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

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

Separation of Religion or Belief and State

REVIEW

**UNITED NATIONS HUMAN RIGHTS COUNCIL PANEL DISCUSSION AND
DIALOGUE ON PROMOTION OF A CULTURE OF TOLERANCE AND PEACE**

3 p.m. – 6 p.m. Tuesday, 14 June 2011

**Resolution A/HRC/16/18 - Combating Intolerance, Negative Stereotyping, Discrimination and
Incitement to Violence & Violence Against Persons Based on Religion or Belief**

*Introduced by Pakistan on behalf of the Organization of the Islamic Conference (OIC) adopted by
consensus without a vote.*

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

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

THE TEST

The test for Resolution A/HRC/16/18 which was adopted by the UN Human Rights Council by consensus without a vote is whether it will be **adopted unanimously** by the General Assembly in the Fall of 2011, thereby resolving issues on Combating Defamation of Religion and the Right to Choose a Religion or Belief.

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Each SECTION of this Tandem Project review relates in some way to work on freedom of religion or belief. The sections can be read as a **stand-alone Review & Reflection** on the importance of Resolution A/HRC/16/18 adopted by the UN Human Rights Council by consensus without a vote on 24 March 2011. The sections **are not** in chronological order. SECTION VI. is a joint submission by UN Special Procedures Special Rapporteurs: “ We very much appreciate that the Human Rights Council has – after years of debate – ultimately found a way to unanimously address these worrying phenomena without referring to concepts or notions that would undermine international human rights law. In this context we would like to emphasize the principle that **individuals rather than religions** per se are the rights-holders.”

I.

PANEL PRESENTATIONS & DIALOGUE– RESOLUTION – 2010 GENERAL ASSEMBLY ACTIONS

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

ARCHIVED VIDEO & INTER-ACTIVE DIALOGUE

<http://www.un.org/webcast/unhrc/archive.asp?go=110614>

UN Human Rights Council Member States comments on the Panel Discussion and Interactive Dialogue as an **“important first step”** in implementing Resolution A/HRC/16/18.

II.

2011 - GENERAL ASSEMBLY

Resolution A/HRC/16/18 is being sent to New York and the Third Committee of the General Assembly for review and adoption in the Fall of 2011. The General Assembly has decided to convene a high level meeting in New York on 21 September 2011 to commemorate the tenth anniversary of the 2001 Durban Declaration and Programme of Action.

III.

KEY REFERENCE POINTS

- Resolution A/HRC/16/18: introduced and sponsored by Pakistan on behalf of the Organization of the Islamic Conference (OIC) and adopted by consensus without a vote refers to discrimination by individuals based on religion or belief and may be a groundbreaking human rights instrument to resolve several issues that up to now have been irreconcilable.
 - The United Nations Human Rights *Convention on the Elimination of All Forms of Racism* and extension of the work of its Committee on the Elimination of Racial Discrimination (CERD) and Special Rapporteur on Contemporary forms of Racism.
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IV.

UNRESOLVED ISSUES

- Combating Defamation of Religion - Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance Resolutions approved without consensus in the General Assembly on the Durban Declaration and Programme of Action and the Durban Review Conference.
 - Right to Change One's Religion or Belief - Ensuring constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all without distinction, inter alia, by the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practice one's religion, including the right to change one's religion or belief, is violated.
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V.

2010 - GENERAL ASSEMBLY

“The Committee then took action on a draft resolution entitled combating defamation of religions (document A/C.3/65/L.46).” 23 November 2010, General Assembly, Third Committee.

“Based on the growing defamation of religion, OIC found it necessary to continue promoting the draft. Many United Nations reports, as well as other stakeholders, noted the need to combat the increasing trend and stop the rise in the number of incitements to religious hatred. Those acts were obstacles to human rights. In that regard, OIC had conducted three rounds of informal consultations, besides organizing meetings with partners and groups in transparency. The co-sponsors had carefully considered all proposals, and had hoped to create a constructive dialogue aiming at cooperation regarding that trend. They had not lost hope and would continue their endeavors. The resolution stressed that vilification of any religions was a serious affront to human dignity. It called for combating such deplorable acts against all religions, without exception. The fact that Islam was at the core did not preclude that other religions could not be targeted. It was worth recalling that all States had agreed that terrorism could not be associated with any religion, civilization or ethnic group. It was a sign of compromise and consensus that they had reduced the concept of “defamation” and replaced it with the term “vilification” to avoid any

pretext and encourage all to reach an objective consensus. States should show a higher degree of sensitivity in addressing the abuse of freedom of expression and insulting religions.”

Full Report on actions in 2010 by UN General Assembly - Public Information Office

<http://www.un.org/News/Press/docs/2010/gashc4001.doc.htm>

VI.

