

THE UNITED NATIONS: HUMAN RIGHTS AND FREEDOM OF RELIGION OR BELIEF

Separation of Religion or Belief and State: A United Nations Human Rights Paradigm

By: Michael M. Roan

mroan@tandemproject.com.

The First Preamble to the 1948 United Nations Universal Declaration of Human Rights reads, “*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.*” This is a core moral principle for all international human rights norms and standards, including Article 18 of the 1966 International Covenant on Civil and Political Rights.

- **Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others, and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.** Paragraph 1 - Article 18, International Covenant on Civil and Political Rights, 1966.
- **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 or morals or the fundamental rights and freedoms of others.** Paragraph 3 - Article 18, International Covenant on Civil and Political Rights, 1966.
- **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 institutional characteristics or practices analogous to those of traditional religions. Therefore the United Nations Human Rights Committee 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 hostilities by a predominant religious community** Paragraph 2 - General Comment 22 on Article 18, United Nations Human Rights Committee, 1993.
- **The concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving from a single tradition.** Paragraph 8 - General Comment 22 on Article 18, United Nations Human Rights Committee, 1993.
- **Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.** Paragraph 2 -General Comment 22 on Article 18, United Nations Human Rights Committee, 1993.

United Nations History

The United Nations was founded in San Francisco in 1945 in response to the atrocities of World War II. This war was justified by a pagan German ethnic-religious ideology and a Japanese Emperor considered by the Japanese people to be a divine deity. Most religious expression openly opposed to these beliefs was violently suppressed.

In 1948, the UN appointed Eleanor Roosevelt of the United States, Rene Cassin of France, P.C. Chang of China and Charles H. Malik of Lebanon, to write a draft Universal Declaration of Human Rights. Article 18 of the Declaration says, “Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change his [her] religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his [her] religion or belief in teaching, practice, worship and observance.”

In 1961, the UN approved a Working Group to begin to draft a Convention on Religious Intolerance. Deliberations on a legally-binding Convention were deferred in 1967 because of the apparent complexity and sensitivity of a legally-binding human rights convention on religious intolerance. Instead, a Sub-Commission of the United Nations Commission on Human Rights was mandated to draft a non-legally binding Declaration on religion or belief.

In 1981, the UN General Assembly passed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. It is the only international human rights document with the phrase “religion or belief” in the title to accommodate the religious-ideological conflict between proponents of religious freedom in the West and proponents of atheism in the Eastern Soviet Bloc.

Member States of the UN of religious and non-religious persuasions issued reservations on the Declaration. Bulgaria, representing the Eastern Soviet Bloc, registered a reservation complaining that the Declaration favored “religion” over “atheistic” beliefs. Iraq representing a religious bloc of Member States issued a reservation on behalf of the Organization of the Islamic Conference, implying it did not favor “religion” enough. (2)

After passage of the UN Declaration, the Central Committee of the Chinese Communist party issued a policy statement on the religious question. The policy declares the Chinese Communist Party is atheist, but calls for limited freedom of religion in the People’s Republic of China. According to Article 36 of the 1982 Chinese constitution, “no one may make use of religions to engage in activities that disrupt public order, impair the health of citizens or interfere with the state educational system.” This language reflects Article 18 and the 1981 UN Declaration on the legal limitations a U.N. member state may or may not place on a religion or belief and often creates legal cases for dispute.

On 5 August 1990, a meeting of Foreign Ministers of the 55 country Organization of the Islamic Conference (OIC) adopted *The Cairo Declaration on Human Rights in Islam*. Article 1 reads, “All human beings form one family whose members are united by submission to God and descent from Adam.” The Cairo Declaration is a religious rights paradigm for those who believe in Islam. (3)

Human Rights Education

The United Nations General Assembly on 10 December 2004, Human Rights Day, adopted a World Program for Human Rights Education. The 1948 Universal Declaration of Human Rights declares, “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.” Article 18 of the International Covenant on Civil and Political Rights links this guiding moral principle to international law, personal beliefs and civic responsibilities and the question of protection. It is a core principle and should be a prerequisite for teaching human rights.

