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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

THE MOMENT OF TRUTH – IN MANY PARTS OF THE WORLD, THE RIGHT TO CHANGE ONE’S BELIEFS IS UNDER THREAT

Issue: Conversion & Proselytism, major issues facing the United Nations Human Rights Council

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

Review: These excerpts are from an article in The Economist in the Briefing Section of the magazine: *The Moment of Truth – In many parts of the world, the right to change one’s beliefs is under threat*, July 28 to August 1, 2008. Conversion and Proselytism are two issues causing tension and a lack of consensus by the United Nations Human Rights Council in Geneva, Switzerland. The *Issue Statement* following excerpts from The Economist article may partly explain a lack of consensus and eighteen abstentions in the U.N. Human Rights Council in a vote on 14 December 2007 to extend the mandate on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief by three years.

Link to article in The Economist Briefing Section, Religious Conversions: *The Moment of Truth*, July 26-August 1, 2008:

http://www.economist.com/world/international/PrinterFriendly.cfm?story_id=11784873

Excerpts: Excerpts 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. An *Issue Statement* follows the excerpts.

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.*

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.*

Sometimes conversion is gradual, but quite commonly things come to a head in a single instant, which can be triggered by a text, an image a ceremony or some private realization. A religious person would call such a moment summons from God; a psychologist might speak of an instant when the walls between the conscious and unconscious break down, perhaps because an external stimulus – words, a picture, a rite – connects with something very deep inside. For people of an artistic bent, the catalyst is often a religious image which serves as a window into a new reality. One recurring theme in conversion stories is that cultural forms which are, on the face of it, foreign to the convert somehow feel familiar, like a homecoming. That, the convert feels, “is what I have always believed without being fully aware of it.”

In the West it is generally taken for granted that people have a perfect, indeed scared, right

to follow their own religious path, and indeed to invite – though never compel – other people to join them. The liberal understanding of religion lays great emphasis on the right to change belief. Earlier this year, a poll found that one in four Americans moves on from the faith of their upbringing.

But America's religious free-for-all is very much the exception, not the rule, in human history – and increasingly rare, some would say, in the world today. In most human societies, conversion has been seen as an act whose consequences are as much social and political as spiritual; and it has been assumed that the wider community, in the form of the family, the village or the state, has every right to take an interest in the matter.

The biggest reason why conversion is becoming a hot international topic is the Muslim belief that leaving Islam is at best a grave sin, at worst a crime that merits execution (see attached Word Document, "In Death's Shadow"). Another factor in a growing global controversy is the belief in some Christian circles that Christianity must retain the right to seek and receive converts, even in parts of the world where this may be viewed as a form of cultural or spiritual aggression.

The idea that religion constitutes a community (where loss or gain of even one member is a matter of deep, legitimate concern to all other members) is as old as religion itself. Christianity teaches that the recovery of a "lost sheep" cause rejoicing in heaven; for a Muslim, there is no human category more important than the *umma*, the worldwide community of believers.

But in most human societies the reasons why conversion causes controversy have little to do with religious dogma, and much to do with power structures (within the family or the state) and politics. Conversion will never be seen as a purely individual matter when one religiously-defined community is at war or armed standoff with another. During Northern Ireland's Troubles a move across the Catholic-Protestant divide could be life-threatening, at least in working-class Belfast – and not merely because people felt strongly about papal infallibility.

In Greece, it is unconstitutional to proselytize; that makes life hard for Jehovah's Witnesses or Mormons. In Egypt, the fact that building a Christian church requires leave from the head of state is a direct legacy of a (liberalizing Ottoman decree of 1856). In post-Soviet Russia, the prevailing Orthodox Church rejects the notion of a free market in ideas. It seeks (and often gets) state preference for "traditional" faiths defined as Orthodox Christianity, Judaism, Islam and Buddhism. This implies that other forms of Christianity are "poaching" if they seek to recruit Russians.

Take India, which once aspired to be a secular state, and whose constitution calls for a uniform civil code for all citizens. That prospect is now remote, and the fact that different religious groups live by different family laws, and are treated unequally by the state and society, has created incentives for "expedient" conversion. A colorful body of jurisprudence, dating from the British Raj, concerns people who changed faith to solve a personal dilemma- like men who switched from Hinduism to Islam so as to annul their marriage and wed somebody else.

And in many ways religious freedom is receding, not advancing, in India. Half a dozen Indian states have introduced laws that make it hard for people to leave Hinduism. These states are mostly ruled by the Hindu nationalist Bharatiya Janata Party (BJP). But last year Himachal Pradesh became the first state led by the more secular Congress Party to being in

such legislation: such is the power of Hindu sentiment that even non-religious parties pander to it. The state's new law is billed as a "freedom of religion" measure, but it has the opposite effect: anyone wishing to switch faiths must tell the district magistrate 30 days before or risk a fine.

The contest between theocratic politics and a nationally secular state looks even more unequal in another ex-British land, Malaysia, where freedom of choice in religion is enshrined in the federal constitution, but Islamic law is imposed with growing strictness on the Muslim majority. More recently, both that agency [National Registration Department] and Malaysia's top judges have deferred to the *sharia* courts, which enjoy increasing power in all 13 states of the Malaysian federation; and those courts rarely let a registered Muslim quit the fold. A recent exception was an ethnic Chinese woman who was briefly married to an Iranian; a *sharia* court let her re-embrace Buddhism, but only on the ground that she was never full Muslim, so the idea of "Once a Muslim, always a Muslim" remained intact.

