# THE TANDEM PROJECT

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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

## Universal Periodic Review reports in six languages

http://www.ohchr.org/EN/HRBodies/UPR/PAGES/ZASession1.aspx

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# Universal Periodic Review - South Africa

Only contributions submitted in one of the United Nations official languages are admissible and posted on this webpage

Date of consideration: Tuesday 15 April 2008 - 2.30 p.m. - 5.30 p.m.

National report  $1 : \underline{E}$  onlyCompilation of UN information  $2 : \underline{A} | \underline{C} | \underline{E} | \underline{F} | \underline{R} | \underline{S}$ Summary of stakeholders' information  $3 : \underline{A} | \underline{C} | \underline{E} | \underline{F} | \underline{R} | \underline{S}$ 



**Questions submitted in advance** 

Outcome of the review Report of the Working group : <u>A</u> | <u>C</u> | <u>E</u> | <u>F</u> | <u>R</u> | <u>S</u> Decision on the outcome : <u>E</u> only

Report of the eight session of the Human Rights Council : <u>A</u> | <u>C</u> | <u>E</u> | <u>F</u> | <u>R</u> | <u>S</u>

Related webcast archives

Main Country Page: <u>http://www.ohchr.org/EN/countries/AfricaRegion/Pages/ZAIndex.aspx</u> Inter-active Dialogue: <u>http://www.ohchr.org/EN/HRBodies/UPR/Pages/ZAWebArchives.aspx</u>

Universal Periodic Review April 2008 as Preparation for the Universal Periodic Review 2012. This is NOT a submission to the UN for a Universal Periodic Review. The tentative schedule for the

second cycle review of SOUTH AFRICA is Thursday 31 May 2012 from 14:30-18:00. The interactive dialogue can be viewed live on the OHCHR website, <u>www.ohchr.org</u>

# **BACKGROUND HUMAN RIGHTS & FREEDOM OF RELIGION OR BELIEF**

General Comment 22 on Article 18 of the International Covenant on Civil and Political Rights http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument

The 1981 UN Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief <u>http://www.tandemproject.com/program/81\_dec.htm</u>.

UN History on Freedom of Religion or Belief: http://www.tandemproject.com/program/history.htm

List of Religion or Belief by Countries: http://en.wikipedia.org/wiki/List of religious populations

# NATIONAL REPORT & WORKING GROUP – RECOMMENDATIONS RELATING TO FREEDOM OF RELIGION OR BELIEF

National Report: http://www.ohchr.org/EN/HRBodies/UPR/PAGES/ZASession1.aspx

Working Group Report: <u>http://daccess-dds-</u> ny.un.org/doc/UNDOC/GEN/G08/136/96/PDF/G0813696.pdf?OpenElement

There were 22 recommendations in the Working Group Report. No recommendations relating directly to Freedom of Religion or Belief. One recommendation, #19 refers to Racism, Racial Discrimination, Xenophobia and Related Intolerance.

# REPORTS OF THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF

http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx

The Special Rapporteur on Freedom of Religion or Belief has not visited South Africa. South Africa has a standing invitation to Special Procedures Rapporteurs. Ms. Pillay the current UN High Commissioner for Human Rights (OHCHR) is from South Africa. South Africa is due to give its second Universal Periodic Review in May 2012.

http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Visits.aspx

# CONSTITUTION OF SOUTH AFRICA

# http://en.wikipedia.org/wiki/Constitution of South Africa

"The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

The bill of rights prohibits the government from unfairly discriminating directly or indirectly against anyone based on religion; it states that persons belonging to a religious community may not be denied the right to practice their religion and to form, join, and maintain religious associations with other members of that community. Cases of discrimination against a person on the grounds of religious freedom may be taken to the Constitutional Court.

The constitution is deliberately religion-neutral. Leading government officials and ruling party members adhere to a variety of faiths." – U.S. State Department Religious Freedom Report, 2010

## A CULTURE OF TOLERANCE AND PEACE BASED ON RELIGION OR BELIEF

On December 19, 2011 resolution A/RES/66/167 was **adopted by consensus** by the United Nations General Assembly, after several years of contentious issues between the European Union (EU), Organization of the Islamic Conference (OIC), and other UN Member States. A/RES/66/167 is a hopeful beginning for resolution of these issues.

