

THE TANDEM PROJECT

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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

UN HUMAN RIGHTS COUNCIL ADOPTS RESOLUTION ON FREEDOM OF RELIGION OR BELIEF (A/HRC/6/L.15/Rev.1)

Issue: Resolution extends mandate on Freedom of Religion or Belief by three years

For: United Nations, Governments, Religions or Beliefs, Academia, NGOs, Media, Civil Society

Review: GENEVA – HR Council Media – *Human Rights Council concludes resumed sixth session*, 14 December 2007. “The Human Rights Council today concluded its resumed sixth session. In a resolution on the elimination of all forms of intolerance and discrimination based on religion or belief, the Council decides to **extend the mandate** of the Special Rapporteur on the protection, promotion and universal implementation of the right to freedom of religion or belief for a further period of three years.”

The resolution (A/HRC/6/L.15/Rev.1) is under the Eight Articles of the 1981 UN Declaration and prints the resolution in full at the end of this document. The resolution (A/HRC/6/L.15/Rev.1) was the **only one of thirteen resolutions not to be adopted by consensus** by the UN Human Rights Council. The International Service for Human Rights (ISHR) an international NGO reports in its Human Rights Monitor Series, on the draft by Portugal (on behalf of the EU) as having had a “rather **turbulent** history.”

Objective: Build understanding and support for Article 18, International Covenant on Civil and Political Rights –Everyone shall have the right to freedom of thought, conscience and religion - and the 1981 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. Encourage the United Nations, Governments, Religions or Beliefs, Academia, NGOs, Media and Civil Society to use these international human rights standards that may become essential for *long-term solutions* to conflicts based on religion or belief.

Challenge: In 1968 the United Nations deferred work on an International Convention on the Elimination of all Forms of Religious Intolerance, because of its apparent complexity and sensitivity. In the twenty-first century, a dramatic increase of intolerance and discrimination on grounds of religion or belief is motivating a worldwide search to find solutions to these problems. This is a challenge calling for enhanced dialogue by States and others; including consideration of an International Convention on Freedom of Religion or Belief for protection of and accountability by all religions or beliefs. The tensions in today’s world inspire a question such as:

- Should the United Nations adopt an International Convention on Freedom of Religion or Belief?

Response: Is it the appropriate moment to reinitiate the drafting of a legally binding international convention on freedom of religion or belief? Law making of this nature requires a minimum consensus and an environment that appeals to reason rather than emotions. At the same time we are on a learning curve as the various dimensions of the Declaration are being explored. Many academics have produced voluminous books on these questions but more ground has to be prepared before setting up of a UN working group on drafting a convention. In my opinion, we should not try to rush the elaboration of a Convention on Freedom of Religion or Belief, especially not in times of high tensions and unpreparedness. - *UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, Prague 25 Year Anniversary Commemoration of the 1981 UN Declaration, 25 November 2006.*

Option: After forty years this may be the time, however complex and sensitive, to consider a new Working Group to draft a United Nations Convention on Freedom of Religion or Belief. United Nations Secretary General Ban Ki Moon, at the UN backed Alliance of Civilizations Forum in January 2008 addressed the urgency of the moment; “Never in our lifetime has there been a more desperate need for **constructive** and committed dialogue, among individuals, among communities, among cultures, among and between nations.” This includes establishing genuine dialogue within and among all kinds of religion or belief, ranging from religious fundamentalism to secular dogmatism.

Concept: *Separation of Religion or Belief and State – SOROBAS.* The starting point for this dialogue is the First Preamble to the 1948 United Nations Universal Declaration of Human Rights; “*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.*” It suggests States recalling their history, culture and constitution adopt fair and equal human rights protection for all religions or beliefs as described in General Comment 22 on Article 18, International Covenant on Civil and Political Rights, UN Human Rights Committee, 20 July 1993 (CCPR/C/21/Rev.1/Add.4):

- **PARAGRAPH 2.** Article 18 protects *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.* The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with international characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community.

Extracts: Extracts are presented under the Eight Articles of the 1981 U.N. Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief. *Examples* of Extracts are presented prior to an *Issues Statement* for each Tandem Project Review.

