

## THE TANDEM PROJECT

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### UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

#### THE NEW YORK TIMES ARTICLE - PRESIDENT APOSTATE?

**Issue:** President Apostate? Why an Obama win might not improve relations with Muslims

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

**Review:** *President Apostate? Why an Obama win might not improve relations with Muslims*, by Edward N. Luttwak, New York Times Op-Ed article, 12 May 2008, speaks about U.S. Senator Barack Obama, a candidate for President of the United States. “As the son of a Muslim father, **Senator Obama was born a Muslim** under Muslim law as it is universally understood... Of course, as most Americans understand it, Senator Obama is not a Muslim. He chose to become a Christian, and indeed has written convincingly to explain how he arrived at his choice and how important his **Christian faith is to him**... His conversion, however, is a crime in Muslim eyes; it is ‘ritidad’ or ‘ridda’ usually translated from Arabic as ‘apostasy’ but with connotations of rebellion and treason. Indeed, it is the worst of all crimes that a Muslim can commit, worse than murder (which the victim’s family may choose to forgive).”

The United Nations Human Rights Council failed to achieve consensus over this issue (attached Word File Document) in December 2007. Whether the **alleged** facts in the New York Times story are completely accurate or not; the New York Times article illustrates the Human Rights Council **impasse** due to Muslim’s not being allowed to leave their faith. This Issue Statement agrees apostasy is a problem but **does not agree or endorse the idea** that Senator Barrack Obama, as a U.S. President Barrack Obama, would hamper relations with the Muslim world in this way.

**Extracts from *President Apostate?* begin on the second page followed by an Issue Statement**

#### *International Standards for National and Local Applications*

**Objective:** Build understanding and support for Article 18, International Covenant on Civil and Political Rights –Everyone shall have the right to freedom of thought, conscience and religion - and the 1981 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. Encourage the United Nations, Governments, Religions or Beliefs, Academia, NGOs, Media and Civil Society to use international human rights standards as essential for *long-term solutions* to conflicts based on religion or belief.

**Challenge:** In 1968 the United Nations deferred work on an International Convention on the Elimination of all Forms of Religious Intolerance, because of its apparent complexity and sensitivity. In the twenty-first century, a dramatic increase of intolerance and discrimination on grounds of religion or belief is motivating a worldwide search to find solutions to these problems. This is a challenge calling for enhanced dialogue by States and others; including consideration of an International Convention on Freedom of Religion or Belief for protection of and accountability by all religions or beliefs. The tensions in today’s world inspire a question such as:

- Should the United Nations adopt an International Convention on Freedom of Religion or Belief?

**Response:** Is it the appropriate moment to reinitiate the drafting of a legally binding international convention on freedom of religion or belief? Law making of this nature requires a minimum consensus and an environment that appeals to reason rather than emotions. At the same time we are on a learning curve as the various dimensions of the Declaration are being explored. Many academics have produced voluminous books on these questions but more ground has to be prepared before setting up of a UN working group on

drafting a convention. In my opinion, we should not try to rush the elaboration of a Convention on Freedom of Religion or Belief, especially not in times of high tensions and unpreparedness. - *UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, Prague 25 Year Anniversary Commemoration of the 1981 UN Declaration, 25 November 2006.*

**Option:** After forty years this may be the time, however complex and sensitive, for the United Nations Human Rights Council to appoint an Open-ended Working Group to draft a United Nations Convention on Freedom of Religion or Belief. The mandate for an Open-ended Working Group ought to assure nothing in a draft Convention will be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. One writer has said; “Religion raises the stakes of human conflict much higher than tribalism, racism, or politics ever can...it casts the differences between people in terms of eternal rewards and punishments.”

**Concept:** *Separation of Religion or Belief and State – SOROBAS.* The starting point for this concept is the First Preamble to the 1948 United Nations Universal Declaration of Human Rights; “*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.* It suggests States recalling their history, culture and constitution adopt fair and equal human rights protection for all religions or beliefs as described in General Comment 22 on Article 18, International Covenant on Civil and Political Rights, UN Human Rights Committee, 20 July 1993 (CCPR/C/21/Rev.1/Add.4):

- **Article 18:** protects *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.* The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with international characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community. **Article 18:** permits restrictions to manifest a religion or belief only if such limitations are prescribed by law and necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### *Dialogue & Education*

