

RESOLUTION 7/2018

COMMITTEE ON ISLAMIC LAW AND INTERNATIONAL LAW

The 78th Conference of the International Law Association, held in Sydney, Australia, 19–24 August 2018:

HAVING CONSIDERED the 2018 Final Report of the Committee on Islamic Law and International Law;

NOTING the reports of the Committee between 2010 and 2016 of which the Final Report of 2018 on ‘Islamic Law and the Rule of Law in Light of the Right to Freedom of Expression’ is a synthesis;

RECOGNISING the importance of the debate on the compatibility of the rule of law, freedom of expression and Islamic law in academia and practice;

ACKNOWLEDGING the significance of the Sharia as a source of State law in many Muslim majority States;

CONSIDERING that Islamic law is a principal legal system of the world, within the meaning of Article 9 of the Statute of the International Court of Justice;

HIGHLIGHTING the distinction between religious norms and social norms contained in the Sharia exemplified by the distinction between *ibadat*, the norms containing religious duties, and *mouamalat*, the norms regulating the relationship between humans;

NOTING that there are different interpretations of the Sharia and that no universally recognised authority exists with the competence to harmonise them;

NOTING also that there is no uniformity in interpretation of the rule of law and human rights, including the right to freedom of expression;

DESIRING to contribute constructively to the compatibility of the rule of law, freedom of expression and Islamic law;

RECALLING the concept of the rule of law, as defined in the framework of the United Nations, namely as ‘a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards’;

EMPHASISING that this definition of the rule of law requires that international human rights norms and standards are respected, protected and ensured;

RECOGNISING the existence of interpretations of Islamic law which ensure that the rule of law, as defined in the previous two paragraphs, is respected;

RECALLING that Muslim majority States as members of the United Nations have recognised its principles and rules;

NOTING that Muslim majority States have ratified numerous international and regional human rights instruments;

EMPHASISES the importance for the universal adherence to human rights and the rule of law of open public debate of ideas and of cultural norms, including those related to faith and culture subject to mutual respect and recognition;

REMINDS all States therefore of their obligation to respect, protect and ensure the freedom of expression;

CALLS UPON all States, in particular Muslim majority States, as well as Muslim governmental authorities and intellectuals, to work towards the promotion and further realisation of the rule of law;

EXPRESSES CONCERN that blasphemy laws may be abused to undermine the right of freedom of expression and in particular to prevent or punish criticism of religious or political leaders;

NOTES General Comment 34 of the Human Rights Committee according to which prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant on Civil and Political Rights, except in the specific circumstances envisaged in the Covenant itself;

RECOGNISES the need for a responsible exercise of the freedom of expression in particular with regard to the freedoms and rights of others;

STRESSES that instances of Islamophobia, anti-Semitism, persecution of Christians and adherents of other religions are taking place at an alarming rate, sometimes with the active support of governments;

URGES all States, governmental authorities, and non-governmental actors worldwide to combat all forms of advocacy of religious hatred that constitute incitement to discrimination, hostility or violence;

BELIEVES that peaceful coexistence between religions and cultures is possible and that diversity of beliefs and traditions can be an enriching element for the future development of humankind, while intolerance, discrimination and violence against individuals because of their views or opinions need to be overcome;

RECOMMENDS to the Executive Council that the Committee on Islamic Law and International Law, having accomplished its mandate, be dissolved.