1. 2. *No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.*

9. Urges States:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one’s religion, including the right to change one’s religion or belief, is violated;

1. 3 *Freedom to manifest one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others.*

14. Further emphasizes that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

3. 1 *Discrimination between human beings on grounds of religion or belief constitutes an affront to human*

dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

10. Stresses the need to strengthen dialogue, inter alia through the Global Agenda for Dialogue among Civilizations and the Alliance of Civilizations, including through the recently appointed High Representative of the Secretary-General for the Alliance of Civilizations and the focal unit created by the General Assembly in its resolution 61/221 within the Secretariat to interact with various entities in the United Nations system and coordinate their contribution to dialogue;

ISSUE STATEMENT: The Human Rights Council resolution extending the mandate of the Special Rapporteur on Freedom of Religion or Belief by three years (A/HRC/6/L.15/Rev/1) was the only resolution not pass by consensus. An attempt was made for consensus by leaving out 24 out of the original 40 paragraphs. According to the International Service for Human Rights report, **“Portugal (on behalf of the EU) introduced the draft, regretted that despite intensive consultations since the end of the September part of the 6th session, consensus could not be reached. It said that the negotiations efforts were exhausted and it had no other option than bringing the draft to a vote.** However, it pledged that it would take up the negotiations again; hoping that consensus on the issue could be re-established soon.” Before the vote, a total of 71 Member States and Observer States endorsed the Special Procedures resolution.

The International Service for Human Rights (ISHR) reported “Pakistan (on behalf of the IOC) tabled a number of amendments to the European draft. However, the OIC decided to **not pursue** action on its amendments, and therefore only the European draft resolution had to be decided on. A number of States regretted that the EU was not ready to incorporate the amendments proposed by the OIC.”

The ISHR reported, “Portugal (on behalf of the EU) gave an extensive explanation of the vote before the vote. It said while the OIC opposes all forms of intolerance or discrimination based on religion or belief, and was always **supportive** of the mandate of the Special Rapporteur, it could not agree to the draft. Pakistan said that the draft touches some ‘concerns of fundamental importance to the members of the OIC’. In particular, the differences in the follow areas could not be resolved:

- The OIC wanted a clearer denouncement of recent stereotyping of religions, their adherents and prophets in the media and by political parties in some societies.
- It wanted to see the respect for all religions or belief enshrined in the resolution. They disagreed with the approach taken by the EU, which calls for the promotion of diversity and tolerance instead.
- It called for the “respect for norms about the right to change one’s religion”. The EU draft explicitly urges States to guarantee **the right to change** one’s religion or belief, a requirement the OIC could not subscribe to.
- The resolution urges all Governments to respond favorably to requests by the Special Rapporteur. The OIC was of the view that States should only “consider responding favorably” to such requests.

Based on these disagreements, the OIC called for a vote, and said it would **abstain**. A large number of OIC members of the Council then took the floor to align with the statement by Pakistan, and, while regretting the failure to achieve consensus, announced their abstention as well.”

Both Cuba and the Russian Federation said that they would have supported the amendments, had they been put to a vote. Cuba announced that it plans to elaborate a **draft convention** on religious intolerance, which would “solve once and for all this sensitive topic.”

The Tandem Project: a non-profit, non-governmental organization established in 1986 to build understanding and respect for diversity of religion or belief, and prevent discrimination in matters relating to freedom of religion or belief. The Tandem Project has sponsored multiple conferences, curricula, reference materials and programs on Article 18 of the International Covenant on Civil and Political Rights – Everyone shall have the right to freedom of thought, conscience and religion - and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. The Tandem Project initiative was launched in 1986 as the result of a co-founder representing the World Federation of United Nations Associations (WFUNA) at a 1984 United Nations Geneva Seminar, *Encouragement of Understanding, Tolerance and Respect in Matters Relating to Freedom of Religion or Belief*, called by the UN Secretariat on ways to implement the 1981 UN Declaration. In 1986, The Tandem Project organized the first NGO International Conference on the 1981 UN Declaration.

The 1948 Universal Declaration of Human Rights First Preamble reads as follows: “*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.* The principle suggests all States recalling their history, culture and constitution, provide equal protection by law for *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.* This is international treaty law under the United Nations International Covenant on Civil and Political Rights. International Human Rights Standards on Freedom of Religion or Belief are

essential for *long term solutions* to conflicts based on religion or belief.