United Nations Resolution - a Culture of Tolerance & Peace Based on Religion or Belief

# Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief

Introduced by Pakistan on behalf of the Organization of the Islamic Conference (OIC) adopted by consensus without a vote. - Resolution A/HRC/16/18/L.38, Geneva, March 24 2011

Recognizes that the open public debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels can be among the best protections against religious intolerance, and can play a positive role in strengthening democracy and combating religious hatred, and convinced that a continuing dialogue on these issues can help overcome existing misperceptions.

Calls for strengthened international efforts to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs, and decides to convene a panel discussion on this issue at its seventeenth session within existing resources.

Pakistan (on behalf of the OIC) Mr. Zamir Akram ♣[English] 10 minutes Saudi Arabia Mr. Ahmed Suleiman Ibrahim Alaquil ♣[English] [Arabic] 1 minute Norway Ms. Beate Stirø ♣[English] 2 minutes United States of America Mr. Eileen Chamberlain Donahoe ♣[English] 5 minutes Hungary (on behalf of the European Union) Mr. András Dékány ♣[English] 3 minutes

# UN Human Rights Council Panel Statements, Resolution A-HRC-16-18, 2010 General Assembly Third Committee Actions

Introduced by United Arab Emirates on behalf of the Organization of the Islamic Conference (OIC) adopted by consensus without a vote – Resolution A/C.3/66/L.47, New York, 15 November 2011

UN Third Committee Press Release - Resolution L.47 Adopted by Consensus

http://www.un.org/ga/search/view\_doc.asp?symbol=A/C.3/66/L.47/Rev.1

The Resolution identified as A/RES/66/167 by the General Assembly welcomes the establishment of the "King Abdullah Bin Abdulaziz International Centre for Interreligious and Intercultural dialogue in Vienna, initiated by King Abdullah of Saudi Arabia on the basis of purposes and principles enshrined in the Universal Declaration of Human Rights, and acknowledging the important role that this Centre is expected to play as a platform for the enhancement of interreligious and intercultural dialogue." - King Abdulaziz Dialogue Center – Vienna <u>http://www.kacnd.org/eng/</u>

Surely one of the best hopes for humankind is to embrace a culture in which religions and other beliefs accept one another, in which wars and violence are not tolerated in the name of an exclusive right to truth, in which children are raised to solve conflicts with mediation, compassion and understanding.

# **ISSUES & CHALLENGES**

Anders Behring Breivik is the ethnic Norwegian perpetrator of the most horrific acts of terrorism in Norway since WW II. In an opinion page article in the New York Times, 31 July 2011, by Thomas Hegghammer, Senior Research Fellow of the Norwegian Defense Research Establishment, Breivik is quoted as saying he is "extremely proud of his Odinistic/Norse heritage and while he is Christian admits 'I'm not a very religious person.' "While Breivik's violent acts are exceptional, his anti-Islamic views are not. His goal is to reverse what he views as the Islamization of Western Europe."

Assimilation's Failure, Terrorism's Rise

Discussion at Augsburg with Kjell-Magne Bondevik

# FOCUS GROUPS ON FREEDOM OF RELIGION OR BELIEF

Focus Groups on Freedom of Religion or Belief are proposed at local levels to support UN General Assembly Resolution 66/167.

**QUESTION:** Will UN General Assembly Resolution 66/167 matter at a local level to protect your religion or belief, cultural identity, principles and values in tandem with international human rights law on freedom of religion or belief?

Recognizes that the open public debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels can be among the best protections against religious intolerance, and can play a positive role in strengthening democracy and combating religious hatred, and convinced that a continuing dialogue on these issues can help overcome existing misperceptions.

# FOR DISCUSSION

The Tandem Project selects articles, issues and insights from a variety of sources for local discussion and dialogue by the Focus Group on Freedom of Religion or Belief. The Tandem Project does not endorse articles, issues or insights included for discussion.

# U.S. State Department 2010 International Religious Freedom Report, South Africa

"According to the South African Jewish Board of Deputies (SAJBD), anti-Semitic incidents hit a new peak in 2009, although two-thirds of those were in the first two months of 2009 in connection with Israeli military strikes on Gaza. The SAJBD reported a still low but increasing level of hostile behavior toward the Jewish community, mainly linked to its support for Israel, to which pro-Palestinian voices in the country drew parallels with apartheid. Reported anti-Semitic incidents during the reporting period included mainly verbal abuse, as well as graffiti, hate mail, and distribution of offensive literature. The SAJBD recorded only three minor cases of assault in 2009, and vandalism was limited to destruction of posters and damaging Jewish Web sites.

