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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

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

Separation of Religion or Belief and State

UPDATE AND OVERVIEW: RIGHT TO CHANGE ONE'S RELIGION

UNIVERSAL PERIODIC REVIEW & FREEDOM OF RELIGION OR BELIEF

The Universal Periodic Review (UPR) is a unique process launched by the UN Human Rights Council in 2008 to review the human rights obligations and responsibilities of all UN Member States by 2011. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

The Tandem Project supports the mandate and work of the U.N. Special Rapporteur on Freedom of Religion or Belief. Universal Periodic Reviews are an opportunity to review how nations meet their human rights obligations and responsibilities to freedom of religion or belief. Each Universal Periodic Review is unique reflecting the national laws, religious and cultural norms of a country. While significant progress was made this year to promote and protect the elimination of all forms of intolerance and of discrimination based on religion or belief, issues remain for open, inclusive and genuine dialogue in order to achieve consensus by the UN Human Rights Council and UN General Assembly. They include freedom of expression and the right to change a religion.

Update

In New York in the 65th session of the UN General Assembly in November 2010 Morocco spoke on behalf of the Organization of the Islamic Conference (OIC) and made a positive statement on the elimination of all forms of intolerance and of discrimination based on religion or belief, and work of the UN Special Rapporteur on Freedom of Religion or Belief after resolution (A/C.3/65/L.32/Rev.1) without a vote.

- “In a general statement, the representative of Morocco, on behalf of the OIC, said all forms of intolerance and discrimination based on religion and belief were opposed by that Organization, which condemned all acts of violence carried out in the name of religion. It was the belief of the Organization that all religions shared the same message of peace and respect for others. Terrorism could not and should not be associated with any religion, nationality or ethnic group. The mandate of the Special Rapporteur on the issue had been consistently supported by the Organization, which had no problem with the general thrust of the resolution. Many of the Organization’s considerations had been taken into account by the co-sponsors in the final stages of consultations; it was understood that they had to work very hard with their constituents.”

In the 65th session on 16 November 2010 the General Assembly Third Committee passed without a vote a comprehensive draft resolution (A/C.3/65/L.32.Rev.1) on the elimination of all forms of intolerance and

discrimination based on religion or belief. On 21 December 2010 the United Nations General Assembly without a vote passed the resolution on the elimination of all forms of intolerance and of discrimination (A/RES/65/211). Resolutions in two paragraphs were identical, 11 (a) and 12 (a).

http://www.tandemproject.com/pdf/65_gen_assembly.pdf

http://www.tandemproject.com/pdf/65th_assembly.pdf

11 (a) and 12 (a) *Urges* States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end:

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

The representative of Belgium, the main sponsor, on behalf of the European Union, recalled that similar resolutions had been adopted by consensus in previous years. This year's draft had been the subject of many rounds of open and transparent informal consultations. It was regretted that, once again, it had not been possible to explicitly state in the resolution that the freedom of religion and belief included **the right not only not to have, but also to change or abandon one's religion or belief**; such language had been let go for the sake of a highly valued consensus.

The representative of Morocco, on behalf of the Organization of the Islamic Conference said **it had not been possible to resolve differences on respect for national laws and religious norms regarding changing one's religion**. Despite such divergences, it had been decided by the Organization not to oppose the draft; such resolutions ought to be adopted by consensus.

Overview

In 2007 in Geneva a three year mandate for the UN Special Rapporteur on Freedom of Religion or Belief was **adopted without consensus** by the UN Human Rights Council. The phrase "access to justice" was the only change in New York in 2010 to paragraph 9 (a) in 2007 in the Geneva. The 2007 resolution (A/HRC/RES/6/37) with recorded votes:

http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf

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;

In June 2010 in Geneva the three year mandate of the UN Special Rapporteur on Freedom of Religion or Belief, (A/HRC/RES/14/11) sponsored by Spain on behalf of the European Union (EU) was again

adopted by the Human Rights Council this time by **consensus without a vote**. Pakistan speaking on behalf of Organization of Islamic Conference (OIC) concurred in adopting the resolution without a vote by consensus.

[UN Human Rights Council Resolution on Freedom of Religion or Belief](#)

Paragraph 9 (a) in the 2007 resolution (A/HRC/RES/14/11), urging states to ensure the right to change one's religion or belief was dropped from the June 2010 resolution on the three year mandate for the UN Special Rapporteur on Freedom of Religion or Belief. Paragraph 9 (a) in the opinion of the EU still applies to the discharge of duties in the June 2010 mandate of the UN Special Rapporteur on Freedom of Religion or Belief.

Morocco's answer in New York in November 2010 says it does not apply: "In a general statement, the representative of Morocco, on behalf of the OIC, said "it had not been possible to resolve differences on respect for national laws and religious norms regarding changing one's religion. Despite such divergences, it had been decided by the Organization not to oppose the draft; such resolutions ought to be adopted by consensus."

Moving Forward

If the resolutions were a call to implement 9 (a) and its successors 11 and 12 (a) it would be a **significant step forward** to resolve the question of universality vs. cultural relativity on the issue of the right to change one's religion. This right is an *inviolable* principle of democracy, the Universal Declaration of Human Rights, governments, religions or beliefs and members of the human family. It demands the highest respect, sensitivity and dialogue to resolve differences between the European Union and Organization of the Islamic Conference, regarding national laws and religious norms to leave a religion.

The Universal Periodic Review & Freedom of Religion or Belief is an opportunity through Human Rights Education to build widespread awareness, acceptance and recognition of the right to change one's religion among governments and non-governmental organizations, civil society, universities, schools, places of worship, and leaders of the *Ummah* in Islamic schools and mosques.

United Nations History since adoption of the 1948 Universal Declaration of Human Rights and the seminal 1960 *Study of Discrimination in the Matter of Religious Rights and Practices*, by Arcot Krishnaswami demonstrates difficult but steady progress in the promotion and protection of human rights and freedom of religion or belief: <http://www.tandemproject.com/program/history.htm>

The Tandem Project believes until a core International Human Rights Treaty on Freedom of Religion or Belief is adopted these issues will be harder to resolve. The original intent of the United Nations in 1960 was to draft two core legally binding human rights treaties on religion and race. 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.

At the General Assembly's twenty-second session in 1966, the Third Committee had an opening general debate and a line-by-line review of the text of the draft convention. The convention's most fierce critics were the Soviet Union, other communist states, and several African and Asian States. Since the draft Convention's definition of "religion or belief" included theistic, non-theistic and atheistic beliefs; there

was strong opposition from Islamic states, the Catholic church, and other religious groups. At its twenty-third session, the General Assembly decided to defer consideration of the draft convention.

In 1968, the United Nations deferred work on a legally-binding treaty on religious intolerance as too complex and sensitive and passed a non-binding declaration in its place. The Tandem Project believes until a core legally-binding *Convention on Freedom of Religion or Belief* is adopted international human rights law will be incomplete.

The Tandem Project a non-governmental organization (NGO) founded in 1986 to build understanding, tolerance, and respect for diversity of religion or belief, and to prevent discrimination in matters relating to freedom of religion or belief. The Tandem Project has sponsored multiple conferences, curricula, reference material 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.