

THE TANDEM PROJECT

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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

SAUDI RULING ASSAILED

Issue: Saudi ruling – apostasy, defamation of religion, freedom of opinion and expression

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

Review: A short article by Reuter’s, *Saudi Ruling Assailed*, was printed in the New York Times on Wednesday 13 April 2008: “RIYADH, Saudi Arabia (Reuters) – More than 100 Arab rights groups and intellectuals on Tuesday condemned a religious edict calling for the death of two **writers** for apostasy. Sheik Abdul-Rahman al-Barrak, one of Saudi Arabia’s most revered clerics, had ruled that two newspaper columnists should be executed if they did not publicly renounce their ‘heretical articles’ questioning the view that Christians and Jews should be considered unbelievers.”

The definition of apostasy and its consequences is discussed in voluminous dissertations among academics in religious and secular publications. Actions threatening death are rarely as public as this story. Freedom of Opinion and Expression, however, which may be of concern to these newspaper columnists, is a public issue addressed in the seventh session of the United Nations Human Rights Council on 25 March 2008. Saudi Arabia, a member of the United Nations Human Rights Council, voted for an **amendment** that placed a **restriction** on the mandate on Freedom of Opinion and Expression. Differences between member states of the Human Rights Council, despite an effort at consensus, emerged over this restriction, seen by many as an attack on the foundation democracy, based on cultural relativity and religious traditions.

The resolution on Freedom of Religion or Belief as amended is similar to the vote on a resolution that failed to achieve consensus on the mandate on Freedom of Religion or Belief in the UN Human Rights Council sixth session in December 2007. These are sensitive and complex issues that will continue to be raised in public meetings of the UN Human Rights Council. The Saudi cleric’s ruling is **unacceptable** to many States, and **praised** by other States living by Shariah law. It raises the question of how the UN Human Rights Council plans to monitor future Special Procedures reports on Freedom of Opinion and Expression and Freedom of Religion or Belief.

The New York Times article *Saudi Ruling Assailed* is printed on the third page followed by an Issue Statement

International Standards for National and Local Applications

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 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 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, 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 for an Open-ended Working Group ought 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 the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. One writer has said; "Religion raises the stakes of human conflict much higher than tribalism, racism, or politics ever can...it casts the differences between people in terms of eternal rewards and punishments."

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.

Dialogue & Education

Dialogue: 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." Solutions to conflicts over religious or philosophical ideology call for dialogue on the **purpose** of international law on freedom of religion or belief; and the **value** of these standards for regional, national and local applications.

Education: Ambassador Piet de Klerk addressed the Prague twenty-five year anniversary commemoration of the 1981 UN Declaration; "Our educational systems need to provide children with a broad orientation: from the very beginning, children should be taught that their own religion is one out of many and that it is a personal choice for everyone to adhere to the religion or belief by which he or she feels most inspired, or to adhere to no religion or belief at all." Parents are a key to this application. The 1981 UN Declaration states; "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, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents, the best interests of the child being the guiding principle.”

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.

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.*

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

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.*

SAUDI RULING ASSAILED

RIYADH, Saudi Arabia (Reuters) – More than 100 Arab rights groups and intellectuals on Tuesday condemned a religious edict calling for the death of two writers for apostasy.

Sheik Abdul-Rahman al-Barrak, one of Saudi Arabia’s most revered clerics, had ruled that two newspaper columnists should be executed if they did not publicly renounce their “heretical articles” questioning the view that Christians and Jews should be considered unbelievers.

ISSUE STATEMENT: This Reuters article quoted in a brief New York Times story involves apostasy, defamation of religion and freedom of opinion and expression. Apostasy has been described by one encyclopedia as “the desertion of a post, the giving up of a state of life.” A writer distinguishes **apostasy** from heresy by stating, “The heretic differs from the apostate in that he only denies one or more of the doctrines of revealed religion, whereas the apostate denies the religion itself, a sin which has always been looked upon as one of the most grievous.” This is a serious religious concern addressed by many religious and secular scholars. A death sentence for apostasy violates Article 6 paragraph 1 of the International Covenant on Civil and Political Rights - the Right to Life. It is a serious but not primary concern for this Issue Statement.

This Issue Statement concerns the ruling by the Saudi religious cleric on the edict that would deny two newspaper columnists the right to Freedom of Opinion and Expression, by their questioning that Christians and Jews should be considered unbelievers. Saudi Arabia, a member of the UN Human Rights Council, voted recently with other members on the Council who belong to the Organization of the Islamic Conference (OIC), for an amendment to a resolution that would place **restrictions** on the mandate on Freedom of Opinion and Expression to report on instances when such freedom by the media was thought to be an abuse of a religion or belief.

The mandate on Freedom of Opinion and Expression A/HRC/7/L.24 (Word Document attached) failed to achieve consensus and was amended by A/HRC/7/L.39. The vote on the amendment was 27 in favor, 17 against and 3 abstentions. The vote on the mandate A/HRC/7/L.24 as amended passed 32 in favor, 0 against, 15 abstentions.