JOINT SUBMISSION BY SPECIAL RAPORTEURS

- “We very much appreciate that the Human Rights Council has – after years of debate – ultimately found a way to unanimously address these worrying phenomena without referring to concepts or notions that would undermine international human rights law. In this context we would like to emphasize the principle that individuals rather than religions per se are the rights-holders.”
- Mr. Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief;
- Mr. Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and
- Mr. Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Special Rapporteurs to Regional Experts Workshops sponsored by the Office of High Commissioner for Human Rights on *Prohibition of Incitement to National, Racial or Religious Hatred*.

Definitional questions on the meaning of Defamation of Religions vs. Hate Speech, Limitations to Article 18 Freedom of Religion or Belief, Article 19 Freedom of Opinion and Expression, and Criteria on differences between what is Racial Hatred and what is Religious Hatred under Article 20 (2) Incitement to National Racial or Religious Hatred under the International Covenant on Civil and Political Rights.

[OHCHR Experts Workshop Nairobi April 2011](#)

VII.

LIST OF HUMAN RIGHTS ISSUES

The Office of High Commissioner for Human Rights website on Your Human Rights has three sub-sites: What are Human Rights; Human Rights Issues; International Law. In the List of Human Rights Issues are fifty identified by the Office of High Commissioner for Human Rights and the UN Human Rights Council. All of them have home pages with information that links them either directly or in directly to the issue of international human rights and freedom of religion or belief. Issues such as Children, Cultural Rights, Democracy and Human Rights, Indigenous Peoples Minorities, Terrorism, Women, Torture,

Communications Adequate Housing, Civil and Political Rights all have a stake in seeing that international human rights law on freedom of religion or belief is adequately monitored.

Treaty-based Human Rights Conventions and their corresponding Committee receives more funding and additional staff than a Charter-based Declarations under Special Procedures. The Tandem Project believes it may be time to consider reinstating the 1968 Working Group to better organize and bring all matters relating to freedom of religion or belief under one banner, a core international human rights legally-binding treaty.

<http://www.ohchr.org/EN/Issues/Pages/ListOfIssues.aspx>.

VIII.

RACISM

Two issues focus directly on Resolution A/HRC/16/18 and the Panel Discussion and Dialogue on a Culture of Tolerance and Peace - Racism and Freedom of Religion and Belief.

A unique opportunity is presented by Resolution A/HRC/16/18- Combating Intolerance, Negative Stereotyping, Discrimination and Incitement to Violence & Violence **Against Persons Based on Religion or Belief**. This is the first time since the two track process began in 1962 when the General Assembly requested ECOSOC to develop draft Conventions on Race and Religion. The Convention on the Elimination of All Forms of Racism was adopted and open for signature by the General Assembly in 1965 and entered into force by the General Assembly in 1969, while a Convention on the Elimination of All Forms of Religious Intolerance stalled in 1968, becoming in 1981 a non-binding Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

Racism as a Human Rights Issue has eight separate links for information after establishing a Committee on the Elimination of All Forms of Racism (CERD) to monitor implementation by States Parties that adopted, signed and ratified the Convention. There are eight listed activities under the Issue on Racism: Ad-Hoc Committee on the Elaboration of Complementary Standards (2008), Committee on the Elimination of Racial Discrimination (1969), Durban Review Conference (2009), Group of Independent Experts (2003), Special Rapporteur on Contemporary forms of Racism (1993), Working Group of Experts on People of African Descent (2002), Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (2002), World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001).

[Ad-Hoc Committee on the elaboration of complementary standards](#)

[Committee on the Elimination of Racial Discrimination](#)

[Durban Review Conference \(2009\)](#)

[Group of Independent Eminent Experts](#)

[Special Rapporteur on contemporary forms of racism](#)

[Working Group of Experts on People of African Descent](#)

[Working Group on the effective implementation of the Durban Declaration and Programme of Action](#)

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban (2001)

WORLD CONFERENCE ON RACISM

In 1998 the General Assembly proclaimed 2001 to be the International Year of Mobilization against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance to draw attention to the World Conference on Racism. Mary Robinson, former UN High Commissioner for Human Rights and Nelson Mandela's proclamation <http://www.un.org/WCAR/e-kit/vision.htm> was announced at the UN General Assembly Millennium Conference in New York. Preparation for the World Conference on Racism included preparatory meetings in all regions of the world and a review of Global Action Against Racism beginning in 1948 with eleven resolutions, conventions and declarations.

In September 2011 the General Assembly in New York will celebrate the ten year anniversary of the World Conference on Racism: <http://www.un.org/WCAR/>. Many positive proposed actions as a follow-up the 2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance are identified in Resolution A/HRC/16/18- Combating Intolerance, Negative Stereotyping, Discrimination and Incitement to Violence & Violence **Against Persons Based on Religion or Belief**.

A major test of the Issue on Racism is in the joint statement by the Special Rapporteurs; “ the Human Rights Council has – after years of debate – ultimately found a way to unanimously address these worrying phenomena without referring to concepts or notions that would undermine international human rights law. In this context we would like to emphasize the principle that individuals rather than religions per se are the rights-holders.”