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*The Tandem Project is a UN NGO in Special Consultative Status with the
Economic and Social Council of the United Nations*

**THE 1981 U.N. DECLARATION ON THE ELIMINATION OF ALL
FORMS OF INTOLERANCE AND OF DISCRIMINATION
BASED ON RELIGION OR BELIEF**

Proclaimed by the General Assembly of the United Nations
25 November, 1981 (Resolution: 36/55)

Considering that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion or belief,

Considering that the disregard and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to humankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to a kindling hatred between peoples and nations,

Considering that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion or belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

Convinced that freedom of religion or belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

Noting with satisfaction the adoption of several, and the coming into force of some conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

Concerned by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

Resolved to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the grounds of religion or belief,

Proclaims this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

ARTICLE 1: LEGAL DEFINITION

1. 1 *Everyone shall have the right to freedom of thought, conscience and religion. This right shall include*

freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practices and teaching.

1. Condemns all forms of intolerance and of discrimination based on religion or belief as well as violations of the freedom of thought, conscience, religion or belief;

8. Emphasizes that promoting tolerance and acceptance by the public of and its respect for diversity and combating all forms of intolerance and of discrimination based on religion and belief are substantial elements in creating an environment conducive to the full enjoyment by all of the right to freedom of thought, conscience and religion, as enshrined in article 18 of the International Covenant on Civil and Political Rights;

9. Urges States:

(f) To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private;

1. 2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.

9. Urges States:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief, is violated;

1. 3 Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others.

14. Further emphasizes that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

4. Recalls that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one's religion or belief;

9. Urges States:

(i) To ensure that, on account of religion or belief or the expression or manifestation of religion or belief, no one within their jurisdiction is deprived of the right to life, liberty or security of person, subjected to torture or arbitrary arrest or detention, or denied the rights to work, education or

adequate housing, as well as the right to seek asylum, and to bring to justice all perpetrators of violations of these rights;

ARTICLE 2: CLASSIFYING DISCRIMINATION

2. 1 No one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion or other beliefs.

2. Recognizes with deep concern the overall rise in instances of intolerance and violence directed against members of many religious and other communities in various parts of the world, including cases motivated by Islam phobia, anti-Semitism and Christen phobia;

6. Condemns any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual and electronic media or any other means;

3. Expresses concern over the persistence of institutionalized or social intolerance and discrimination practiced against many in the name of or due to their religion or belief;

2. 2 For the purposes of the present Declaration, the expression ‘intolerance and discrimination based on religion or belief’ means any distinction, exclusion, restriction, or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

ARTICLE 3: LINK TO OTHER RIGHTS

3. 1 Discrimination between human beings on grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

10. Stresses the need to strengthen dialogue, inter alia through the Global Agenda for Dialogue among Civilizations and the Alliance of Civilizations, including through the recently appointed High Representative of the Secretary-General for the Alliance of Civilizations and the focal unit created by the General Assembly in its resolution 61/221 within the Secretariat to interact with various entities in the United Nations system and coordinate their contribution to dialogue;

11. Invites all actors to address in the context of that dialogue, inter alia, the following issues within the framework of international human rights:

(a) The rise of religious extremism affecting religions in all parts of the world;

(b) The situations of violence and discrimination that affect many women as well as individuals from other vulnerable groups in the name of religion or belief or due to cultural and traditional practices;

(c) The abuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations;

12. *Emphasizes* the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with a broader participation including of women, to promote greater tolerance, respect and mutual understanding;

13. *Also emphasizes* that no religion should be equated with terrorism, as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned;

7. *Encourages* the United Nations High Commissioner for Human Rights to continue to make efforts to coordinate in the field of human rights the activities of relevant United Nations organs, bodies and mechanisms dealing with all forms of intolerance and discrimination based on religion or belief;

9. *Urges States:*

(l) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities, and devoting particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience, religion or belief;

ARTICLE 4: EFFECTIVE MEASURES

4. 1 *All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.*

9. *Urges States:*

(b) To design and implement policies whereby education systems promote principles of tolerance and respect for others and cultural diversity and the freedom of religion or belief;

9. *Urges States:*

(c) To ensure that appropriate measures are taken in order to adequately and effectively guarantee the freedom of religion or belief of women as well as individuals from other vulnerable groups, including persons deprived of their liberty, refugees, children, persons belonging to minorities and migrants;

9. *Urges States:*

(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of their official duties, respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that all necessary and appropriate education or training is provided;

9. Urges States:

(k) To step up efforts in implementing the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief;

15. Recommends that the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration, in as many different languages as possible, and promote its implementation;

9. Urges States:

(m) To promote and encourage, through education and other means, including regional or international cultural exchanges, understanding, tolerance and respect in all matters relating to freedom of religion or belief;

4. 2 All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

9. Urges States:

(e) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;

9. Urges States:

(f) To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private;

ARTICLE 5: PARENTS, CHILDREN, STATE

5. 1 The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

5. 2 Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians; the best interests of the child being the guiding principle.

