

THE TANDEM PROJECT

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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

THE U.N. OFFICE OF HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) AND THE ORGANIZATION OF ISLAMIC CONFERENCE (OIC): MEMORANDUM OF UNDERSTANDING ON TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Issue: Technical Cooperation - United Nations, Human Rights & Freedom of Religion or Belief.

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

Review: Geneva, 11 July 2006 – The Office of United Nations High Commissioner for Human Rights (OHCHR) and the Organization of the Islamic Conference (OIC) signed in Rabat, Morocco, a Memorandum of Understanding on Technical Cooperation in the Field of Human Rights. Will this Memorandum of Understanding **encourage support** for Article 18, International Covenant on Civil and Political Rights, and the 1981 U.N. Declaration on Freedom of Religion or Belief? What part does the Cairo Declaration on Human Rights in Islam signed by the Foreign Ministers of OIC countries on 5 August 1990, play in the implementation of this agreement?

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.

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 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.

DOCUMENT ATTACHED

Extract Examples: 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.

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.*

Geneva, 11 July 2006: The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Organization of the Islamic Conference (OIC) today signed in Rabat a memorandum of understanding on technical cooperation in the field of human rights. Both organizations will work together in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. The memorandum spells out cooperation in the area of information sharing, inviting each other to relevant meetings and events; as well as building regional, sub-regional and national capacities for the adoption of policies and guidelines on human rights and on encouraging to ratify international human rights treaties. The signing of the memorandum of understanding took place on the opening day of the UN-OIC general periodic meeting on cooperation between the two organizations and their specialized institutions. OIC is an inter-governmental organization established in 1969 which comprises 57 Member States, with its headquarters in Jeddah, Saudi Arabia. – *United Nations Press Release, 11 July 2006.*

Article 24: **All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari’ah.** – *The Cairo Declaration on Human Rights in Islam; adopted and issued at the Nineteen Islamic Conference of Foreign Ministers on 5 August, 1990. From Religion and Human Rights: Basic Documents; Center for the Study of Human Rights Columbia, University, 1998.*

Article 25: **The Islamic Shari’ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.** – *The Cairo Declaration on Human Rights in Islam; adopted and issued at the Nineteen Islamic Conference of Foreign Ministers on 5 August, 1990. From Religion and Human Rights: Basic Documents; Center for the Study of Human Rights Columbia, University, 1998.*

We note that freedom of religion or belief includes theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. – *Prague Declaration, Twenty-Five Year Commemoration of the 1981 U.N. Declaration, Prague, Czech Republic, 25 November 2006.*

ISSUE STATEMENT: Cooperation between the Office of High Commissioner for Human Rights (OHCHR) and the Organization of Islamic Conference (OIC) holds real promise for dialogue in the future on substantive issues. But there are OIC States with reservations that if signatories to the International Covenant on Civil and Political Rights (ICCPR), nullify International Human Rights Standards on Freedom of Religion or Belief. This does not mean the Memorandum of Understanding on Technical Cooperation in the Field of Human Rights cannot be of help in respectful dialogue. These are differences on **deeply-held beliefs** and should be openly acknowledged and discussed. The Cairo Declaration on Human Rights in Islam is a document endorsed by the 56 country Organization of the Islamic Conference (OIC). The Preamble and first sentences of the 25 Article Cairo Declaration are highlighted at the end of this Document.

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 the 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*

**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:

THE CAIRO DECLARATION ON HUMAN RIGHTS IN ISLAM

PREAMBLE - The Member States of the Organization of the Islamic Conference,

***Reaffirming* the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.**

***Wishing* to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah,**

***Convinced* that mankind which has reached an advance stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization and of a self-motivating force to guard its rights;**

***Believing* that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages thereby making their observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible – and the Ummah collectively responsible – for their safeguard.**

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.**

Both organizations will work together in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

***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.*

Geneva, 11 July 2006: The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Organization of the Islamic Conference (OIC) today signed in Rabat a memorandum of understanding on technical cooperation in the field of human rights. Both organizations will work together in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. The memorandum spells out cooperation in the area of information sharing, inviting each other to relevant meetings and events; as well as building regional, sub-regional and national capacities for the adoption of policies and guidelines on human rights and on encouraging to ratify international human rights treaties. The signing of the memorandum of understanding took place on the opening day of the UN-OIC general periodic meeting on cooperation between the two organizations and their specialized institutions. OIC is an inter-governmental organization established in 1969 which comprises 57 Member States, with its headquarters in Jeddah, Saudi Arabia” – United Nations Press Release

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.