**Dialogue:** United Nations Secretary General Ban Ki Moon, at an Alliance of Civilizations Forum said; “Never in our lifetime has there been a more desperate need for constructive and committed dialogue, among individuals, among communities, among cultures, among and between nations.” An author in another setting has said, “The warning signs are clear: unless we establish genuine dialogue within and among all kinds of belief, ranging from religious fundamentalism to secular dogmatism, the conflicts of the future will probably be even more deadly.” There are varying degrees of cooperation, competition and conflict within and between religions or beliefs. International Human Rights Standards on Freedom of Religion or Belief is international human rights law and a code of conduct to promote cooperation, regulate competition and resolve conflicts. To include the value and use of these International Standards for world peace is genuine dialogue on freedom of religion or belief

**Education:** Ambassador Piet de Klerk addressing the Prague 25 Year Anniversary Commemoration of the 1981 U.N. Declaration said; “Our educational systems need to provide children with a broad orientation: from the very beginning, children should be taught that their own religion is one out of many and that it is a personal choice for everyone to adhere to the religion or belief by which he or she feels most inspired, or to adhere to no religion or belief at all.” The 1981 U.N. Declaration states; “Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents, the best interests of the child being the guiding principle.” Given these parameters, early childhood education is the time to begin to build tolerance, understanding and respect for freedom of religion or belief

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**Extracts:** Extracts are presented under the Eight Articles of the 1981 U.N. Declaration on the

Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief. Examples of extracts are presented prior to an *Issue Statement* for each Review.

1. 2. *No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.*

**Barack Obama has emerged as a classic example of charismatic leadership – a figure upon whom others project their own hopes and desires. The resulting emotional intensity adds greatly to the more conventional strengths of the well-organized Obama campaign, and it has certainly sufficed to overcome the formidable initial advantages of Senator Hillary Clinton. Mr. Obama’s election would raise America’s esteem in Africa- indeed, he already arouses much enthusiasm in his father’s native Kenya and to a degree elsewhere on the continent. But it is a mistake to conflate his African identity with his Muslim heritage. Senator Obama is half African by birth and Africans can understandable identify with him. In Islam, however, there is not such thing as a half-Muslim. Like all monotheistic religions, Islam is an exclusive faith.**

**With few exceptions, the jurists of all Sunni and Shite schools prescribe executions for all adults who leave the faith not under duress; the recommended punishment is beheading at the hands of a cleric, although in recent years there have been both stonings and hangings. Some may point to cases in which lesser punishments were ordered- Egyptian intellectuals who have been punished for writings that were construed as apostasy – but those were really instances of supposed heresy, not explicitly declared apostasy as in Senator Obama’s case.**

**It is true that the criminal codes in most Muslim countries do not mandate executive for apostasy (although a law doing exactly that is pending before Iran’s Parliament and in two Malaysian states). But as a practical matter, in very few Islamic countries do the governments have sufficient authority to resist demands for the punishment of apostates. Because no government is likely to allow the prosecution of a President Obama – not even those of Iran and Saudi Arabia, the only tow countries where Islamic religious courts dominate over secular law – another provision of Muslim law is perhaps more relevant: it prohibits punishment for any Muslim who kills any apostate, and effectively prohibits interference with such a killing. More broadly, most citizens of the Islamic world would be horrified by the fact of Senator Obama’s conversion to Christianity one it became widely known – as it would no doubt, should he win the White House.**

**That an Obama presidency would cause such complications in our dealings with the Islamic world is not likely to be a major factor with American voters, and the implication is not that it should be. But of all the well-meaning desires projected on Senator Obama, the hope that he would decisively improve relations with the world’s Muslims is the least realistic.**

This is a link to the full story in the New York Times Op Ed page article: *Presidential Apostate? – Why an Obama win might not improve relations with Muslims*, Edward N. Luttwak, 12 May 2008: <http://www.nytimes.com/#>

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

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

The Human Rights Council lack of consensus on this issue is a **serious** concern. The Geneva-based Human Rights Council is the major body of the United Nations **intersecting** international law and politics with religious and non-religious beliefs. International Standards on Human Rights and Freedom of Religion or Belief is **international law**, a code of conduct to promote cooperation, regulate competition and resolve conflicts. If the Human Rights Council cannot reconcile this issue, what happens next? What happens when the resolution is brought to the United Nations Economic and Social Council and then to the floor of the United Nations General Assembly?