A more telling sign of the times was the verdict in the case of Lina Joy, a Malay convert from Islam to Christianity who asked a federal court to register the change on her ID card. By two to one the judges rejected her bid, arguing that one "cannot, at one's whims or fancies, renounce or embrace a religion." It is too bad, then, for any Malaysians who have a moment of truth on the subway, especially if the faith to which they are called happens not be Islam.

ISSUE STATEMENT: The threat to the right to change one's religion or belief throughout the world was reflected in the sixth session of the U.N. Human Rights Council. The United Nations Human Rights Council voted 29 in favor, 0 against and 18 abstentions on 14 December 2007 in to extend by three years 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). 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 abstentions were based on the objections from Pakistan, speaking 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 consensus over the right to leave one's religion or belief was **inviolable** and could not be compromised.

Human Rights Council Resolution 6/37: Elimination of all forms of intolerance and of discrimination based on religion or belief:

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 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:

34th meeting
14 December 2007

Adopted by a recorded vote of 29 to none with 18 abstentions:

Report on the vote by the International Service for Human Rights (ISHR):

“The International Service for Human Rights (ISHR) Human Rights Monitor reported: Pakistan (on behalf of the Organization of the Islamic Conference, OIC) tabled a number of amendments to the European draft. However, the OIC decided to not pursue action on its amendments, and therefore only the European draft resolution had to be decided on. A number of States regretted that the EU was not ready to incorporate the amendments proposed by the OIC.

Portugal (on behalf of the EU) gave an extensive explanation of before the vote. It said while the OIC opposes all forms of intolerance or discrimination based on religion or belief, and **was** always supportive of the mandate of the Special Rapporteur, it could not agree to the draft. Pakistan said that the draft touches some ‘concerns of fundamental importance to the members of the OIC’. In particular, the differences in the follow areas could not be resolved:

- The OIC wanted a clearer denouncement of recent stereotyping of religions, their adherents and prophets in the media and by political parties in some societies.
- It wanted to see the respect for all religions or belief enshrined in the resolution. They disagreed with the approach taken by the EU, which calls for the promotion of diversity and tolerance instead.
- It called for the “respect for norms about the right to change one’s religion”. The EU draft explicitly urges States to guarantee the right to change one’s religion or belief, a requirement the OIC could not subscribe to.
- The resolution urges all Governments to respond favorably to requests by the Special Rapporteur. The OIC was of the view that States should only “consider responding favorably” to such requests.

The Human Rights Council resolution extending the mandate of the Special Rapporteur on Freedom of Religion or Belief by three years (A/HRC/6/L.15/Rev/1) was the only resolution not passed by consensus. An attempt was made for consensus by leaving out 24 out of the original 40 paragraphs. According to the International Service for Human Rights report, “Portugal (on behalf of the EU) introduced the draft, regretted that despite intensive consultations since the end of the September part of the 6th session, consensus could not be reached. It said that the negotiations efforts were exhausted and it had no other option than bringing the draft to a vote. However, it pledged that it would take up the negotiations again; hoping that consensus on the issue could be

re-established soon.” Before the vote, a total of 71 Member States and Observer States endorsed the Special Procedures resolution.

Based on these disagreements, the OIC called for a vote, and said it would abstain. A large number of OIC members of the Council then took the floor to align with the statement by Pakistan, and, while regretting the failure to achieve consensus, announced their abstention as well.” Eighteen Human Rights Council members abstained on the resolution.”

Direct Link to The Resolution (A/HRC/RES/6/37):

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

STANDARDS: http://www.tandemproject.com/program/81_dec.htm

The Tandem Project: a non-governmental organization founded in 1986 to build understanding, tolerance and respect for diversity, and to prevent discrimination in matters relating to freedom of religion or belief. The Tandem Project, a non-profit NGO, 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 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

The Tandem Project initiative is the result of a co-founder representing the World Federation of United Nations Associations at the United Nations Geneva Seminar, *Encouragement of Understanding, Tolerance and Respect in Matters Relating to Freedom of Religion or Belief*, called by the UN Secretariat in 1984 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*

Postscript: Closing the Gap – International Standards for National and Local Applications, considers the question of a Convention on Freedom of Religion or Belief followed by a Response from the Special Rapporteur on Freedom of Religion or Belief and The Tandem Project Concept, an option that reflects the inclusive values of the Universal Declaration of Human Rights through human rights-based *Dialogue and Education*.

Closing the Gap - 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 consider the rule of law and 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.

Concept: *Separation of Religion or Belief and State – SOROBAS.* 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.* This concept 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 the Alliance of Civilizations Madrid 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.” A writer 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.”

Norms and standards on human rights and freedom of religion or belief are international law and codes of conduct for peaceful cooperation, respectful competition and resolution of conflicts. International Human Rights Standards on Freedom of Religion or Belief is a platform for genuine dialogue on the core principles and values within and among nations, all religions and other beliefs.

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.”¹.

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.” With International Human Rights safeguards, early childhood education is the best time to begin to teach tolerance, understanding and respect for freedom of religion or belief.