5. 3 The child shall be protected from any form of discrimination on the grounds of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for the freedom of religion or belief of others and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

9. Urges States:

(m) To promote and encourage, through education and other means, including regional or international cultural exchanges, understanding, tolerance and respect in all matters relating to freedom of religion or belief;

5. 4 In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

5. 5 Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account Article 1, paragraph 3, of the present Declaration.

ARTICLE 6: NINE SPECIFIC RIGHTS

In accordance with Article 1 of the present Declaration, and subject to the provisions of Article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

6. 1 To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;

9. Urges States:

(g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

9. Urges States:

(e) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;

6. 2 To establish and maintain appropriate charitable or humanitarian institutions;

9. Urges States:

(h) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

6. 3 To make, acquire and use to an adequate extent the necessary articles and materials related to the rites and customs of a religion or belief;

9. Urges States:

(e) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;

6. 4 To write issue and disseminate relevant publications in these areas;

9. Urges States:

(g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

6. 5 To teach a religion or belief in places suitable for these purposes;

6. 6 To solicit and receive voluntary financial and other contributions from individuals and institutions;

6. 7 To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;

6. 8 To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;

6. 9 To establish and maintain communications with individuals and communities in matters of religion or belief at the national and international levels.

ARTICLE 7: NATIONAL LEGISLATION

7. 1 The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

9. Urges States:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief, is violated;

5. Emphasizes that such procedures as described in paragraph 4 above, at the national or local levels, as and when legally required, should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practice their religion or belief either individually or in community with others and in public or private;

4. Recalls that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one's religion or belief;

9. Urges States:

(d) To ensure that any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law;

ARTICLE 8: EXISTING PROTECTIONS

8. 1 *Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights.*

16. Welcomes the work of the Special Rapporteur on freedom of religion or belief;

17. Concludes that there is a need for the continued contribution of the Special Rapporteur to the protection, promotion and universal implementation of the right to freedom of religion or belief;

18. Decides therefore to extend the mandate of the Special Rapporteur on freedom of religion or belief for a further period of three years and, in this context, invites the Special Rapporteur:

(a) To promote the adoption of measures at the national, regional and international levels to ensure the promotion and protection of the right to freedom of religion or belief;

(b) To identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and present recommendations on ways and means to overcome such obstacles;

(c) To continue her/his efforts to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate;

(d) To continue to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations;

19. Requests the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to enable her/him to discharge her/his mandate fully;

20. Urges all Governments to cooperate fully with the Special Rapporteur and to respond favorably to her/his requests to visit their countries and to provide her/him with all necessary information so as to enable her/him to fulfill her/his mandate even more effectively;

21. Requests the Special Rapporteur to submit an interim report to the General Assembly at its sixty-third session;

22. *Also requests* the Special Rapporteur to submit the outstanding reports to the Council in accordance with its annual program of work and the next annual report in 2009;

23. *Decides* to remain seized of this question under the same agenda item and to continue consideration of measures to implement the Declaration.

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HUMAN RIGHTS COUNCIL
Sixth session
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

Albania^{*}, Argentina^{*}, Armenia^{*}, Australia^{*}, Austria^{*}, Belgium^{*}, Bosnia and Herzegovina, Brazil, Bulgaria^{*}, Canada, Chile^{*}, Croatia^{*}, Cuba, Cyprus^{*}, Czech Republic^{*}, Denmark^{*}, Estonia^{*}, Finland^{*}, France, Germany, Greece^{*}, Guatemala, Haiti^{*}, Honduras^{*}, Hungary^{*}, Iceland^{*}, Ireland^{*}, Italy, Kenya^{*}, Latvia^{*}, Lesotho^{*}, Liechtenstein^{*}, Lithuania^{*}, Luxembourg^{*}, Malta^{*}, Monaco^{*}, Montenegro^{*}, Mozambique^{*}, Netherlands, Nicaragua, Norway^{*}, Panama^{*}, Peru, Poland^{*}, Portugal^{*}, The former Yugoslav Republic of Macedonia^{*}, Romania, San Marino^{*}, Slovakia^{*}, Slovenia, Spain^{*}, Sweden^{*}, Switzerland, Timor-Leste^{*}, Turkey^{*}, Ukraine, United Kingdom of Great Britain and Northern Ireland: draft resolution

6/... Elimination of all forms of intolerance and of discrimination based on religion or belief

The Human Rights Council,

Recalling General Assembly resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and all resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief adopted by the General Assembly and by the former Commission on Human Rights,

^{*} Non-member States of the Human Rights Council.