Religions or beliefs explaining the ultimate meaning of life often is a mixture of common principles and competing truth claims. They have their own creeds and moral values, described as

truth claims. The Roman Catholic Catechism, for example, has similarities and differences with the Augsburg Confession, Lutheran doctrine formulated by Martin Luther. Most Christian, Hindu, Jewish, Muslim, Buddhist, indigenous and new religions hold both common universal principles and truth claims in opposition to each other.

There is a difference, for instance, between monotheistic religions looking outward for a messiah, or the revealed word of God, through His prophet; and religions in search of the Universal Mind. Commonly described, the first is a theistic belief in a supernatural deity or deities, and the second is often a belief such as reincarnation. Charvaka, the ancient Indian philosophical system of materialism, traceable to the Rig Veda in 600 B.C., is different from T'ien, the impersonal secular standard of justice of Confucius (551-479 B.C.). Both are different from the Communist Manifesto or modern materialist beliefs.

Bahiyiyih G. Tahzib stressed the importance of definitions in her commentary, *Freedom of Religion or Belief: Ensuring Effective International Legal Protection*; "Sensitivity to labels is critically important for religious and nonreligious people when trying to reduce intolerance and discrimination based on religion or belief. Passionate anger can quickly arise if people perceive their deeply-held beliefs being described unfairly. Giving a label to matters of religion and other beliefs has always been a challenge to the United Nations and its Member States as it involves complex and sensitive definitional issues." (4)

Scholars debate the meaning of the term "religion." The Latin term *religare* means "to bind fast together" The agnostic Stephen Jay Gould, former professor of Zoology at Harvard, found this etymology acceptable in his book *Rocks of Ages: Science and Religion in the Fullness of Life*, "if used to construe as fundamentally religious, literally, binding together, all moral discourse on principles that might activate the ideal of universal fellowship among people." (5)

Sigmund Freud, an atheist, in his book, *Civilization and Its Discontents*, described the meaning of religion told to him by a religious friend as "an oceanic feeling, a sensation of eternity and one may, he thinks, rightly call oneself religious on the ground of this oceanic feeling alone, even if one rejects every belief and every illusion." Freud commented by saying, "I cannot discover this 'oceanic' feeling in myself, but this gives me no right to deny that it does in fact occur in other people." (6)

Humanism has different definitions depending on the values of a person or organization. The International Humanist and Ethical Union (IHEU), according to their mission statement, is the "sole world umbrella organization embracing Humanist, atheist, rationalist, secularist, skeptic, ethical cultural, free-thought and similar organizations worldwide." IHEU is a non-governmental organization (NGO) in consultation with the United Nations, has a Minimum Statement on Humanism which says, Humanism with a capital H "is not theistic, and does not accept supernatural views of reality." (7) This is an atheistic or non-theistic statement of humanism, as distinct from other uses of the term such as "Christian humanism" coined during the Renaissance and used to describe Erasmus (1467-1536) the famous Dutch theologian.

Religion and Science

In the introduction to Sigmund Freud's *The Future of an Illusion*, Professor Peter Gay of Yale wrote, "In the manner of the eighteenth-century *philosophies*, he argued that science and religion are mortal enemies and that every attempt at bridging the gap between them is bound to be futile." (8) Contrary to this position the late Stephen Jay Gould said science and religion each have their own realms, separate from the other. Science does not take a position on the ultimate

meaning of life and religion does not do science (the latter as we know is a matter of vigorous dispute). Polls taken on the metaphysical beliefs of scientists divide roughly as follows; 40% define themselves as theists, 40% as atheists and 20% take no position. Non-scientific followers of religions or beliefs vary widely some accepting science as confirming their beliefs and others as a threat to their beliefs.

