on preventing and combating anti-Semitic and anti-Muslim hatred.’

She noted that freedom of religion or belief – i.e. ‘promoting the ability of members of all religious communities to manifest their religion and to contribute openly and on an equal footing to society’ – is key to the actions highlighted in 16/18.

She also noted the ‘fundamental role religious leaders can play in defeating intolerance and discrimination,’ referencing the latest report of the UN Special Rapporteur on freedom of religion or belief, and a number of examples (CAR, Mali, Indonesia, Former Yugoslav Republic of Macedonia) where the EU has promoted inter-religious dialogue and mediation.

- **Ambassador Marta Maurás, Permanent Representative of Chile to the United Nations in Geneva**, emphasised the fact that individuals – and not religions – are the only subjects of international human rights law. In this regard, she noted the 2008 Joint Declaration on Defamation of Religions and Anti-terrorist and Anti-extremist legislation<sup>23</sup> of the Special Procedures of the UN, OSCE, Organisation of American States and the African Commission, which ‘emphasises the fundamental difference between criticism of a religion, creed or school of thought, and the attacks against individual persons because of their allegiance to any of these,’ recognising only the latter as a human rights violation. She remarked that the declaration also noted the incompatibility of the concept of ‘defamation of religions’ with international standards regarding defamation, ‘which refer to the protection of reputation of individuals, while religions, like all beliefs, cannot be said to have a reputation of their own.’

She stressed the importance of the Istanbul Process being inclusive of women and having an explicit ‘gender approach,’ which has been notably absent in the first five meetings. She noted that particular attention should be given ‘to abolishing practices and legislation that discriminate against women, including in the exercise of their right to freedom of thought and belief, or that discriminate based on any religion.’

She noted the equal importance of the 16/18 and the HRC’s freedom of religion or belief resolution,<sup>24</sup> saying that they should be considered ‘complementary in concepts and proposed actions.’

Finally, she renewed Chile’s commitment to host the next meeting of experts in 2016 (which will provide an important opportunity to transcend the OIC/Western dominance of the first five meetings).

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<sup>22</sup>[http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/combating\\_discrimination/l33178\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/combating_discrimination/l33178_en.htm)

<sup>23</sup> <http://www.osce.org/fom/35639>

<sup>24</sup> Ibid.

- **Mr. David Kaye, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression** (in a video message), stressed that it is ‘crucial to be guided by – and only take action compatible with – ICCPR Article 19,’ noting that ‘freedom of expression is critical for dealing with hate speech.’ He stressed the importance of the Rabat Plan of Action as a ‘comprehensive roadmap’ when it comes to restrictions on freedom of expression. He called for the ‘repeal of blasphemy laws,’ and that legal restrictions be restricted to ‘prohibitions of incitement, rather than mere advocacy.’

## V. Panel discussions

As noted above, the meeting Jeddah meeting was set up to address three broad themes:

1. Addressing potential areas of tension between communities and promotion of better understanding and dialogue;
2. Countering and combating advocacy to religious hatred that constitute incitement to discrimination, hostility or violence through affirmative/positive measures;
3. Understanding the need to combat denigration, negative religious stereotyping of persons and incitement to religious hatred through adopting measures to criminalize incitement to imminent violence based on religion or belief.

It should be recalled that the principal aim of Istanbul Process meetings is to share information, experience and good practice on the implementation of the various parts of the resolution 16/18 action plan. With this in mind, this report summarises the discussions by (artificially) dividing their content between – and under – the relevant parts of the action plan rather than chronologically, according to each panel discussion.<sup>25</sup>



<sup>25</sup> Supra note 18. Footnotes indicate whether quotes have been taken from the official statement as circulated, or from meeting minutes compiled by the two authors of the present report.