This Issue Statement does not endorse or agree with the New York Times article that Senator Barrack Obama, as a U.S. President Obama, would hamper relations with the Muslim world in this way. It does raise the question of apostasy in a modern public way that for centuries has been part of a religious-cultural perspective, whether a person has the right to leave a religion or belief. This relates international politics to universal human rights and freedom of religion or belief.

To see the video of the full debate on this issue on the floor of the United Nations Human Rights Council, click to open this link to Human Rights Council Webcast for Friday 14 December 2007. Scroll down to the last Draft Resolution (A/HRC/6/L.15) to view the archived video:

<http://www.un.org/webcast/unhrc/archive.asp?go=071214>

If you cannot open the Webcast, download Real Player to open the Human Rights Council live Webcast. It can be downloaded by clicking on this link to Human Rights Council Webcast Index:

<http://www.un.org/webcast/unhrc/index.asp>

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**Reply:** The Tandem Project Country & Community Database collects information worldwide on United Nations Human Rights Bodies. The information is used for UN Human Rights Council Universal Periodic Reviews (UPR); UN Treaty-based Reports; UN Special Procedures, Special Rapporteur Reports. Click on the link below to open the Database. Read the Instructions & Table of Contents: scroll to an Article of your choice and click to reply.

<http://www.tandemproject.com/databases/forms/card.htm>

**The Tandem Project:** a non-profit, non-governmental organization established in 1986 to build understanding and respect for diversity of religion or belief, and prevent discrimination in matters relating to freedom of religion or belief. The Tandem Project has sponsored multiple conferences, curricula, reference materials and programs on Article 18 of the International Covenant on Civil and Political Rights – Everyone shall have the right to freedom of thought, conscience and religion - and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

The Tandem Project initiative was launched in 1986 as the result of a co-founder representing the World Federation of United Nations Associations (WFUNA) at a 1984 United Nations Geneva

Seminar, *Encouragement of Understanding, Tolerance and Respect in Matters Relating to Freedom of Religion or Belief*, called by the UN Secretariat on ways to implement the 1981 UN Declaration. In 1986, The Tandem Project organized the first NGO International Conference on the 1981 UN Declaration.

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

**WORD DOCUMENT ATTACHED**

**THE 1981 U.N. DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF**

Proclaimed by the General Assembly of the United Nations  
25 November, 1981 (Resolution: 36/55)

*Considering* that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

*Considering* that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion or belief,

*Considering* that the disregard and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to humankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to a kindling hatred between peoples and nations,

*Considering* that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

*Considering* that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion or belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

*Convinced* that freedom of religion or belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

*Noting* with satisfaction the adoption of several, and the coming into force of some conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

*Concerned* by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

*Resolved* to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the grounds of religion or belief,

*Proclaims* this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on

Religion or Belief:

#### **ARTICLE 1: LEGAL DEFINITION**

*1. 1 Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practices and teaching.*

*1. 2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.*

*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.*

*4. 2 All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.*

#### **ARTICLE 5: PARENTS, CHILDREN, STATE**

*5. 1 The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.*

*5. 2 Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians; the best interests of the child being the guiding principle.*

*5. 3 The child shall be protected from any form of discrimination on the grounds of religion or belief. He*

*shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for the freedom of religion or belief of others and in full consciousness that his energy and talents should be devoted to the service of his fellow men.*

**5. 4** *In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.*

**5. 5** *Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account Article 1, paragraph 3, of the present Declaration.*

## **ARTICLE 6: NINE SPECIFIC RIGHTS**

In accordance with Article 1 of the present Declaration, and subject to the provisions of Article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

**6. 1** *To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;*

**6. 2** *To establish and maintain appropriate charitable or humanitarian institutions;*

**6. 3** *To make, acquire and use to an adequate extent the necessary articles and materials related to the rites and customs of a religion or belief;*

**6. 4** *To write issue and disseminate relevant publications in these areas;*

**6. 5** *To teach a religion or belief in places suitable for these purposes;*

**6. 6** *To solicit and receive voluntary financial and other contributions from individuals and institutions;*

**6. 7** *To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;*

**6. 8** *To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;*

**6. 9** *To establish and maintain communications with individuals and communities in matters of religion or belief at the national and international levels.*

## **ARTICLE 7: NATIONAL LEGISLATION**

**7. 1** *The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.*

## **ARTICLE 8: EXISTING PROTECTIONS**

**8. 1** *Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights.*