The United States and Israel withdrew their delegations from the World Conference because of draft language demonizing Israel the final conference document.

<http://www.un.org/News/Press/docs/2010/gashc4001.doc.htm>

DURBAN REVIEW CONFERENCE

Subsequently the Durban Review Conference <http://www.un.org/durbanreview2009/sessions.shtml> was held in Geneva in 2009 to review progress at implementation of the World Conference on Racism. Preparatory Committees held religious meetings around the globe to prepare for the Durban Review and it was estimated that over 4,000 delegates participated in a side event outside the UN or as delegates participating in the UN sponsored Durban Review Conference.

The Ad-Hoc Committee on the Elaboration of Complementary Standards (2008), Committee on the Elimination of Racial Discrimination (CERD), Group of Independent Experts (2003), Special Rapporteur on Contemporary forms of Racism (1993), Working Group of Experts on People of African Descent (2002), Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (2002) all report to the UN Human Rights Council and General Assembly.

Resolution A/HRC/16/18 will be a test to see if these reports in the future identify persons rather than the collective stereotyping one or two religions under - Combating Intolerance, Negative Stereotyping, Discrimination and Incitement to Violence & Violence **Against Persons Based on Religion or Belief**.

In the Durban Review Conference six Member States voted against and 12 Member States abstained because of continued demonizing language against Israel in the final conference document.

IX.

FREEDOM OF RELIGION OR BELIEF

Freedom of Religion and Belief has one action issue, the Charter-based Special Procedures Rapporteur on Freedom of Religion or Belief adopted as a new title by the General Assembly (2000).

OHCHR link to home page for: [Special Rapporteur on freedom of religion or belief](#)

NEUTRALITY

International human rights law on freedom of religion or belief protects *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief*, - General Comment 22 on Article 18 of the International Covenant on Civil and Political Rights. The United Nations Charter cannot favor one religion or belief over another. This law protects individuals from discrimination based on religion or belief. It values the equal rights of majority and minority religions or beliefs, indigenous, traditional and new religious movements. It is a universal, neutral and impartial moral principle. Lexicographers may describe the terminology as agnostic, *the third rail* on the God idea between theism and atheism.

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

INTERNATIONAL HUMAN RIGHTS LAW

ARTICLE 18 – INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

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, practice and teaching. 2 **No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.** 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. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education in conformity with their own convictions.

“The representative of Morocco, on behalf of the Organization of the Islamic Conference said **it had not been possible to resolve differences on respect for national laws and religious norms regarding**

changing one's religion. Despite such divergences, it had been decided by the Organization not to oppose the draft; such resolutions ought to be adopted by consensus.”

The Economist asked of Ali Gomaa, Grand Mufti of Egypt: <http://www.aligomaa.net/>.

[Can a person who is Muslim choose a religion other than Islam?](#)

X.

TOLERANCE FOR DIVERSITY OF RELIGION OR BELIEF

In 1986 The Tandem Project called for the same approach as A/HRC/16/18 in the first International Conference *Tolerance for Diversity of Religion or Belief* at local levels through twenty-seven Community Strategies on how to implement Article 18 of the International Covenant on Civil and Political Rights and the 1981 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. These Community Strategies are **as applicable in 2011 as they were in 1986** and are offered here as a follow-up to resolutions A/HRC/16/18 and the UN Human Rights Council Panel Discussion and Interactive Dialogue on a Culture of Tolerance and Peace.

COMMUNITY STRATEGIES

1. Education--ways in which broadly-based programs of education can be developed at all levels in schools, government, universities, voluntary organizations, and the media; **2. Law**--ways in which efforts can be supported to examine international legal structures; national constitutions, national and local legislation, to make sure there is a legal framework for the Declaration in each nation-state of the U.N; **3. Development**--ways in which organizations of diverse ideologies may be able to work together on humanitarian service projects in the "name and spirit" of tolerance, with mutual understanding and respect for each other. **4. Analysis**--ways in which special studies, research, and curricula can be developed in theological seminaries, universities, and colleges to combat and to eliminate intolerance based on religion or belief;

<http://www.tandemproject.com/tolerance.pdf>

XI.

REFLECTIONS

The First Preamble to the Universal Declaration of Human Rights reads: Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

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

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

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

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

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

“I am become death, the destroyer of worlds” - Robert Oppenheimer, quote from the Bhagavad Gita after exploding the first atomic bomb, Trinity 1945.

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

In 1968 the United Nations deferred work on a legally-binding treaty on religious intolerance as too complex and sensitive and passed a non-binding declaration in its place. The Tandem Project believes until a core legally-binding human rights Convention on Freedom of Religion or Belief is adopted international human rights law will be incomplete. It may be time to begin to consider reinstating the 1968 Working Group to better organize and bring all matters relating to freedom of religion or belief under one banner, a core international human rights legally-binding treaty.

[UN Human Rights Council Panel Discussion - Culture of Tolerance and Peace - 14 June 2011](#)