***Implementation of paragraph 5(b): ‘creating an appropriate mechanism within Governments to, inter alia, identify and address potential areas of tension between members of different religious communities, and assisting with conflict prevention and mediation’***

Marc Limon (Universal Rights Group/URG) noted that no state surveyed for the recent URG report on the implementation of resolution 16/18 had established a dedicated mechanism explicitly in response to paragraph 5(b). Notwithstanding, many states have, over recent years, established national mechanisms *in line* with paragraph 5(b). These include: Indonesia, which has a section responsible for promoting religious harmony under the Ministry of Religious Affairs, and a local-level ‘Inter-religious Communication Forum;’ the US which established, inter alia, a ‘9/11 Backlash Taskforce’ in the Department of Justice; Denmark which, in the context of the backlash against the Mohammed cartoons, established a task force charged with monitoring incidences of intolerance and incitement, and engaging in outreach and mediation with religious leaders and communities; Argentina which has a National Institute Against Discrimination, Xenophobia and Racism (INADI); Chile which has a *Oficina Nacional de Asuntos Religiosos* (ONAR); Mexico which has a General Directorate for Religious Associations (DGAR) and National Council to Prevent Discrimination (CONAPRED); and the UK which has developed an national-to-local and inter-community coordination system to respond to inter-religious flashpoints.<sup>26</sup>



Ian Duddy (UK Mission to the UN in Geneva) reflected on the benefits of establishing efficient national mechanisms to identify and respond to potential inter-religious flashpoints, citing the example of the UK Government’s response to the murder of Lee Rigby in Woolwich (2013). The ‘nasty response’ the incident could have provoked was avoided, he explained, ‘as a result of rapid and united response from religious and political leaders.’ This experience, he noted, demonstrated the importance of ‘[having] a rapid response mechanism in place’ *before* it is needed.<sup>27</sup>

Arsalan Suleman (US Acting Special Envoy to the OIC) reflected on the importance of holding open consultations with communities on policies that affect them. In this regard, he offered the example of a Department of Homeland Security programme focused on individuals from Muslim-majority states that was scrapped following consultations with

<sup>26</sup> Marc Limon (URG) statement on Panel I. For more see URG policy report: [Combating global religious intolerance: the implementation of Human Rights Council resolution 16/18](#).

<sup>27</sup> Ian Duddy (UK Mission to the UN in Geneva) comments during Panel I (from notes taken during the meeting).

and negative feedback from affected communities.<sup>28</sup>

The representative of Qatar likewise recalled the importance of ‘involving civil society and scholars in the development of legislative steps and measures’ to combat intolerance. Others recognised that civil society is very well placed to understand the aspirations and concerns of communities, and that governments should draw on their expertise in a more systematic way.<sup>29</sup>

***Implementation of paragraph 5(e): ‘Speaking out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence’***

Marc Limon (URG), Nazila Ghanea (University of Oxford) and Ibrahim Salama (OHCHR) all took note of the important progress that has been made in the implementation of paragraph 5(e). Political and religious leaders are now more willing to speak out against acts of religious intolerance, and have been doing so in an increasingly timely and sophisticated manner. To illustrate this, Ibrahim Salama (OHCHR) urged participants to compare the reaction of the Danish government to the Jyllands-Posten cartoons in 2005 to the EU reaction to the ‘Innocence of Muslims’ film in 2012.<sup>30</sup>

Arsalan Suleman (US) provided information on the strong response of senior US politicians to acts of incitement, such as the 2010 Quran burning incident. Referring to statements by the US President and US Secretary of State, he reflected on the ‘strong response from the very highest levels of leadership, as well as from communities locally.’<sup>31</sup>

Some participants stressed the critical role of political leaders – as governments bear the primary responsibility for implementing the resolution. Ambassador Zamir Akram (Permanent Representative of Pakistan to the United Nations, Geneva/OIC human rights coordinator in Geneva) said that the ‘most crucial role has to be played by political leaders – to set the tone, define issues and how we address them, and to eschew opportunism of using cultural/religious differences as a basis for political gain.’<sup>32</sup> Mahmoud Hafif (Department of Human Rights, Egyptian MOFA) reiterated this point, saying that ‘communities are important but governments should be setting the state of play. They should know how people should react and intervene when things not going well.’<sup>33</sup>

Participants also recognised the important role to be played by civil society in speaking out against intolerance. Heiner Bielefeldt (UN Special Rapporteur on freedom of religion or belief) noted that while governments have a duty to speak out, they must also allow space for civil society to do so.<sup>34</sup> Christen Broecker (Jacob Blaustein Institute for Human Rights) noted that some of the best examples of the successful implementation of paragraph 5(e) come from civil society, especially where religious minority groups have played a positive role in

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<sup>28</sup> Arselan Suleman (US Acting Special Envoy to the OIC) comments during Panel I (from notes taken during the meeting).