The view of science by members of a religion or belief varies from country to country and individual to individual. According to Niall Ferguson, a recent Gallup Millennium Survey of religious attitudes reports that in the Netherlands, Britain, Germany, Sweden and Denmark, less than 10 percent of the population now attend church at least once a month. Only in Catholic Italy and Ireland does more than a third of the population go to church on a monthly basis. Meanwhile, 64 percent of Czechs regard God as not mattering at all, a higher rate than even in Sweden. In the United States, by comparison, 82 percent of respondents said God was 'very important' and almost 50 percent attend a religious service weekly. (9) "Europeans when asked if they believe in God will often say, 'well, it depends on what you mean by God.' Most Americans unequivocally answer 'yes' to the question." The cultures of countries in the Middle East, Asia, Africa, South America and other regions of the world, not included in this survey, have equally strong influence on how people view science and religion.

Science in the twenty-first century is making discoveries such as mapping the human genome and stem cell research that are challenging traditional religions. In 2003, The Harvard Divinity School Ingersoll Lectures, a series on immortality, held every year since 1896, debated "The Desire for Eternal Life: Scientific Versus Religious Visions." The debate was on the moral and ethical value of greatly extending life, something dramatically possible by science in the near future, vs. the mortality argument that life is extended only by God in another realm after death. (10)

There are debates on how scientific discoveries should be used worldwide. The U.N. is currently debating a legal convention on therapeutic and human cloning. A New York Times editorial on November 5, 2003, a day before a preliminary vote, reported three positions were being proposed; a ban on all forms of human cloning, a ban on human cloning, with an exemption for therapeutic cloning for the use of embryonic stem cells in experiments to search for clues to a wide range of diseases, and a proposal to postpone the vote for two years. The United States and 60 other countries proposed banning all human cloning, Belgium and 20 other countries took the position of allowance for therapeutic cloning for stem cell research, and the Islamic countries proposed the postponement of a vote for two years. (11)

The United Nations put off the vote for a legal convention on human cloning. Led by a deferral motion introduced by Iran on behalf of the 55 Islamic States, the vote was 80 to 79 with 15 countries abstaining. The vote demonstrated the debate over stem cell research for therapeutic purposes is not entirely between followers of religious versus nonreligious beliefs. This demonstrates a continuing tension within and between people of all our most deeply-held beliefs and moral values over the use of science when it is at a crossroads with values on ultimate meaning of life

Method of Inquiry

Science is a method of inquiry, not a religion or belief. Religious Rights paradigms differ from a Human Rights paradigm on Freedom of Religion or Belief. Human rights are metaphysically and philosophically neutral, protecting theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. T.H. Huxley (1825-1895) an English biologist, philosopher and educator, in 1869, in response to repeated questions from the London Metaphysical Society

as to whether as a result of Darwin's publication *On the Origin of Species* he believed in God or not, came up with a new identity. He coined the term 'agnostic.'⁽¹²⁾ Lexicographers call agnosticism the third rail on the God-idea, distinct from theism and atheism.

T.H. Huxley explained it this way, "Agnostics have no creed but a method, the essence of which lies in the rigorous application of a single principle. That principle is of great antiquity; it is as old as Socrates, it is the axiom that every man and woman should be able to give a reason for the faith that is in them; it is the principle of Descartes; it is the fundamental axiom of modern science. The only obligation is to have the mind always open to conviction." (13) This became the definition of agnosticism; suspended belief open to conviction. T.H. Huxley, "Darwin's Bulldog," in a September 23, 1960 letter to Charles Kingsley wrote, "I neither deny nor affirm the immortality of man. I see no reason for believing in it, but on the other hand, I have no means of disproving it."

