

THE TANDEM PROJECT

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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

REPORT OF THE UN SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF - U.N. HUMAN RIGHTS COUNCIL TENTH SESSION (A/HRC/10/8)

SUMMARY - PARAGRAPHS 55-62: CONCLUSIONS & RECOMMENDATIONS

Issue: U.N. Special Rapporteur Report (A/HRC/10/8) paragraphs on Gender Perspective

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

Review: *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*, (A/HRC/10/8) - Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir. Agenda item 3.

The Tandem Project highlights section of her report leading up to its presentation before the tenth session of the UN Human Rights Council from March 2-27, 2009. This section of her report includes Summary and (paragraphs 55-62) are paragraphs on Conclusions and Recommendations. Word documents (attached) include excerpts on *Dialogue*, *Gender Perspectives*, and *Economic, Social and Cultural Rights*. Read all word documents for a more complete understanding of her report.

For all 55 paragraphs read the full report (A/HRC/10/8) by clicking on Issues, Special Rapporteur on Freedom of Religion or Belief and then the Documents section of the OHCHR web site available at:

<http://www.ohchr.org>.

The UN Special Rapporteur on Freedom of Religion or Belief is scheduled to present her report on Tuesday 10 March 2009 in the afternoon. The time is always subject change based on the length of previous debates. It will be broadcast live on the HRC web cast and The Tandem Project will make an announcement if there are any schedule changes.

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. Examples of extracts are presented prior to an *Issue Statement* for each Review.

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.*

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.*

SUMMARY

The Special Rapporteur on freedom of religion or belief submits the present report to the Human Rights Council pursuant to its resolution 6/37. The report is divided into two main

sections. In the first part, the Special Rapporteur outlines the activities carried out according to the four pillars of the mandate's terms of reference since their review, rationalization and improvement in December 2007. She highlights the importance of initiatives in the fields of education, public awareness and inter-religious dialogue, as well as State action against advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. Applying a gender perspective, the Special Rapporteur also addresses discriminatory and harmful practices against women and refers to several communications sent to Governments and to country reports.

In the second part, the Special Rapporteur provides a preliminary analysis of discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. With regard to the legal framework at the international level, she emphasizes that non-discrimination is an overarching principle that applies to all human rights, including freedom of religion or belief. She recalls that it is crucial to prevent discrimination with regard to the enjoyment of economic, social and cultural rights, since minorities and vulnerable groups are particularly affected when States do not abide by their obligations to respect, protect and fulfill these rights. The Special Rapporteur then highlights some of the recurrent issues encountered in the mandate practice in order to illustrate the adverse impact of discrimination based on religion or belief on the enjoyment of the rights to work, to adequate food and housing, to health, to education and to take part in cultural life.

The Special Rapporteur concludes that discrimination based on religion or belief often emanates from deliberate State policies to ostracize certain religious or belief communities and to restrict or deny their access, for example, to health services, public education or public posts. States have the duty to refrain from discriminating against individuals or groups of individuals based on their religion and belief (obligation to respect); they are required to prevent such discrimination, including from non-State actors (obligation to protect); and States must take steps to ensure that, in practice, every person on their territory enjoys all human rights without discrimination of any kind (obligation to fulfill).

Lastly, the Special Rapporteur recalls that all human rights are universal, indivisible, interdependent and interrelated. Consequently, there should not be a different approach between discrimination affecting the enjoyment of civil and political rights on the one hand, and discrimination affecting the enjoyment of economic, social and cultural rights on the other.

CONCLUSIONS AND RECOMMENDATIONS

55. Sixty years ago, the General Assembly adopted the Universal Declaration of Human Rights, which stipulates, inter alia, that “the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.” It furthermore emphasized that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Unfortunately, there remains a long way to go in order to achieve the goals laid down in the Declaration. Indeed, discrimination based on religion or belief preventing individuals from fully enjoying all their human rights still occurs worldwide on a daily basis.

56. The issue of discrimination based on religion or belief has been at the heart of the mandate since its inception in 1986, when the mandate was still entitled “Special

Rapporteur on religious intolerance’’. Over the years, the Special Rapporteur has reported on numerous cases of discrimination adversely affecting civil, cultural, economic, political and social rights. By discussing the impact of discrimination based on religion or belief on the enjoyment of economic, social and cultural rights in the present report, the Special Rapporteur has highlighted some of the problematic trends in this area. She hopes that this preliminary analysis might lead to a deeper reflection on this important issue.

57. In many countries, religion is exploited for political ends. As illustrated in the report, discrimination based on religion or belief often emanates from deliberate State policies to ostracize certain religious or belief communities and to restrict or deny their access to, for example, health services, public education or public posts. State authorities usually tend to be more sensitive to the interests of a religious majority community and, as a result, minority religions or beliefs may find themselves marginalized or discriminated against.

58. The Special Rapporteur recalls that States have the duty to refrain from discriminating against individuals or groups of individuals based on their religion and belief (obligation to respect); they are required to prevent such discrimination, including from non-State actors (obligation to protect); and must take steps to ensure that, in practice, every persons in their territory enjoys all human rights without discrimination of any kind (obligation to fulfill).