<sup>29</sup> Comments by representative of Qatar during Panel II (from notes taken during the meeting).

<sup>30</sup> Ibrahim Salama (OHCHR) comments during Panel III (from notes taken during the meeting).

<sup>31</sup> Arselan Suleman (US Acting Special Envoy to the OIC) comments during Panel I (from notes taken during the meeting).

<sup>32</sup> Ambassador Zamir Akram (Permanent Mission of Pakistan to the United Nations, Geneva/OIC HR Coordinator in Geneva) comments during Panel I (from notes taken during the meeting).

<sup>33</sup> Mahmoud Hafif (Egypt) comments during Panel I (from notes taken during the meeting).

<sup>34</sup> Heiner Bielefeldt ([Special Rapporteur on freedom of religion or belief](#)) speaking on Panel II (from notes taken during the meeting).

dealing with hate directed towards them.<sup>35</sup> Ambassador Akram (Pakistan/OIC HR Coordinator in Geneva) noted that security can be an issue for civil society actors wishing to speak out, and that governments should ‘provide security apparatus for civil society to respond to these actions appropriately.’<sup>36</sup>

Participants offered a number of other examples demonstrating the power of positive speech to counter hate, including: the ‘flower speech’ civil society movement in Myanmar;<sup>37</sup> the Council of Europe’s ‘no hate speech’ movement;<sup>38</sup> and the Sydney ‘#illridewithyou’ campaign.

### *Implementation of paragraph 5(f): adoption of ‘measures to criminalize incitement to imminent violence based on religion or belief’*

The Jeddah meeting showed, once again, that the issue of criminalisation remains a key area of disagreement between the OIC and the West.

Indeed, some participants afterwards described the fifth Istanbul Process meeting as ‘a tale of two days,’ with the relatively positive and constructive discussions on day one around domestic mechanisms, speaking out, education and awareness-raising and interfaith dialogue contrasting markedly with the far more difficult exchanges around the implementation of paragraph 5(f) on day two.

Also in line with previous Istanbul Process meetings, the fault line in Jeddah laid between OIC states that wished to have a political discussion on the permissible limits of free speech in the context of hate speech (especially ‘Islamophobic’ speech), and Western states (principally the UK and the US) which rejected any attempt to ‘reopen’ the wording agreed in the resolution 16/18 action plan (paragraph 5(f)).

In his opening statement, the Secretary-General of the OIC, Iyad Madani, highlighted the importance of addressing the threshold between freedom of expression and hate speech. He quoted a New York Times’ editorial on the recent Mohammed art exhibition,<sup>39</sup> which stated that the exhibition was ‘an exercise in bigotry and hatred posing as a blow for freedom,’ and said that he ‘fail[s] to understand how the right to offend or to insult, discriminate or negatively stereotype, can produce a positive outcome.’<sup>40</sup>

The Secretary-General also encouraged participants to discuss how existing laws against hate speech might be used expanded to cover, in a less discriminatory way, all individuals from all communities and religions, presumably alluding to laws against anti-Semitic speech in some European countries. This perceived ‘double standard’ was raised by a number of other OIC state delegates, with Pakistan’s Permanent Representative to the UN in Geneva, Ambassador Akram asking, ‘if there are laws on anti-Semitism, why not on

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<sup>35</sup> Christen Broecker (Jacob Blaustein Institute for Human Rights) comments during Panel II (from notes taken during the meeting).

<sup>36</sup> Ambassador Akram (Pakistan/OIC HR Coordinator in Geneva) comments during Panel II (from notes taken during the meeting).

<sup>37</sup> A ‘response to the rise of anti-Muslim sentiment that has spread across the nation in the past two years.’ For more see <http://www.idgconnect.com/blog-abstract/8687/flower-speech-myanmar>.

<sup>38</sup> For information, see <http://www.nohatespeechmovement.org>.

<sup>39</sup> [http://www.nytimes.com/2015/05/07/opinion/free-speech-vs-hate-speech.html?\\_r=0](http://www.nytimes.com/2015/05/07/opinion/free-speech-vs-hate-speech.html?_r=0)

<sup>40</sup> Inaugural Statement by His Excellency Iyad Ameen Madani, Secretary General of the OIC, during the 5th Meeting of the Istanbul Process, held in Jeddah Saudi Arabia 3-4 June 2015, p.4-5.