A cartoon of the Prophet Muhammad, drawn by popular political cartoonist Jonathan Shapiro (Zapiro) in the context of a May 20, 2010, campaign on Facebook encouraging participants to depict the Muslim prophet, drew controversy and terror threats. The Muslim Judicial Council expressed "hurt" and "outrage" in a press release urging Muslims to condemn the cartoon "in a responsible and dignified manner," but the council also declared that death threats against the cartoonist had no place in religion or society and were "un-Islamic." Other prominent Muslims tried to explain the matter of "Muslim aversion to depiction" in newspaper editorials. Jihadist Web sites received new posts vowing attacks against Westerners during the World Cup held in the country in June and July 2010 because of the cartoon campaign, echoing prior al-Qa'ida threats.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities and in some cases killed, particularly in provinces of Limpopo, Mpumalanga, KwaZulu-Natal, and the Eastern Cape, where suspicion of witchcraft activity could lead to accusation, assault, forced exile, and killings, particularly of elderly women."

### SEPARATION OF RELIGION OR BELIEF AND STATE - SOROBAS

### www.sorobas.com

### THE TERM

*Separation of Religion or Belief and State – SOROBAS* is a term used by The Tandem Project to express the core principles of international human rights law on freedom of religion or belief. The term has a long history with diverse interpretations. <u>Separation of Church and State</u>.

Modern technology, travel and communications have brought religions and other beliefs, and cultures closer than ever before in human history. The balance between assimilation and multiculturalism is a great challenge for our age. *Separation of Religion or Belief and State – SOROBAS* brings separation of church and state, separation of synagogue and state, separation of mosque and state, separation of temple and state, and separation of other sacred places and associations and state, together under an umbrella term of respect for each other and international human rights law on freedom of religion or belief.

There is an increase in dialogue today between religions and other beliefs to embrace diversity, but few persons, less than one percent of any population, ever participate. The value of such dialogues is proportionate to the level of participation. *Separation of Religion or Belief and State - SOROBAS* will create opportunities for inclusive and genuine human rights education on freedom of religion or belief.

### THE HISTORY

**1962** "The General Assembly adopted a resolution requesting ECOSOC to ask the Commission to prepare a draft declaration and a draft convention on the elimination of racial discrimination. It also adopted a similarly worded resolution requesting ECOSOC to ask the Commission to prepare a draft declaration and a draft convention on the elimination of all forms of religious intolerance. Both resolutions referred in their respective preambles to the desire to 'put into effect the principle of equality of all men and all peoples without distinction as to race, color or religion." The General Assembly set deadlines for submission of the special instruments as the eighteenth session (1963) for the draft declaration and its twentieth session (1965) for the draft convention. A legally-binding human rights treaty on the elimination of racial discrimination was open for signature by the UN Member States in 1966 and adopted by the UN General Assembly in 1969. The request for a legally-binding human rights treaty on the elimination of religious intolerance was deferred by the UN General Assembly, allegedly due to its complexity and sensitivity. http://www.tandemproject.com/program/history.htm

**1984** - since 1984 The Tandem Project has participated in dialogue and discussions on how to implement International Human Rights Instruments at a local level. The Tandem Project was an NGO delegate to the 1984 Seminar on the Encouragement of Understanding, Tolerance and Respect in Matters Relating to Freedom of Religion or Belief (1984) ST/HR/SER.A/16, Geneva: United Nations.

**1986** first international conference on the 1981 UN Declaration was held on *Tolerance for Diversity of Religion or Belief* <u>http://www.tandemproject.com/tolerance.pdf</u>

**1998**, Oslo Conference on Freedom of Religion or Belief was the catalyst for a change of title from UN Special Rapporteur on Religious Intolerance to UN Special Rapporteur on Freedom of Religion or Belief 1998 UN Conference Report

**2006,** 25 Year Commemoration of the 1981 UN Declaration was celebrated in Prague, Czech Republic, sponsored by the Office of High Commissioner for Human Rights with contributions from the Netherlands. <u>1981 UN Declaration – 25 Year Commemoration</u>

**2012,** The Tandem Project will launch *Separation of Religion or Belief and State – SOROBAS*, a new website of The Tandem Project in 2012, <u>www.sorobas.com</u>

The Tandem Project believes until a core legally-binding human rights treaty, a Convention on Freedom of Religion or Belief, is adopted, international human rights law will be incomplete.