Recalling also article 18 of the International Covenant on Civil and Political Rights,¹ article 18 of the Universal Declaration of Human Rights² and other relevant human rights provisions,

Reaffirming the recognition by the 1993 Vienna World Conference on Human Rights that all human rights are universal, indivisible, interdependent and interrelated, and its appeal to all Governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on religion or belief, including practices of discrimination against women and the desecration of religious sites, recognizing that every individual has the right to freedom of thought, conscience, expression and religion,³

Recalling the 2005 World Summit Outcome⁴ in which the Heads of State and Government reaffirmed the Declaration and Programme of Action on a Culture of Peace⁵ as well as the Global Agenda for Dialogue Among Civilizations and its Programme of Action⁶ adopted by the General Assembly and the value of different initiatives on dialogue among cultures and civilizations, including the dialogue on interfaith cooperation and the Alliance of Civilizations, and committed themselves to taking action to promote a culture of peace and dialogue at the local, national, regional and international levels,

Recognizing the importance of promoting dialogue in order to enhance mutual understanding and knowledge among different social groups, cultures and civilizations in various areas, including culture, religion, education, information, science and technology, and in order to contribute to the promotion and protection of human rights and fundamental freedoms,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of, and its respect for, diversity, including with regard to religious expressions, and underlining also the fact that education should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

Recognizing the important work carried out by the Human Rights Committee with respect to the scope of the freedom of religion or belief,

Seriously concerned at all attacks upon religious places, sites and shrines in violation of international law, in particular human rights and humanitarian law, including any deliberate destruction of relics and monuments,

¹ See resolution 2200 A (XXI), annex.

² Resolution 217 A (III).

³ See A/CONF.157/24 (Part I), chap. III, sect. II, para. 22.

⁴ General Assembly resolution 60/1.

⁵ General Assembly resolutions 53/243 A and B.

⁶ See General Assembly resolution 56/6.

Seriously concerned also at the misuse of registration procedures and at the resort to discriminatory registration procedures as a means to limit the right to freedom of religion or belief of members of certain religious communities, at the limitations placed on religious publications and at the obstacles placed in the way of construction of places of worship inconsistent with the exercise of the right to freedom of religion or belief,

Convinced of the need to address the rise in all parts of the world of religious extremism affecting the rights of individuals and groups based on religion or belief, the situations of violence and discrimination that affect many women as well as individuals from other vulnerable groups in the name of religion or belief or due to cultural and traditional practices, and the abuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations,

Noting that a formal or legal distinction at the national level between different kinds of religions or faith-based communities may, in some cases, constitute discrimination and may impinge on the enjoyment of the freedom of religion or belief,

Emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect and freedom of religion or belief,

Recognizing the importance of interreligious and intra-religious dialogue and the role of religious and other non-governmental organizations in promoting tolerance in matters relating to religion or belief, and welcoming different initiatives in this regard, including the Alliance of Civilizations, the programmes led by the United Nations Educational, Scientific and Cultural Organization and the High-level Dialogue on Interreligious and Intercultural Understanding and Cooperation for Peace, held at Headquarters on 4 and 5 October 2007,

Seriously concerned at the slow progress in the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Believing that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience, religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Having conducted an assessment of the mandate of the Special Rapporteur on freedom of religion or belief in the form of an interactive dialogue during its present session, in accordance with its resolution 5/1 of 18 June 2007,

Recalling the resolutions 5/1 “Institution-building of the United Nations Human Rights Council” and 5/2 “Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council” of 18 June 2007 and stressing that the mandate-holder shall discharge his/her duties in accordance with those resolutions and their annexes,

1. *Condemns* all forms of intolerance and of discrimination based on religion or belief as well as violations of the freedom of thought, conscience, religion or belief;

2. *Recognizes with deep concern* the overall rise in instances of intolerance and violence directed against members of many religious and other communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