## Islamophobia?<sup>41</sup>

In the context of the panel discussion on the implementation of paragraph 5(f), Ahmer Bilal Soofi, a member of the Human Rights Council Advisory Committee, delivered a presentation on how the criminalisation of defamation is now, in his view, a norm of customary international law (see Appendix IV for copies of this and other presentations). To back up this argument, he cited a number of UN resolutions and blasphemy laws in European states.<sup>42</sup>



Source: Presentation of Amher Bilal Soofi

Western participants vigorously opposed this interpretation. For example, Knox Thames (Director of Policy and Research U.S. Commission on International Religious Freedom/USCIRF) said the presentation was flawed on two levels. Firstly, the resolutions he cited (many of which were old ‘combating defamation of religion’ resolutions – e.g. General Assembly resolution 64/156) were extremely divisive and only adopted after a vote, and thus cannot be said to demonstrate the emergence of customary international law. Secondly, he pointed out that most of the blasphemy laws he cited (e.g. Canada, Finland, the UK, Denmark and Germany) were relics of the past, and are now rarely – if ever – applied.<sup>43</sup>

<sup>41</sup> Ambassador Akram (Pakistan/OIC HR Coordinator in Geneva) comments during Panel III (from notes taken during the meeting).

<sup>42</sup> ‘Implementing 16/16,’ by Mr. Ahmer Bilal Soofi, Member of the Human Rights Advisory Committee, Jeddah 2015. See Annex IV.

<sup>43</sup> As the recent URG policy report noted, while 12 European states maintain blasphemy laws on their books, the last formal prison sentence for blasphemy was in 1922. See URG policy report, Combatting global

Knox Thames (USCIRF) echoed the US view that laws that seek to combat intolerance by restricting freedom of expression 'have been found to be counterproductive.' To support this assertion, he noted data from the Pew Forum, which found that societal hostilities are often higher in countries with restrictive legal regimes (a point also reflected in the recent URG report). He went on to draw on the teachings of the 'great faith traditions,' including Christianity and Islam, which have 'counselled against a legal response [...] with Jesus Christ urging his followers to turn the other cheek and the Prophet Mohammed responding peacefully when non-Muslims treated him with disrespect.' He went on to stress that the 'open public debate of ideas, as well as interfaith and intercultural dialogue [...] are among the best protections against religious intolerance.'<sup>44</sup>

While Knox Thames (USCIRF) recognised that 'deterrence through prosecution and consequences is vitally important,'<sup>45</sup> he was clearly referring to the importance of authorities responding effectively to violence – rather than speech. In this regard, both John Kerry (US Secretary of State) and Knox Thames (USCIRF) referred to the importance of the prosecutions following the brutal murder in Afghanistan of Farkhunda Malikzada by a mob for 'blasphemy.'

Through these and other exchanges, the Jeddah meeting showed once again how questions surrounding the implementation of paragraph 5(f) retain the potential to 'hold hostage' all other parts of the 16/18 action plan. This in turn raises the question of why states do not take steps to create connections between the Istanbul Process and the Rabat Plan of Action – a document specifically designed, following broad consultations, to respond to difficult and sensitive issues around incitement and permissible limitations to freedom of expression.

Indeed, a number of participants in the Jeddah meeting, including Heiner Bielefeldt (UN Special Rapporteur on freedom of religion or belief), Ibrahim Salama (OHCHR), and David Kaye (UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) stressed the important complementary role that can be played by the Rabat Plan of Action, which spells out in more detail many of the recommendations included in 16/18 and specifically calls on states to repeal anti-blasphemy laws, generally focusing on non-restrictive measures of countering incitement to hatred. Marc Limon (URG) called for a separate meeting on incitement, hate speech and the repeal of blasphemy laws under the rubric of resolution 16/18 and the Rabat Plan of Action.<sup>46</sup>

NGO speakers (including Human Rights Watch, Article 19, FIDH and the Jacob Blaustein Foundation for Human Rights) likewise reiterated the importance of the Rabat Plan of Action, and the danger of 'allowing violent extremists to set the threshold of what is legal.'<sup>47</sup>

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religious intolerance: the implementation of Human Rights Council resolution 16/18 [<http://www.universal-rights.org/urg-policy-reports/combatting-global-religious-intolerance-the-implementation-of-human-rights-council-resolution-1618>], p.29. As an example, the last fine for blasphemy in Denmark – one of the states mentioned by Soofi – was issued in 1946.