## FREEDOM OF RELIGION OR BELIEF

# U.S. State Department 2010 International Religious Freedom Report, South Africa

## http://www.state.gov/g/drl/rls/irf/2010/148721.htm

November 17, 2010

The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

There were few reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights.

### Section I. Religious Demography

The country has an area of 470,693 square miles and a population of 49.3 million. The 2001 census estimated that 80 percent of the population is Christian. Hindus, Muslims, Jews, Buddhists, and adherents of traditional African beliefs constitute 4 percent of the population. Approximately 16 percent of the population indicated it adheres to no particular religion or declined to indicate an affiliation. Many combine Christian and indigenous religious practices.

African Independent Churches (AICs) are the largest group of Christian churches. Once regarded as Ethiopian churches, the majority is now referred to as Zionist or Apostolic churches (with 6.9 and 5.9 million adherents,

respectively). There are said to be more than 10,000 AICs, with a membership of nearly 13 million. The Zion Christian Church is the largest AIC, with an estimated membership of 6.9 million. AICs serve more than half the population in the northern KwaZulu-Natal and Mpumalanga areas. There are at least 900 AICs in Soweto

Other Christian groups include Protestants (Methodist, Dutch Reformed, Anglican, Baptist, Congregational, Lutheran, and Presbyterian), Pentecostal/charismatic churches, and the Roman Catholic Church. Greek Orthodox, Scientology, and Seventh-day Adventist churches are also active.

According to the 2001 census, African Traditionalists make up less than 0.5 percent of the population. However, of the 16 percent of the population that claimed no religious affiliation on the 2001 census, some may adhere to unaffiliated indigenous religions.

Approximately half of the ethnic Indian population, a majority of which resides in KwaZulu-Natal, practices Hinduism. The small Muslim community is made up mostly of Cape Malays of Indonesian descent, and the remainder is largely of Indian or Pakistani extraction.

#### Section II. Status of Government Respect for Religious Freedom

#### Legal/Policy Framework

The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

The bill of rights prohibits the government from unfairly discriminating directly or indirectly against anyone based on religion; it states that persons belonging to a religious community may not be denied the right to practice their religion and to form, join, and maintain religious associations with other members of that community. Cases of discrimination against a person on the grounds of religious freedom may be taken to the Constitutional Court.

The constitution is deliberately religion-neutral. Leading government officials and ruling party members adhere to a variety of faiths.

The 2000 Promotion of Equality and Prevention of Unfair Discrimination Act prohibits unfair discrimination on the grounds of religion.

The government observes the following religious holidays as national holidays: Good Friday and Christmas.

The government does not require religious groups to be licensed or registered. Religious groups can qualify as public benefit organizations, which are exempt from paying income tax.

In a case brought by a local nongovernmental organization seeking to compel the government to recognize Muslim marriages conducted according to Islamic law, the Constitutional Court ruled on July 22, 2009, that it did not have the power to obligate the president or the principal office-bearers of parliament to enact the legislation in question. The Muslim Marriages Bill, draft legislation supported by most Muslim and women's groups but opposed by a conservative Muslim minority, was prepared in 2003, but has never been voted on in parliament, ostensibly because

of the lack of consensus among the Muslim community. Meanwhile, a continuing series of court cases were gradually building a common law basis of case precedents that achieved the bill's aims of validating Muslim marriages for purposes such as property inheritance.

The government allows, but does not require, religion education in public schools; however, religious instruction, or the advocating of tenets of a particular religious group, was not permitted in public schools. The government has made special accommodation for individual religious groups' holy days in the scheduling of national examinations.

#### **Restrictions on Religious Freedom**

The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

There were no reports of religious prisoners or detainees in the country.

#### Forced Religious Conversion

There were no reports of forced religious conversion.

#### Section III. Status of Societal Respect for Religious Freedom

There were few reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

According to the South African Jewish Board of Deputies (SAJBD), anti-Semitic incidents hit a new peak in 2009, although two-thirds of those were in the first two months of 2009 in connection with Israeli military strikes on Gaza. The SAJBD reported a still low but increasing level of hostile behavior toward the Jewish community, mainly linked to its support for Israel, to which pro-Palestinian voices in the country drew parallels with apartheid. Reported anti-Semitic incidents during the reporting period included mainly verbal abuse, as well as graffiti, hate mail, and distribution of offensive literature. The SAJBD recorded only three minor cases of assault in 2009, and vandalism was limited to destruction of posters and damaging Jewish Web sites.