Julian Huxley, founding Secretary-General of UNESCO, and grandson of T.H. Huxley, did not agree with the definition of agnosticism coined by his grandfather. In his book *Religion without Revelation*, Julian Huxley states, "an evolutionary view of human destiny is the chief instrument of further evolution, as against all theological, magical, fatalistic or hedonistic views of destiny."⁽¹⁴⁾ The mandate of the International Humanist and Ethical Union (IHEU), of which Julian Huxley is a co-founder, states "they do not accept supernatural views of reality."

One definition of faith means having a religion or belief without certifiable proof. Soren Kirkegaard (1823-1855) stated a Christian must take a "leap of faith"-either/or. Ralph Waldo Emerson (1803-1882) said transcendentalism presumed a "special knowledge" derived from intuition. Blaise Pascal, a French philosopher and brilliant mathematician (1623-1662) said intuition was the key to God, "the heart has reasons that reason knows nothing about." Thomas Aquinas (1225-1274) agreeing with Islamic neo-platonic philosophy said "divine law revealed by God" complemented philosophy.

Atheism is a natural belief as yet unproven through scientific inquiry. Richard Dawkins says in his book "a devil's chaplain," "Science has no way to disprove the existence of a supreme being (this is strictly true)." (15) Charles Darwin, a self-described agnostic after the word coined by his colleague, T.H. Huxley, was quoted as saying; "one might as well try to illuminate the midnight sky with a candle as throw the light of reason on metaphysics." Atheism, in support of reason and physics, still cannot disprove theism.

Humans having a conscious life can think about existence. It has been said consciousness exists by a separation of opposites, by acquiring unilateral vision at birth. It may be innate or inborn for individuals, groups, organizations, nations or religions to compete against each other, cooperating only in self-interest. Thomas Hobbes (1588-1679) describes the underlying condition of human existence as "a war of every man against every man and self-interest is the universal rule." For Hobbes, natural law is the law of the jungle that necessitates a civil law compact. While there are numerous examples of religious and non-religious altruism and self-sacrifice for others, unilateral vision, "splitting things into two polar opposites seems to be a feature of the human mind." (16)

In Eastern philosophy the principle of Yin and Yang approaches the problem of opposites by embracing both simultaneously, in a paradoxical union that transcends and reconciles them; theist and atheist, black and white, good and evil, right and wrong, male and female, height and depth, courage and cowardice, love and hate, destiny and free will, calm and turbulence, universal and particular, constructive and destructive, light and dark, war and peace. Harmony, or Yin and Yang, in Jungian terms are to understand and transcend our shadow – what seems most different from us, is what we fear the most.

Herman Melville, author of the great American novel, *Moby Dick*, speaks of this when contemplating the eyes of the Sperm Whale that sees out of both sides of its head, “how is it, then, with the whale? True, both of his eyes in themselves must simultaneously act; but is his brain so much more comprehensive, combing, and subtle than man’s, that he can at the same moment of time attentively examine two distinct prospects, one on one side of him, and the other in an exactly opposite direction?” (17) James Atlas, in the *New York Times Week in Review*, addresses the same question, “A mandate of reasonable people is that they be open to changing their opinions. Skepticism, the weighing of opinions, ‘the ability to hold two opposed ideas in the mind simultaneously’ in the words of F. Scott Fitzgerald, are tools of the trade.” (18)

NOTES

1.) The U.N. Human Rights Committee, General Comment 22 on Article 18 defines the protection of religion or belief as follows: “Article 18 protects theistic non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.” The term, ‘not to profess any religion or belief,’ may be closest to the neutral position postulated by this paper. The General Comment goes on to say, “The terms religion or belief are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional 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.”

