

THE TANDEM PROJECT

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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

RACE & RELIGION OR BELIEF

Issue: Freedom of Religion or Belief Eventually must become a Treaty-Based Convention

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

Review: There may be an effort in the seventh session of the United Nations Human Rights Council to add religion to the Convention on race as part of the post-Durban process. This would be a **mistake**. Freedom of Religion or Belief should stand alone as a treaty-based Convention. Religious conflict is equal in importance and transcendent, as a following quote points out, from conflicts based on race.

“Religion raises the stakes of human conflict much higher than tribalism, racism, or politics ever can, as it is the only form of in-group/out-group thinking that casts the differences between people in terms of eternal rewards and punishments.” – *Sam Harris, Letter to a Christian Nation*

Extracts from *Freedom of Religion or Belief; Ensuring Effective International Legal Protection*, are on the second page followed by an Issue Statement

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 as 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 reinstate 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, for the United Nations Human Rights Council to appoint an Open-ended Working Group to draft a United Nations Convention on

Freedom of Religion or Belief. The mandate of an Open-ended Working Group would have to be written in a way to assure nothing in a draft Convention will be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights, the International Covenants on Human Rights, and 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

Concept: *Separation of Religion or Belief and State – SOROBAS.* The starting point for this concept 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.

Urgent: United Nations Secretary General Ban Ki Moon, at a UN backed Alliance of Civilizations Forum in January 2008 addressed the importance of dialogue; “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.” A writer in another setting said, “The warning signs are clear: unless we establish **genuine** dialogue within and among all kinds of belief, ranging from religious fundamentalism to secular dogmatism, the conflicts of the future will probably be even more deadly.” Dialogue on culture and ideology should include perspectives on the long term value of international human rights law.

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 *Issue Statement* for each Review.

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.*

Drafting a treaty-based Convention on religious intolerance was one of the most important early foundational concerns of the United Nations. Decisions were made in 1962 and 1963 that led the UN General Assembly in 1968 to defer work on a draft Convention on Religious Intolerance:

1962: “The General Assembly adopted a resolution requesting ECOSOC to ask the Commission to prepare a draft declaration and a draft convention on the elimination of racial discrimination. It also adopted a similarly worded resolution requesting ECOSOC to ask the Commission to prepare a draft declaration and a draft convention on the elimination of all forms of religious intolerance.”

1963: “The decision to separate the instruments on religious intolerance from those on racial discrimination constituted a compromise solution designed to satisfy a number of conflicting viewpoints. Western states insisted on addressing both matters in a joint instrument. Communist states were not anxious to deal with religious matters. African and

Asian states considered the question of religious intolerance a minor matter compared with racial discrimination. In contrast to the religious intolerance matter, international instruments on the elimination of racial discrimination were adopted fairly swiftly, in 1963 and 1965 respectively.” – *Freedom of Religion or Belief; Ensuring Effective International Legal Protection, Bahyiyih G. Tahzib, Kluwer Law International, The Hague, September, 1995*

Open this link for a year-by-year history of Human Rights and Freedom of Religion or Belief:

<http://www.tandemproject.com/program/history.htm>

ISSUE STATEMENT: It is unfortunate if the mandate on Human Rights and Freedom of Religion or Belief is placed in a subordinate position to racial discrimination. Religion has important issues that transcend race; one being a debate on whether there is a conflict between faith and science. Philip Meyer has said; “**Religion** is about the mystery, **science** is about figuring out what works in the material world. No one needs to frame the argument as a choice between religion and science. We can have both as long as we don’t use either one to test the other.” For *long term* solutions to conflicts based on religion or belief the question to be addressed is how to best promote tolerance and provide protection against all forms of intolerance and discrimination equally, for *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.*

Reply: The Tandem Project Country & Community Database collects information worldwide on United Nations Human Rights Bodies. The information is used for UN Human Rights Council Universal Periodic Reviews (UPR); UN Treaty-based Reports; UN Special Procedures, Special Rapporteur Reports. Click on the link below to open the Database. Read the Instructions & Table of Contents: scroll to an Article of your choice and click to reply.

<http://www.tandemproject.com/databases/forms/card.htm>

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.

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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*

WORD DOCUMENT ATTACHED

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

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.*

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. 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.

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.

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.

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.

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;

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

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;

6. 4 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.

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.