A cartoon of the Prophet Muhammad, drawn by popular political cartoonist Jonathan Shapiro (Zapiro) in the context of a May 20, 2010, campaign on Facebook encouraging participants to depict the Muslim prophet, drew controversy and terror threats. The Muslim Judicial Council expressed "hurt" and "outrage" in a press release urging Muslims to condemn the cartoon "in a responsible and dignified manner," but the council also declared that death threats against the cartoonist had no place in religion or society and were "un-Islamic." Other prominent Muslims tried to explain the matter of "Muslim aversion to depiction" in newspaper editorials. Jihadist Web sites received new posts vowing attacks against Westerners during the World Cup held in the country in June and July 2010 because of the cartoon campaign, echoing prior al-Qa'ida threats.

While there were incidents of vandalism in religiously denominated cemeteries, such robberies also occurred in secular cemeteries, suggesting a mainly economic motive to the thefts, which did not include any antireligious statements or graffiti.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities and in some cases killed, particularly in provinces of Limpopo, Mpumalanga, KwaZulu-Natal, and the Eastern Cape, where suspicion of witchcraft activity could lead to accusation, assault, forced exile, and killings, particularly of elderly women.

There were many ecumenical and interdenominational organizations among the various churches. The largest of these was the South African Council of Churches (SACC), which represented the Methodist Church, the Church of the Province of South Africa (Anglican), the Catholic Church, various Lutheran and Presbyterian churches, and the Congregational Church, among others. The major indigenous religious groups, most of the Afrikaans-language churches, and the Pentecostal and charismatic churches were not members of the SACC and usually had their own coordinating and liaison bodies.

The National Religious Leaders' Forum represented the country's seven main faith-based communities (Christian, Muslim, Jewish, Hindu, African Traditionalist, Buddhist, and Baha'i). The forum, in cooperation with the government, aimed to leverage its grass roots networks to undertake social welfare initiatives such as poverty alleviation or combating HIV/AIDS.

#### Section IV. U.S. Government Policy

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights.

The U.S. consulate general in Cape Town continued its support for the Cape Town Interfaith Initiative, which brings together Christians, Muslims, Jews, Hindus, Baha'is, Buddhists, and African Traditionalists.

### REFLECTIONS

### The Tandem Project

The First Preamble to the Universal Declaration of Human Rights reads: 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.

Surely one of the best hopes for humankind is to embrace a culture in which religions and other beliefs accept one another, in which wars and violence are not tolerated in the name of an exclusive right to truth, in which children are raised to solve conflicts with mediation, compassion and understanding.

There is an increase in dialogue today between religions and other beliefs to embrace diversity, but few persons, less than one percent of any population, ever participate. This is a challenge. The value of such dialogues is proportionate to the level of participation. For civil society increased participation would create opportunities for education on inclusive and genuine approaches to human rights and freedom of religion or belief.

In 1968 the United Nations deferred passage of a legally-binding convention on religious intolerance saying it was too complicated and sensitive. Instead, they adopted a non-binding declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. While very worthwhile, the declaration does not carry the force and commitment of a legally-binding international human rights convention on freedom of religion or belief.

Religions and other beliefs historically have been used to justify wars and settle disputes. This is more dangerous today as the possible use of nuclear and biological weapons of mass destruction increases. Governments need to consider whether religions and other beliefs trump human rights or human rights trump religions and other beliefs or neither trumps the other. Can international human rights law help to stop the advance and use of such weapons in the face of this historic truth?

• QUESTION: Weapons of mass destruction as history teaches are often legitimized for national security and justified by cultural, ethnic, religious or political ideology. The U.N. Review Conference on the Nuclear Test Ban Treaty and studies on biological and cyber weapons demonstrate advances in science and technology is being used to increase their potential for mass destruction. The question is whether an International Convention on Human Rights and Freedom of Religion or Belief, elevated and supported equally by the U.N. Human Rights Council and U.N. Security Council, would help offset the risk of weapons of mass destruction. Recognition of the need for synergy to balance rights and security is a foundation for solving this issue.

"I am become death, the destroyer of worlds"

- Robert Oppenheimer, quote from the Bhagavad Gita after exploding the first atomic bomb, Trinity 1945.

The Tandem Project believes until a core legally-binding human rights Convention on Freedom of Religion or Belief is adopted international human rights law will be incomplete. It may be time to begin to consider reinstating the 1968 Working Group to bring all matters relating to freedom of religion or belief under one banner, a core international human rights legally-binding treaty.

**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.