2.) Bahiyyih G. Tahzib, “Freedom of Religion or Belief: Ensuring Effective International Legal Protection,” Kluwer Publishing, Amsterdam, 1996, p. 185. She refers to comments by Japp Walkate of the Netherlands on reservations to the 1981 Declaration; “According to Romania, Poland, Bulgaria, Czechoslovakia and the U.S.S.R., the 1981 U.N. Declaration gave a one-sided version of freedom of thought, conscience and religion; it did not take sufficient account of atheistic beliefs. In their opinion, the 1981 Declaration disregarded the rights of persons who did not profess any religion or belief. They considered the 1981 Declaration unnecessarily incomplete. Iraq entered a collective reservation on behalf of the Organization of the Islamic Conference as to the applicability of ‘any provision or wording in the Declaration which might be contrary to Islamic law (Shari’a) or to any legislation or act based on Islamic law. Syria and Iran endorsed Iraq’s collective reservation.”

3.) Tad Stahnke and Paul Martin, *Religion and Human Rights: Basic Documents*, “The Cairo Declaration on Human Rights in Islam (1990), Center for the Study of Human Rights, Columbia University, p. 185

4.) The U.N. Commission on Human Rights focus is on eliminating discrimination based on religion or belief, which includes sensitivity to labels, definitions and the evolution of the phrase “religion or belief.”

5.) Gould, Stephen Jay, “Rocks of Ages: Science and Religion in the Fullness of Life, Random House, Inc., 1999, p. 62.

6.) Freud Sigmund, “Civilization and its Discontents,” 1929, The Standard Edition of the Complete Psychological Works of Sigmund Freud in 24 Volumes, p. 12.

7.) The IHEU Minimum Statement on Humanism. For a more complete explanation of Humanism with a capital H read the Amsterdam Declaration for 2002 on their website: <http://www.iheu.org>.

8.) Freud Sigmund, “*The Future of an Illusion*,” 1927: *The Standard Edition*, W.W. Norton & Company, p. xiii. Peter Gay.

9.) Niall Ferguson, N.Y. Times Editorial, June 8, 2003. Ferguson is a professor of financial history at New York University and senior research fellow, Jesus College, Oxford, United Kingdom.

10.) Daniel Callahan, “The Desire for Eternal Life: Scientific Versus Religious Visions,” *Harvard Divinity School Bulletin*, Volume 31, Number 2, Spring 2003.

11.) New York Times Editorial, "A Fight at the U.N. Over Cloning," November 5, 2003

12.) Adrian Desmond & James Moore, "Darwin", page 568, Time Warner Books, 1991. "The Metaphysical Society was a menagerie of faiths and heresies; bishops and archbishops mingled with Positivists, deists, and Unitarians, and for spice there was even the odd atheist. Before anyone could pin him down he came up with a new identifying label, 'agnostic.' An agnostic did not deny or affirm God's existence; he did not pretend to know whether the world was made up of matter, spirit, or whatever." Darwin in a letter asking if he believed in God replied, "A man undoubtedly can be an ardent Theist and evolutionist, but if he had to wear a label, Huxley's agnostic would be the most correct description of my state of mind." Written by Darwin in 1879, in reply to whether he believed in God and if theism and evolution were compatible, cited his friend, Rev. Charles Kingsley, as an example of a theist whom is also an ardent evolutionist, page 636.

13.) T.H. Huxley, Agnostic Annual, 1892

14.) Julian Huxley, "Religion without Revelation," New York: Harper, 1927.

15.) Richard Dawkins, "a devil's chaplain", Houghton Mifflin Company, 2003, p. 149. This quote is from a chapter called "The Great Convergence." In the sentence prior to the quote he belittles agnostic conciliation by saying it is "the decent liberal bending over backwards to concede as much as possible to anybody who shouts loudly enough, reaches ludicrous lengths in the following common piece of sloppy thinking. It goes roughly like this. You can't prove a negative (so far so good). Science has no way to disprove the existence of a supreme being (this is strictly true). Therefore belief (or disbelief) in a supreme being is a matter of pure individual inclination, and they are therefore both equally deserving of respectful attention!"

