

## 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 WITHOUT A CONSENSUS (A/HRC/RES/6/37)

**Issue:** Resolution extends mandate on Freedom of Religion or Belief without Consensus

**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.”

Extracts from resolution (A/HRC/RES/6/37) are under Eight Articles of the 1981 UN Declaration and prints the resolution in full at the end of this document. The resolution (A/HRC/RES/6/37) was the only one of thirteen resolutions **not 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.”

#### Extracts on from the sixth session of the United Nations Human Rights Council begin on the second page followed by an Issue Statement

*Closing the Gap -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 consider the rule of law and 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.

**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):

**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. **Article 18:** permits restrictions to manifest a religion or belief only if such limitations are prescribed by law and necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### *Dialogue & Education*

**Dialogue:** United Nations Secretary General Ban Ki Moon, at an Alliance of Civilizations Madrid Forum said; “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 alleged, “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 human rights and freedom of religion or belief by governments, religions and other beliefs and civil society ought to include the value of rules, norms and standards for peaceful cooperation, respectful competition and mediation of conflicts. International Human Rights Standards on Freedom of Religion or Belief is an essential universal platform to establish genuine dialogue within and among all kinds of beliefs.

**Education:** Ambassador Piet de Klerk addressing the Prague 25 Year Anniversary Commemoration of the 1981 U.N. Declaration said; “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.”

The 1981 U.N. 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.” With International Human Rights safeguards, early childhood education is the best time to begin to build tolerance, understanding and respect for freedom of religion or belief.

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**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.

*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.*

**The International Service for Human Rights (ISHR) reported “Pakistan (on behalf of the Organization of the Islamic Conference, 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.”**

**The ISHR reported, “Portugal (on behalf of the EU) gave an extensive explanation of 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.**

**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 passed 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 6<sup>th</sup> 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.

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.” Eighteen Human Rights Council members abstained on the resolution.

**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/RES/6/37) was the only resolution that did not pass by consensus. An attempt was made for consensus by leaving out 24 out of 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 6<sup>th</sup> 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.”

The United Nations Human Rights Council voted 29 in favor, 0 against and 18 abstentions on 14 December 2007 in the sixth session for a three year extension of the mandate on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief (A/HRC/6/L.15/Rev.1). There are 47 members of the Human Rights Council. Those voting to abstain included: Azerbaijan, Bangladesh, Cameroon, China, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal, South Africa and Sri Lanka.

The 18 country abstentions were based on the objections from Pakistan, spoken on behalf of the 57 country Organization of the Islamic Conference (OIC) that norms in Muslim countries prohibit leaving Islam as a religion, and were not being honored in the draft resolution. Portugal, speaking on behalf of the European Union (EU) said over 40 paragraphs in the draft resolution was eliminated in an attempt at consensus with the abstaining states, but consensus over the right to leave one’s religion or belief was inviolable and could not be compromised.

The Resolution (A/HRC/RES/6/37) with recorded votes can be viewed by clicking on this link:

[http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_6\\_37.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf)

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\* Preface *Closing the Gap – International Standards for National and Local Applications*, considers the question of a Convention on Freedom of Religion or Belief followed by a Response from the Special Rapporteur on Freedom of Religion or Belief and The Tandem Project Option and Concept including a program for human rights-based *Dialogue & Education*.

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**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.*

### **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;**

## **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.*

**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;**

**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.*