59. In order to implement these obligations, States have several tools at their disposal. These include the removal of de jure and de facto obstacles to the exercise on an equal footing of all human rights. In this regard, the training of State officials may constitute an important measure to ensure that the principle of non-discrimination, including on the basis of religion or belief, is respected by the State. Monitoring compliance with anti-discrimination legislation by the private sector and offering quality public education also seem vital to promote the principle of non-discrimination in society. Furthermore, legal remedies must be provided to individuals in order to allow them to seek redress against discrimination based on religion or belief. In addition, States should envisage protective measures in favor of certain population groups, including religious minorities, to provide those who do not have sufficient means with equal access to basic services, such as health care or education.

60. In order to take appropriate measures to remedy persistent inequalities and religious differentials in relation to human rights, the Special Rapporteur recommends that States collect disaggregated data and that they encourage in-depth analyses pertaining to the socio-economic situation of religious and belief communities. However, she cautions against improper utilization of these data, which may further cluster the population into artificial categories and ultimately lead to a more polarized and intolerant society.

61. All human rights are universal, indivisible, interdependent and interrelated. Consequently, there should not be a different approach between discrimination affecting the enjoyment of civil and political rights on the one hand, and discrimination affecting the enjoyment of economic, social and cultural rights on the other. As reiterated in several general comments by the Committee on Economic, Social and Cultural Rights, the principle of non-discrimination in the enjoyment of the rights guaranteed by the Covenant on Economic, Social and Cultural Rights is not subject to the rule of the progressive realization of rights or to the availability of resources. It is immediately and fully applicable to all the rights guaranteed by the Covenant and encompasses all internationally prohibited grounds of discrimination.

62. The entry into force of the Optional Protocol to the Covenant on Economic, Social and Cultural Rights recently adopted by the General Assembly should enable those suffering

from violations of their economic, social and cultural rights to see remedies and to hold those responsible to account for their actions. In a joint press statement of 10 December 2008, the Special Rapporteur and 35 other special procedures mandate-holders expressed their sincere hope that the views adopted by the Committee on Economic, Social and Cultural Rights under the Optional Protocol procedures will be used by the human rights community to assist States in taking concrete steps to realize the rights of all and to reach out to the most marginalized and disadvantages, who are the most likely to have their rights violated. In the view of the Special Rapporteur, the promotion of the realization of economic, social and cultural rights may ultimately contribute to enhancing religious tolerance and preventing discrimination.

ISSUE STATEMENT: International Human Rights Standards on Freedom of Religion or Belief are international law and universal codes of conduct for peaceful cooperation, respectful competition and resolution of conflicts. The standards are a platform for inclusive and genuine dialogue on core principles and values within and among nations, all religions and other beliefs.

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.” Another writer in a different setting 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.

As we are all painfully aware, religious conflict continues to escalate worldwide whether in the Middle East, Eastern Europe, Africa, South Asia, East Asia or the Americas. Acceptance of the rights of others to their own beliefs continues to be a value denied for millions of people. Much suffering is inflicted in the name of religion or belief on minorities, women and children and “the other” for the most part by perpetrators in total disregard for the tenets of their own faiths.

Surely one of the best hopes for the future of 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.

Did God create us or did we create God? This question calls for inclusive and genuine dialogue, respectful and thoughtful responses, discussion of taboos and clarity by persons of diverse beliefs. Inclusive and genuine is dialogue between people of *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief*. These UN categories are embodied in international law to promote tolerance and prevent discrimination based on religion or belief.

The challenge is to reconcile international human rights standards on freedom of religion or belief with the truth claims of religious and non-religious beliefs.

Inclusive and genuine dialogue is essential as a first step in recognition of the inherent dignity, equal and inalienable rights of all members of the human family, and a foundation for freedom, justice and peace in the world. Leaders of religious and non-religious beliefs sanction the truth claims of their own traditions. They are the key to raising awareness and acceptance of the value of holding truth claims in tandem with human rights standards on freedom of religion or belief.

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

Goal: To eliminate all forms of intolerance and discrimination based on religion or belief.

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Inclusive and genuine dialogue is essential as a first step in recognition of the inherent dignity, equal and inalienable rights of all members of the human family, and a foundation for freedom, justice and peace in the world. Leaders of religious and non-religious beliefs sanction the truth claims of their own traditions. They are the key to raising awareness and acceptance of the value of holding truth claims in tandem with human rights standards on freedom of religion or belief.

To 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 on Freedom of Religion or Belief as essential for *long-term solutions* to conflicts in all matters relating to religion or belief.

Objectives:

1. Use International Human Rights Standards on Freedom of Religion or Belief as a platform for genuine dialogue on the core principles and values within and among nations, all religions and other beliefs.
2. Adapt these human rights standards to early childhood education, teaching children, from the very beginning, 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.

History: 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.

Separation of Religion or Belief and State

Concept: *Separation of Religion or Belief and State - SOROBAS.* 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 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: International Human Rights Standards on Freedom or Religion or Belief are international law and universal codes of conduct for peaceful cooperation, respectful competition and resolution of conflicts. The standards are a platform for genuine dialogue on 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

1981 U.N. Declaration on Freedom of Religion or Belief

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, 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 build tolerance, understanding and respect for freedom of religion or belief.

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, and 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.