<sup>44</sup> Statement of Knox Thames, Director of Policy and Research, U.S. Commission on International Religious Freedom (USCIRF), Session II, p.4.

<sup>45</sup> Statement of Knox Thames, Director of Policy and Research, US Commission on International Religious Freedom, Session II, p.3.

<sup>46</sup> Statement of Marc Limon (URG), Panel I.

<sup>47</sup> Christen Broecker (Jacob Blaustein Institute for the Advancement of Human Rights), (from notes taken during the meeting), Panel III.

The debate around incitement, freedom of expression and ‘Islamophobia,’ perfectly illustrates what the URG’s report on resolution 16/18<sup>48</sup> refers to as the ‘externalisation of implementation.’ In other words, a situation in which States see key parts of the 16/18 action plan as things for *others* (not themselves) to implement. This externalisation of implementation, and a related lack of introspection, was again in evidence during the Jeddah meeting, with OIC States (especially) and the two Western States, trading rhetorical blows about selectivity, double standards and hypocrisy.

Some States did try to bring the meeting back towards the original intention of the Istanbul Process – as a space for States to present information about domestic implementation and the challenges thereto – by sharing case studies about different national experiences. The presence of Chile, as the next host of the Istanbul Process, was also extremely helpful in order to reduce the sense that the meeting was a bilateral dialogue between the OIC and the West. However, it remains vital for the future of the Process and consensus around resolution 16/18 for future meetings to create more space for genuine introspection and multilateral discussion.

*Implementation of paragraph 5(g): ‘understanding the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through, inter alia, education and awareness-building’*

A number of delegates touched briefly on the role of education and the media.

Mr. Mahmoud Hafif (Department of Human Rights, Egyptian MOFA) noted that the media ‘plays a very important role in [both] rising and fixing tensions between groups,’ and asked: ‘how can it work [more] positively?’<sup>49</sup>

Heiner Bielefeldt (UN Special Rapporteur on freedom of religion or belief) noted that while media can sometimes be part of the problem, it must also always be part of the solution. He gave the example of Radio Benevolentia<sup>50</sup> as an example of the potential of the media, explaining that it ‘produces soap operas, including stories playing across the (alleged) boundaries of different communities, with the purpose of building trust in post-conflict situations.’<sup>51</sup>

Arsalan Suleman (US) remarked that the problem with media is that you often *don’t hear* the positive stories, and suggested that it would be good to encourage further reporting on positive examples and case studies (like the below mentioned example in Phoenix<sup>52</sup>).

Article 19 and others noted the potential of the Internet to provide a platform for sharing positive messages, giving the examples of the flower speech movement in Myanmar and #illridewithyou campaign in Sydney.

On the role of education, Qatar provided information on its domestic experiences.

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<sup>48</sup> <http://www.universal-rights.org/urg-policy-reports/combating-global-religious-intolerance-the-implementation-of-human-rights-council-resolution-1618/>

<sup>49</sup> Mr. Mahmoud Hafif (Department of Human Rights, Egyptian MOFA) during Panel I (from notes taken during the meeting).

<sup>50</sup> A private initiative of journalists in Africa and Europe to produce soap operas that play across alleged boundaries in order to rebuild trust in post-conflict societies.

<sup>51</sup> Heiner Bielefeldt, ‘Short input for second panel.’ For full statement see Appendix IV.

<sup>52</sup> See p.24 of the present report, or for the full story, see <http://thefreethoughtproject.com/phoenix-anti-muslim-protestors-invited-prayer-mosque-demonstration-change-heart/>.

Almuhannad Ali Al-Hammadi (Deputy Permanent Representative, Qatar Mission to the UN) described his Government's focus on youth, given that they represent 35% of the population and are more susceptible to dramatic stories and reaction.