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. - Address: Mr. Piet de Klerk, Ambassador-at-Large of the Netherlands on Human Rights.

Another important step was taken exactly five years ago, when the Final Document on School Education in Relation with Freedom of Religion or Belief, Tolerance and Non-discrimination was adopted in Madrid. There have been promising follow-up activities by governments and NGOs during global meetings of experts and exchanges of minds on regional levels. However, these implementation efforts need a fresh impetus in order to further develop strategies on how religious intolerance and discrimination can be prevented and how freedom of religion or belief can be promoted through education. - Address: Asma Jahangir, UN Special Rapporteur on 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;

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.

THE CAIRO DECLARATION ON HUMAN RIGHTS IN ISLAM

The Member States of the Organization of the Islamic Conference,

Reaffirming the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.

Wishing to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah,

Convinced that mankind which has reached an advance stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization and of a self-motivating force to guard its rights;

Believing that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages thereby making their observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible – and the Ummah collectively responsible – for their safeguard.

Proceeding from the above-mentioned principles,

Declare the following:

Article 1 – All human beings form one family whose members are united by submission to God and descent from Adam. [First sentence of article 1]

Article 2 – Life is a God given gift and the right to life is guaranteed to every human being. [First sentence of article 2]

Article 3 – In the event of the use of force and in case of armed conflict, it is not permitted to kill non-belligerents such as old men, women and children. [First sentence of article 3]

Article 4 – Every human being is entitled to inviolability and the protection of his good name and honour during his life and after his death. [First sentence of article 4]

Article 5 – The family is the foundation of society, and marriage is the basis of its formation. [First sentence of article 5]

Article 6 – Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage. [First sentence of article 6]

Article 7 – As of the moment of birth, every child has rights due from the parents, society and the state to be accorded proper nursing, education and material hygienic and moral care. [First sentence of article 7]

Article 8 – Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment. [First sentence of article 8]

Article 9 – The quest for knowledge is an obligation, and the provision of education is a duty for society and the State. [First sentence of article 9]

Article 10 – Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism. [Complete article 10]

Article 11 – Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to God the Most-High. [First sentence of article 11]

Article 12 – Every man shall have the right within the framework of Shari’ah, to free movement and to select his place of residence whether inside or outside his country and, if persecuted is entitled to seek asylum in another country. [First sentence of article 12]

Article 13 – Work is a right guaranteed by the State and Society for each person able to work. [First sentence of article 13]

Article 14 – Everyone shall have the right to legitimate gains without monopolization, deceit or harm to oneself or to others. Usury (riba) is absolutely prohibited. [Complete article 14]

Article 15 – Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership, without prejudice to oneself, others or to society in general. [First sentence of article 15]

Article 16 – Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical production and the right to protect the moral and material interests stemming therefrom, provided that such production is not contrary to the principles of Shari’ah. [Complete article 16]

Article 17 – Everyone shall have the right to live in a clean environment, away from the vice and moral corruption, an environment that would foster his self-development; and it is incumbent upon the State and society in general to afford that right. [First sentence of article 17]

Article 18 – Everyone shall have the right to live in security for himself, his religion, his dependents his honour and his property. [First sentence of article 18]

Article 19 – All individuals are equal before the law, without distinction between the ruler and the ruled. [First sentence of article 19]

Article 20 – It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. [First sentence of article 20]

Article 21 – Taking hostages under any form or for any purpose is expressly forbidden. [Complete article 21]

Article 22 – Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari’ah. [First sentence of article 22]

Article 23 – Authority is a trust; and abuse or malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed. [First sentence of article 23]

Article 24 – All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari’ah. [Complete article 24]

Article 25 – The Islamic Shari’ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration. [Complete article 25]

Cairo, 14 Muharram 141H 5 August 1990.

For complete Cairo Declaration on Human Rights in Islam see:

Religion and Human Rights: Basic Documents
Center for the Study of Human Rights, 1998, page 185
<http://www.columbia.edu/cu/humanrights>