Egypt speaking for the Africa Group was a sponsor of the amendment. Pakistan, speaking for the Organization of the Islamic Conference (OIC) and OIC members on the Human Rights Council voted with Egypt and Cuba, sponsor of an oral amendment to A/HRC/7/L.24. Motivations for placing a reporting restriction on the right to Freedom of Opinion or Expression grew in part out

of the Danish cartoons controversy showing pictures of the Prophet Mohammad that many Muslims felt defamed their religion. Many sponsors of the amendment believe since September 11, 2001 there has been rising Islamophobia; a fear of Islam that leads to an abuse or defamation of religion. They believe restrictions must be placed on freedom of the press to report when such **abuse** of any religion is involved. The amendment to the mandate on Freedom of Opinion and Expression (A/HRC/7/L.39) included the phrase, “to report on instances in which abuse of the right to freedom of expression constitutes an act of racial or religious discrimination.” Cuba making an oral amendment to the mandate added “and also the importance for all forms of media to report and deliver information in a fair and impartial manner.”

Canada, the primary sponsor of the resolution on Freedom of Opinion and Expression responded by saying; Requesting a Special Rapporteur on Freedom of Opinion and Expression to report on alleged abuse would turn the mandate on its head. “Instead of promoting freedom of expression the Special Rapporteur would be **policing** its exercise.” Canada withdrew its sponsorship of the resolution as amended and abstained on the final vote. Abstentions were also made by the European Union (EU) and India. Slovenia speaking for the EU said in defense of the original resolution without an amendment that Article 19 and Article 20 of the International Covenant on Civil and Political Rights are sufficient human rights instruments to cover protection against discrimination and placing **restrictions** on freedom of opinion and expression is tantamount to a violation of the foundational principle of democracy. India joined Canada and the EU countries in voting against the amendment on grounds that excessive reference only to abuse of monotheistic religions was too **narrow**, excluding other beliefs.

In the week the resolution on Freedom of Opinion and Expression passed as amended, a film, “*Fina*,” was released over the Internet by a Dutch Member of Parliament, Mr. Geert Wilders, associating Muslims exclusively with violence and terrorism. The Dutch Government rejected the film immediately and had a **balanced** reaction saying the “vast majority of Muslims **reject** extremism and violence.” However, they went on to say the Dutch Government **defends** the right to open Freedom of Opinion and Expression as a foundation of democracy. Three UN Special Rapporteurs issued a joint statement on 28 March 2008 critical of the film. The High Commissioner for Human Rights joined the condemnation saying she urges all those who understandably feel profoundly offended to denounce its hateful content by peaceful means saying, “There is a protective legal framework, and the controversy that this film will generate should take place within it” referring to Article 19 and 20 on Civil and Political Rights.

The passage of A/HRC/7/L.24 as amended in the seventh session of the Human Rights Council exacerbates the difference in deeply-held principles and rights among member countries in the sixth session part 2, December 2007, over vote that failed to achieve consensus on the mandate on Freedom of Religion or Belief (attached Word Document). The votes on these resolutions reflect deep worldwide tensions. They are of fundamental importance to the EU and OIC and mirror worldwide concerns between cultural and religious points of view. The ruling by Sheik Abdul-Rahman al-Barrak, one of Saudi Arabia’s most revered clerics, is **unacceptable** to countries that defend the right to Freedom of Opinion and Expression as a foundation of democracy, just as his ruling is credible and **justified** by most countries guided by Shariah law.

The attached Word Document, *History-United Nations, Human Rights & Freedom of Religion or Belief* describes the history of United Nations debates in 1962-63 and 1967. The debates today seem identical. This division may continue and grow stronger. A UN press release the week after passage of the amended mandate on Freedom of Opinion and Expression reported; “Egypt looked forward to the Netherlands and other Western countries **creating** legislation to allow for the criminal prosecution of such acts of hatred in the future,” referring to the film, *Fina*, released over the Internet.

The question is how the UN Human Rights Council in the future will resolve differences among its members over these divisive resolutions. The UN likes as much as possible to operate by consensus. These issues need time to carefully and thoughtfully work through seemingly irreconcilable differences. It calls for the kind of dialogue the UN Secretary General spoke of at the UN backed Alliance of Civilizations Forum; “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.” Another 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.” This is the danger in a failure to act on the resolutions that reflect existing conflicts over religious and philosophical ideology. One option may be quiet high level dialogue between adversarial countries to resolve the conflicts.

Another option, however complex and sensitive, may be consideration by the UN Human Rights Council to appoint an Open-ended Working Group to draft a UN Convention on Freedom of Religion or Belief. This would allow the time needed in an open and transparent forum to resolve irreconcilable differences. The mandate for such an Open-ended Working Group would have 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 the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. As one writer has said; “Religion raises the stakes of human conflict much higher than tribalism, racism, or politics ever can...it casts the differences between people in terms of eternal rewards and punishments.”

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. The Tandem Project: Michael M. Roan, mroan@tandemproject.com.

*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.