Knox Thames (USCIRF) noted that USCIRF 'has welcomed efforts by Saudi Arabia to include passages promoting tolerance in the Kingdom's school curriculum,' expressing 'hope this effort will be continued by the new King,' and that 'these new texts are circulated so as to compete against hateful materials.'<sup>53</sup>

*Implementation of paragraph 5(h): 'recognizing that the open, constructive and respectful debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels, can play a positive role in combating religious hatred, incitement and violence'*

As Nazila Ghanea (University of Oxford) pointed out, paragraph 5(h) can be read on two levels. First, it can be read as an encouragement to States to provide interfaith and intercultural dialogue, and secondly – in conjunction with paragraphs 4 and 6 – it is also a call for States to promote and protect freedom of religion and freedom of expression, without which such dialogue risks being 'nothing more than public relations exercises that paper over deeper issues within and across societies.'<sup>54</sup>

*a) Encouragement to states to provide interfaith and intercultural dialogue*

Many participants noted the crucial importance of interreligious and intercultural dialogue and collaborative networks as a means of preventing – and responding to – acts of intolerance and discrimination.

Unlike with some other parts of the 16/18 action plan, here a number of States did share information on relevant domestic policies and steps:

- **Pakistan** noted that one of their most important experiences was the creation of collaborative networks, including religious and political leaders, civil society, media etc.<sup>55</sup>
- The **UAE** noted several steps they have taken, including a centre for interfaith dialogue – which provides a forum of religions that combat fanaticism and for enhancing/empowering mutual understanding – as well as a global multicultural society announced in 2014 which aims to promote ideas of coexistence. The UAE has also financed a programme in Afghanistan to promote ideals of tolerance.<sup>56</sup>
- **Qatar** said that the approach of dialogue was key for them. One of their most important initiatives is the Qatar International Centre – which aims to promote tolerance and peaceful coexistence – to bridge the gap.<sup>57</sup> The Copenhagen Centre for Muslims in Europe aims to provide deeper understanding of Islam, and there is hope it 'will

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<sup>53</sup> Statement of Knox Thames, Director of Policy and Research, U.S. Commission on International Religious Freedom, Session II, p.4. See appendix IV for full statement.

<sup>54</sup> Professor Nazila Ghanea, 'countering and combating advocacy to religious hatred that constitute incitement to discrimination, hostility or violence through affirmative/positive measures,' p.1 – statement on panel II. For full statement see appendix IV.

<sup>55</sup> Ambassador Akram (Pakistan/OIC HR Coordinator in Geneva) comments during Panel II (from notes taken during the meeting).

<sup>56</sup> UAE comments during Panel II (from notes taken during the meeting).

<sup>57</sup> <http://www.dicid.org/english/>.

provide tangible improvements on the ground.’<sup>58</sup>

- Heiner Bielefeldt (UN Special Rapporteur freedom of religion or belief) offered the example of **Sierra Leone**, where ‘impressive initiatives are taking place: the inter-religious council has tackled the bitter legacy of civil war and has participated and taken lead in the Truth and Reconciliation Commission to address ghosts of the past to ensure they are not haunting people any longer.’<sup>59</sup>
- Nazila Ghanea (University of Oxford) noted that recent URG research<sup>60</sup> found considerable progress on the promotion of ‘interfaith and intercultural dialogue.’ She noted, in particular, examples of ‘more numerous, more robust and more confident inter-faith dialogues’ taking place in, *inter alia*, **Indonesia, Pakistan, Mexico, Saudi Arabia**, the **US, Denmark, Argentina, Doha** and the **UK**.<sup>61</sup>
- Arsalan Suleman (US) offered an example of where an inter-community dialogue and understanding, led by religious community leaders, can turn a situation around. He cited a Washington Post article that told of how of the leader of an Islamic centre in **Phoenix** had invited anti-Islam protesters to enter the mosque and join his community for prayer. According to the story, one of the protesters was moved by the gesture and announced that he wouldn’t wear his offensive T-shirt again.<sup>62</sup>

Drawing on their own experience, a number of participants noted the need to build trust and dialogue *before* a crisis erupts – to create capacity and ‘friends’ before the need arises/crisis strikes.

#### *B. Call for states to promote and protect freedom of religion and freedom of expression*

As Nazila Ghanea (University of Oxford) explained, interfaith and intercultural dialogue ‘[risks] being nothing more than [a] public relations [exercise] that [papers] over deeper issues within and across societies’ unless it falls within the context of upholding freedom of religion or belief and freedom of expression.<sup>63</sup>

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<sup>58</sup> Qatar comments during Panel II (from notes taken during the meeting).

<sup>59</sup> Heiner Bielefeldt (UN Special Rapporteur freedom of religion or belief) comments during Panel II (from notes taken during the meeting).