T.H. Huxley, who coined the term agnostic, would agree with Dawkins that all beliefs are not equally deserving of respectful attention, but would not agree with his description of agnosticism as "the decent liberal bending over backwards to concede as much as possible to anybody who shouts loudly enough." To Huxley agnosticism meant a rigorous scientific inquiry, always open to conviction. In a May 6, 1863 letter to Charles Kingsley T.H. Huxley said, "I have never had sympathy with the a priori reasons against orthodoxy, and I have by nature and disposition the greatest possible antipathy to the atheistic and infidel school – in matters of intellect, do not pretend that conclusions are certain which are not demonstrated or demonstrable."

Dawkins implies Stephen Jay Gould was an atheist, "The 'separate magisteria' thesis was promoted by S.J. Gould, an atheist bending over backwards far beyond the call of duty or common sense." S.J. Gould, in his own book, *Rocks of Ages: Science and Religion in the Fullness of Life*, defines himself as an agnostic "I am not a believer. I am an agnostic in the wise sense of T.H. Huxley, who coined the word in identifying such open-minded skepticism as the only rational position because, truly, one cannot know."

16.) Ernest Becker, *Escape from Evil: The Nature of Social Evil; Retrospect and Conclusion*, page 153; Free Press, A Division of Macmillan Publishing, 1975. Ernest Becker (1924-1974) won the Pulitzer Prize for General Nonfiction for "The Denial of Death." He was a distinguished social theorist and a popular teacher of anthropology, sociology, and social psychology.

"Persons have to keep from going mad by biting off small pieces of reality which they can get some command over and some satisfaction from. This means that their noblest passions are played out in the narrowest and most unreflective ways, and this is what undoes them. From this point of view the main problem for human beings has to be expressed in the following paradox; Men and women must have a *fetish* in order to survive and to have 'normal mental health.' But this shrinkage of vision that permits them to survive also at the same time prevents them from having the overall understanding they need to plan for and control the effects of their shrinkage of experience. A paradox this bitter sends a chill through all reflective people. "Self-knowledge is the hardest human task because it risks revealing to persons how their self-esteem was built; on the powers of others in order to deny their own death." "Life imagines its own significance and strains to justify its beliefs. It is as though the life force itself needed illusion in order to further itself. Logically, then, the ideal creativity for humans would strain toward the 'grandest illusion."

17.) Edward F. Edinger, *Melville's Moby-Dick, an American Nekyia*, Inner City Books, Toronto Canada (1995) p. 30. Many people consider Moby-Dick to be the greatest American novel. A major theme of

Moby- Dick is the problem of opposites, white whale, black eyes, etc.

18.) James Atlas, Perspective/Changing Minds, New York Times Week in Review, October 19, 2003.

In 1967 the United Nations ended work on a draft International Convention on the Elimination of all Forms of Religious Intolerance, because of its apparent complexity and sensitivity. In the 21st 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 that calls for enhanced dialogue by States and others; including consideration of a United Nations Convention on Freedom of Religion or Belief for the protection of - and accountability by all religions or beliefs. The tensions in today's world inspire such a question as: Should the United Nations adopt a Convention on Freedom of Religion or Belief?

THE TANDEM PROJECT

The Tandem Project is a 501 c-3 international, non-profit, non-governmental organization for Human Rights and Freedom of Religion or Belief founded in 1986. The Tandem Project has sponsored multiple conferences, curricula, reference materials and programs on Article 18 of the International Covenant on Civil and Political Rights and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Tandem Project Manual, *Human Rights and Freedom of Religion or Belief*, is available at: www.tandemproject.com.

NGO Working Group: The NGO (Non-Governmental Organization) Working Group for a United Nations Convention on Freedom of Religion or Belief is a high level interactive core group reviewing and analyzing the historic effort to achieve in 1967 a UN Convention on Religious Intolerance; and how such an initiative can be revitalized and a strategy shaped for successful passage of a UN Convention on Freedom of Religion or Belief. The timing is critical. The issue is profound in today's volatile world.