3. *Expresses concern* over the persistence of institutionalized or social intolerance and discrimination practiced against many in the name of or due to their religion or belief;

4. *Recalls* that legal procedures pertaining to religious or belief-based groups and places of worship are not a prerequisite for the exercise of the right to manifest one's religion or belief;

5. *Emphasizes* that such procedures as described in paragraph 4 above, at the national or local levels, as and when legally required, should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practise their religion or belief either individually or in community with others and in public or private;

6. *Condemns* any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual and electronic media or any other means;

7. *Encourages* the United Nations High Commissioner for Human Rights to continue to make efforts to coordinate in the field of human rights the activities of relevant United Nations organs, bodies and mechanisms dealing with all forms of intolerance and discrimination based on religion or belief;

8. *Emphasizes* that promoting tolerance and acceptance by the public of and its respect for diversity and combating all forms of intolerance and of discrimination based on religion and belief are substantial elements in creating an environment conducive to the full enjoyment by all of the right to freedom of thought, conscience and religion, as enshrined in article 18 of the International Covenant on Civil and Political Rights;

9. *Urges States:*
(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief, is violated;

(b) To design and implement policies whereby education systems promote principles of tolerance and respect for others and cultural diversity and the freedom of religion or belief;

(c) To ensure that appropriate measures are taken in order to adequately and effectively guarantee the freedom of religion or belief of women as well as individuals from other vulnerable groups, including persons deprived of their liberty, refugees, children, persons belonging to minorities and migrants;

(d) To ensure that any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law;

(e) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;

(f) To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private;

(g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

(h) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(i) To ensure that, on account of religion or belief or the expression or manifestation of religion or belief, no one within their jurisdiction is deprived of the right to life, liberty or security of person, subjected to torture or arbitrary arrest or detention, or denied the rights to work, education or adequate housing, as well as the right to seek asylum, and to bring to justice all perpetrators of violations of these rights;

(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of their official duties, respect different

religions and beliefs and do not discriminate on the grounds of religion or belief, and that all necessary and appropriate education or training is provided;

(k) To step up efforts in implementing the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief;

(l) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities, and devoting particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience, religion or belief;

(m) To promote and encourage, through education and other means, including regional or international cultural exchanges, understanding, tolerance and respect in all matters relating to freedom of religion or belief;

10. *Stresses* the need to strengthen dialogue, inter alia through the Global Agenda for Dialogue among Civilizations and the Alliance of Civilizations, including through the recently appointed High Representative of the Secretary-General for the Alliance of Civilizations and the focal unit created by the General Assembly in its resolution 61/221 within the Secretariat to interact with various entities in the United Nations system and coordinate their contribution to dialogue;

11. *Invites* all actors to address in the context of that dialogue, inter alia, the following issues within the framework of international human rights:

(a) The rise of religious extremism affecting religions in all parts of the world;

(b) The situations of violence and discrimination that affect many women as well as individuals from other vulnerable groups in the name of religion or belief or due to cultural and traditional practices;

(c) The abuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations;

12. *Emphasizes* the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with a broader participation including of women, to promote greater tolerance, respect and mutual understanding;

13. *Also emphasizes* that no religion should be equated with terrorism, as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned;

14. *Further emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

15. *Recommends* that the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration, in as many different languages as possible, and promote its implementation;

16. *Welcomes* the work of the Special Rapporteur on freedom of religion or belief;

17. *Concludes* that there is a need for the continued contribution of the Special Rapporteur to the protection, promotion and universal implementation of the right to freedom of religion or belief;

18. *Decides* therefore to extend the mandate of the Special Rapporteur on freedom of religion or belief for a further period of three years and, in this context, invites the Special Rapporteur:

(a) To promote the adoption of measures at the national, regional and international levels to ensure the promotion and protection of the right to freedom of religion or belief;

(b) To identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and present recommendations on ways and means to overcome such obstacles;

(c) To continue her/his efforts to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate;

(d) To continue to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations;

19. *Requests* the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to enable her/him to discharge her/his mandate fully;

20. *Urges* all Governments to cooperate fully with the Special Rapporteur and to respond favourably to her/his requests to visit their countries and to provide her/him with all necessary information so as to enable her/him to fulfil her/his mandate even more effectively;

21. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-third session;

22. *Also requests* the Special Rapporteur to submit the outstanding reports to the Council in accordance with its annual programme of work and the next annual report in 2009;

23. *Decides* to remain seized of this question under the same agenda item and to continue consideration of measures to implement the Declaration.

