The United Nations Human Rights Committee, independent experts elected by the General Assembly, review reports from Member States who are signatories to the Covenant on Civil and Political Rights. The Human Rights Committee meets three times a year, to monitor Initial and Periodic Member State reports. Article 18- “Everyone has the right to freedom of thought, conscience and religion or belief,” is part of each report. The 1981 U.N. Declaration, adopted by the General Assembly, supports Article 18 of the Covenant on Civil and Political Rights.

Meeting: The United Nations Human Rights Committee will meet with representatives of the Government of Austria on 26 March 2007 to review (CCPR/C/AUT/4).


Objective: To demonstrate the value of Eight Articles of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; to measure accountability, promote tolerance and prevent discrimination on grounds of religion or belief, and to build support for an International Convention on Freedom of Religion or Belief. The Tandem Project assesses the 1981 U.N. Declaration from multi-disciplinary perspectives.

Challenge: In 1967 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 driving 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 the 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?

UN Special Rapporteur on Freedom of Religion or Belief: “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, Ms. Asma Jahangir, Prague 25 Year Anniversary Commemoration of the 1981 UN Declaration, 25 November 2006.
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. 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.

290. [Excerpts] Austrian constitutional law has several provisions that relate to the freedom of thought, conscience and religion. For example, according to article 14 of the Basic Law of the State on the General Rights of Citizens of 1867 and article 9 of the European
Convention on Human Rights, everybody is guaranteed the full freedom of religion and conscience… As a result, both the religious societies recognized by law and the registered religious communities under the Registered Religious Communities Act, Federal Law Gazette I. No. 19/1998 (for details see below), as well as religious groups not covered by these two laws, are equal in the exercise of the freedom of religion. – CCPR/C/AUT/4.

291. [Excerpts] In Austria, the exercise of the freedom and conscience is therefore independent of whether or not a church or religious group has been “recognized by law” under the 1874 Recognition Act. For the sake of equality in the freedom of exercising one’s religion… -deriving from the principle of parity contained in the canon law – is not only ensured to the religious societies recognized by law but also to religious groups such as the registered religious communities under the Registered Religious Communities Act. – CCPR/C/AUT/4.

292. [Excerpts] …These freedoms are guaranteed to everybody – in essence the same as the aforementioned freedom to exercise one’s religion in public or in private… They do not depend on whether the community in which the religion, the belief or the confessed faith is exercised has the status of a church or a religious society recognized by law (in this context see annex 1b containing a list of religious societies recognized by law in Austria). - CCPR/C/AUT/4.

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.
When the Registered Religious Communities Act was drafted in 1998, there were more than 20 applications for recognition pending with the competent authority. This large number of applications was also the result of the “New Religious Movements” in the late 1980s and 1990s. However, after the entry into force of the Registered Religious Communities Act, no more than 11 of the 20 religious groups mentioned above applied for registration under the new act. Nine of these groups finally acquired legal status under the Registered Religious Communities Act, one group withdrew its application for good, and another withdrew for the time being. No more than one application was rejected. These figures indicate the instability of some of the religious groups (together with a high fluctuation regarding their representative). In spite of intensive research on the part of the competent authority, the remaining nine religious groups that had originally applied for recognition could no longer be tracked down. In the light of these circumstances, it was certainly quite appropriate to stipulate additional requirements for being recognized under the Recognition Act – and thus for being granted the status of a public law corporation. After all, this is to provide some certainty that a community will continue to exist, especially since the Recognition Act assumes that a religious group has a lasting existence. – CCPR/C/AUT/4.

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;

315-316: [Excerpts]. These paragraphs apply to the following: Regarding Concern No. 14 –
Benefits accorded to recognized religions.

The so-called “benefits” for churches and religious groups recognized by law are not privileges that the State affords arbitrarily to these institutions; rather these are the “non-applied fiscal measures” justified by facts in connection with fiscal regulations and imposed charges. The meaning and purpose of this regulation contained in the Austrian legal system is to ensure to the churches and religious societies recognized by law, which accept “public tasks” in a way that relieves the State, are ensured financial resources in this manner – resources required to comply with these tasks. “Public tasks” include activities which – centuries before the social welfare State and a performance –oriented society – were traditionally provided by the churches. This special treatment afforded by the State is all the more justified at a time in which the State is reaching the limits of financing all the social benefits and social tasks that citizen’s claim from the State, and which the State “outsources” to non-governmental organizations, which also include the church. One example is the care for the elderly, or the assistance given by Caritas or Diakonie to asylum-seekers. – CCPR/C/AUT/4.

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.

294. As a general comment, one should state that the Registered Religious Communities Act does not lay down rules on the exercise of religion, which is already provided for and guaranteed under constitutional law, but governs the granting of a legal personality. Thus the right to exercise the freedom of religion per se is not affected in any way by these statutory provisions. In particular, the churches and religious societies recognized by law do not enjoy “more” freedom of religion than registered religious communities. They all enjoy the freedom of religion to the same extent. – CCPR/C/AUT/4.

298. The requirements of article 11 of the Registered Religious Communities Act, which will be outlined below in detail, should not be seen as isolated conditions that registered religious communities have to fulfill in order to become recognized religious societies. They are consistent with the guiding standards contained in the 1874 Recognition Act that have been applied in order to recognize religious groups (apart from membership figures and the period of monitoring). These requirements are not expressly laid down in the 1874...
Recognition Act, but should be seen as criteria that have developed by applying the 1874 Recognition Act. In keeping with the principle of the rule of law these standards have now been expressly laid down in the Registered Religious Communities Act. – CCPR/C/AUT/4.

299-302: [Excerpts]. These paragraphs apply to the following: The requirement to have existed for a certain period of time. – CCPR/C/AUT/4.

303-304: [Excerpts]. These paragraphs apply to the following: The requirement of a certain number of members. – CCPR/C/AUT/4.

305-309: [Excerpts]. These paragraphs apply to the following: The requirement of using the income and the property for religious purposes (which also includes non-profit and charitable purposes that are part of the religious purpose). - CCPR/C/AUT/4.

310-313: [Excerpts]. These paragraphs apply to the following: The requirement of a positive attitude towards the State and society (see article 11 (1), item 4, of the Registered Religious Communities Act). – CCPR/C/AUT/4.

314. [Excerpts]. This paragraph apply to the following: The requirement that there be no interferences, contrary to the law, in the relationship to existing churches and religious groups recognized by law, as well as other religious communities (see article 11 (1), item 5, of the Registered Religious Communities Act). – CCPR/C/AUT/4.

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.

THE TANDEM PROJECT

The Tandem Project is a 501 c-3 non-profit, non-governmental organization, founded in 1986, to promote tolerance and prevent discrimination based on 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 and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Tandem Project assesses the impact of the 1981 UN Declaration from multi-disciplinary perspectives.

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

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