<sup>60</sup> See URG Policy Report Combatting global religious intolerance: the implementation of Human Rights Council resolution 16/18 [<http://www.universal-rights.org/urg-policy-reports/combating-global-religious-intolerance-the-implementation-of-human-rights-council-resolution-1618/>].

<sup>61</sup> Professor Nazila Ghanea, ‘countering and combating advocacy to religious hatred that constitute incitement to discrimination, hostility or violence through affirmative/positive measures,’ p.1 – statement on panel II. For full statement see appendix IV.

<sup>62</sup> For full story, see <http://thefreethoughtproject.com/phoenix-anti-muslim-protestors-invited-prayer-mosque-demonstration-change-heart/>.

<sup>63</sup> Professor Nazila Ghanea, ‘countering and combating advocacy to religious hatred that constitute incitement to discrimination, hostility or violence through affirmative/positive measures,’ p.1 – statement on panel II. For full statement see appendix IV.





Noting common misconceptions that the two rights are at odds with one another, Heiner Bielefeldt (UN Special Rapporteur on freedom of religion or belief) argued that freedom of religion or belief and freedom of expression are ‘neighbours [...] even twins – not identical but inseparable.’ He explained that while ‘freedom of religion or belief is inconceivable without true freedom of expression [...] the whole enterprise of human rights would be meaningless without freedom of religion or belief,’ because ‘how can you discuss human dignity without recognising this deep existential issue?’<sup>64</sup>

David Kaye (UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) and a number of NGO representatives also stressed the need for states to protect freedom of expression to ensure a climate in which the “open, constructive and respectful debate of ideas” can take place. Kaye noted “a deterioration in some places of freedom of expression” with concern, given that free expression is “critical for dealing with hate speech.”<sup>65</sup>

Ambassador Ruecker (HRC President) emphasised the complementarity between 16/18 and the other HRC resolution on freedom of religion or belief – calling the two resolutions two ‘aspects of the same fundamental rights.’ He stressed the importance of the HRC maintaining consensus on both, expressing hope that ‘one fine day, these important subjects can be even jointly addressed in one single text.’<sup>66</sup> Ambassador Maurás (Chile) reiterated the complementarity of the two initiatives, while Ms. Mogherini (EU) noted that freedom of religion or belief – i.e. ‘promoting the ability of members of all religious communities to manifest their religion and to contribute openly and on an equal footing to society’ – is key to the actions highlighted in 16/18.

<sup>64</sup> For more on this see Heiner Bielefeldt, *Misperceptions of Freedom of Religion or Belief*, Human Rights Quarterly, Volume 35, Number 1, February 2013.

<sup>65</sup> David Kaye statement during the High Level Plenary Session (from notes taken during the meeting).

<sup>66</sup> Ambassador Joachim Ruecker, Opening Statement, p.3.

## VI. Outcome document

At the end of the meeting, the OIC secretariat circulated an informal outcome document from the meeting: ‘Key Points [from the] moderator’s summary of the 5<sup>th</sup> meeting of the Istanbul Process for the full and effective implementation of UN HRC resolution 16/18.’<sup>67</sup>

Although this was not formally adopted by the meeting, it is still useful and important as it represents the first time, since the Istanbul Process was launched in Turkey in 2011, that there has been some form of communiqué. One of the main challenges facing the Process has been a lack of coordination between hosts and meetings, something a communiqué of informal outcome can help to resolve by recalling key issues addressed and by setting out possible future actions. This goal is recalled in the outcome document itself, which underlined ‘the importance of keeping a record of previous, present and future sessions of the Istanbul Process in order to [keep] track of issues discussed and [the] outcomes [of] each meeting.’

The ‘Key Points’ document reaffirms the importance of Council resolution 16/18 ‘as a milestone achievement in the UN’s efforts to combat incitement to hatred, discrimination, stigmatisation and violence based on one’s religion or belief’ and called on all stakeholders to work to ‘preserve international consensus on this important document.’

Importantly, the document also reaffirms the importance of the Istanbul Process and called for the further strengthening of that process ‘though informal but structured and regular meetings of all stakeholders that would ensure [the] continuity, systemisation and sustainability of the process.’

It also calls on states to more reliably input into the regular implementation monitoring reports of the High Commissioner; and to make better use of engagement with the Universal Periodic Review (UPR), Treaty Bodies and Special Procedures to follow-up on implementation.