International Service for Human Rights

The International Service for Human Rights (ISHR) is an international NGO serving human rights defenders. Their vision is development, strengthening, effective use and implementation of international and regional standards and mechanisms for the protection and promotion of human rights. They have four areas of service: Human Rights Monitor Series, Education & Training, Human Rights Defenders Office, Liaison, Coordination & Advocacy. <http://www.ishr.ch/>

Report on Resolution A/HRC/6/L.15/Rev.1 Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief

The draft introduced by Portugal (on behalf of the EU) on the elimination of all forms of intolerance and of discrimination based on religion or belief has had a rather turbulent history. It was tabled during the first part of the 6th session, but was then postponed because substantial disagreement could not be cleared away before the end of the first part. The draft condemns all forms of intolerance based on religion or belief, and also condemns any advocacy of religious hatred. The second part of the draft extends the mandate of the Special Rapporteur on freedom of religion or belief for three years, and provides some specific tasks for the Special Rapporteur. Portugal (on behalf of the EU) introduced the draft, regretted that despite intensive consultations since the end of the September part of the 6th session, consensus could not be reached. It said that the negotiations efforts were exhausted and it had no other option than bringing the draft to a vote. However, it pledged that it would take up the negotiations again; hoping that consensus on the issue could be re-established soon.

Before Portugal (on behalf of the EU) introduced the draft, Egypt (on behalf of the Africa Group) asked for a point of order. Claiming that the Arabic translation did not faithfully reflect the English version of the text, the representative asked that it be sent back to the translators. In the meantime, the vote would only carry on the correct versions, but not on the Arabic one.

Pakistan (on behalf of the OIC) tabled a number of amendments to the European draft. However, the OIC decided to not pursue action on its amendments, and therefore only the European draft resolution had to be decided on. A number of States regretted that the EU was not ready to incorporate the amendments proposed by the OIC. Both Cuba and the Russian Federation said that they would have supported the amendments, had they been put to a vote. Cuba announced that it plans to elaborate a draft convention on religious intolerance, which would “solve once and for all this sensitive topic.”

Pakistan (on behalf of the OIC) gave an extensive explanation of the vote before the vote. It said while the OIC opposes all forms of intolerance or discrimination based on religion or belief, and was always supportive of the mandate of the Special Rapporteur, it could not agree to the draft. Pakistan said that the draft touches some “concerns of fundamental importance to the members of the OIC”. In particular, the differences in the follow areas could not be resolved:

- The OIC wanted a clearer denouncement of recent stereotyping of religions, their adherents and prophets in the media and by political parties in some societies.
- It wanted to see the respect for all religions or belief enshrined in the resolution. They disagreed with the approach taken by the EU, which calls for the promotion of diversity and tolerance instead.
- It called for the “respect for norms about the right to change one’s religion”. The EU draft explicitly urges States to guarantee the right to change one’s religion or belief, a requirement the OIC could not subscribe to.
- The resolution urges all Governments to respond favorably to requests by the Special Rapporteur. The OIC was of the view that States should only “consider responding favorably” to such requests.

Based on these disagreements, the OIC called for a vote, and said it would abstain. A large number of OIC members of the Council then took the floor to align with the statement by Pakistan, and, while regretting the failure to achieve consensus, announced their abstention as well.

Egypt added a further dimension of disagreement, saying the draft suffers from a lack of coherence, and disregards the understanding reached in the institution-building text in June 2007. It also regretted that the EU had decided to pursue a similar resolution in the Third Committee of the General Assembly. South Africa, although not a member of the OIC, also announced its abstention. It said the draft does not follow

the normal format of drafts renewing special procedures mandates in the context of the institution building, and also regretted the lack of attention to the role of the media in relation to religious intolerance. The draft was then put to vote, and adopted with 29 votes in favor and 18 abstentions.

* Voting Yes: Angola, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Cuba, France, Germany, Ghana, Guatemala, India, Italy, Japan, Madagascar, Mauritius, Mexico, Netherlands, Nicaragua, Peru, Philippines, Republic of Korea, Romania, Russian Federation, Slovenia, Switzerland, Ukraine, United Kingdom, Uruguay and Zambia. Those voting to Abstain: Azerbaijan, Bangladesh, Cameroon, China, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Mali, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal, South Africa and Sri Lanka.