Beyond these important institutional points, the document took note of some of the substantive outcomes of the meeting (according to the Chair):

- That high-level political commitment is essential for the full and effective implementation of Council resolution 16/18.
- That governments should give priority to training government officials, and to encouraging religious and community leaders to address the root causes of discrimination based on religion.
- That states must move beyond the ‘externalisation of implementation’ and associated ‘double standards’ by promoting domestic implementation.
- That promoting freedom of religion and combatting religious intolerance are mutually inter-dependent.

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<sup>67</sup> For full outcome document, see Appendix III.

- That ensuring freedom of expression is vital in order to exercise the right to freedom of religion, and in that regard proscription of speech should be exceptional in conformity with articles 19 and 20 of the ICCPR. The Rabat Plan of Action provides importance guidance in that regard.
- That positive and affirmative measures, such as speaking out against acts of hatred (on the part of political and religious leaders), are vital.
- That existing legal protections used by countries to protect some groups should be applied universally to protect all groups and individuals.
- The importance of promoting interfaith and intercultural dialogue in order to promote respect and tolerance.
- The importance of providing human rights education from an early stage.

At the end, the informal outcome document welcomes the strong interest and involvement of civil society in the Istanbul Process, applauds the decision of Chile to host the next meeting of the Istanbul Process in 2016; and expresses appreciation to the Secretary-General of the OIC for hosting the fifth meeting.

## VII. Conclusions and recommendations

The fifth meeting of the Istanbul Process showed that a number of key recommendations from URG's recent policy report on the implementation of resolution 16/18 remain relevant. In particular:

- The next meeting of the Process in **Chile in 2016** is important both symbolically (because it will be the first meeting held outside a Western or OIC State) and practically (because Chile will have an opportunity to rejuvenate the Process).
- Regarding the latter point, it is vital that Chile uses the sixth meeting to promote **introspection and a focus on domestic implementation**. In that regard, Chile should consider 'UPR-ising' the meeting by taking a number of points from the 16/18 action plan and, for each one, inviting a range of states (from all UN regions), local and international civil society actors, religious leaders, NHRIs and relevant UN actors, to present information on achievements and challenges with national implementation. This should include the sharing of good practice case studies. Importantly, as well as Geneva-based diplomats, States should be represented by capital based and locally based experts from relevant line ministries and departments.
- Stakeholders from a **broader range of States**, and from all five UN regional groups, should be encouraged to participate in the Chile meeting.
- Before the Chile meeting, interested delegations (e.g. EU and Morocco) should consider organising a meeting on the inter-linkages between the implementation of resolution 16/18 and the **Rabat Plan of Action**.
- Taking their lead from the 'Key Points' informal outcome document, the past (Qatar), most recent (OIC) and future (Chile) hosts of the Istanbul Process should establish a **'Troika'** to meet informally, along with other interested delegations, with a view to ensuring the 'continuity, systemisation and sustainability of the process.' The 'Troika plus' could meet perhaps twice a year in Geneva to coordinate the Istanbul Process and more generally promote implementation.
- The 'Troika plus' can also ensure that **information is kept on past Istanbul Process meetings**. The 'Troika plus' should also consider organising information-sharing sessions (e.g. in Geneva and/or New York) *after* Istanbul Process meetings, to share the outcome with States and others that were not able to attend.
- As it did before the Jeddah meeting, Turkey should consider organising **informal 'pre-IP information-sharing sessions'** ahead of all future Istanbul Process meetings.
- As stated in the 'Key Points' document: 'all efforts should be made to **preserve international consensus**' on resolution 16/18 and avoid a return to divisive and unproductive resolutions on 'defamation of religions.'

## VIII. Appendices

### I. Agenda

<http://www.universal-rights.org/wp-content/uploads/2015/02/Appendix-I.-Agenda.pdf>

### II. Concept Note

<http://www.universal-rights.org/wp-content/uploads/2015/02/Appendix-II.-Concept-paper.pdf>

### III. OIC Outcome Document

<http://www.universal-rights.org/wp-content/uploads/2015/02/Appendix-III.-OIC-Outcome-Document.pdf>

### IV. Available Official Statements

<http://www.universal-rights.org/wp-content/uploads/2015/02/Appendix-IV.-Selected-presentations.pdf>