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REPORT OF THE COMMISSION ON HUMAN RIGHTS

Draft Declaration on the Elimination of  
all Forms of Religious Intolerance

Note by the Secretary-General

Addendum

The comments received from the Governments of Cambodia, Cameroon, Central African Republic, Colombia, Ghana, Jamaica, Japan, Nepal, Senegal and Turkey are as follows:

CAMBODIA

[Original: French]

The two texts do not appear to be incompatible with Cambodian legislation on religious matters, such as article 8 of the Constitution, articles 126 and 127 of Royal Ordinance No. 111 of 31 December 1926 on religious associations, Kram No. 12 NS of 9 February 1943 on Buddhist religious associations and assemblies, and Royal Ordinance No. 110 of 15 June 1940 on foreign missions.

The principle that religious communities shall have the right to receive the funds necessary for the carrying out of their functions, which is stated in article X of the preliminary draft declaration and which may represent a danger to the security of the State, is fortunately corrected by article XIII, paragraph 2 of the same text, which authorizes the imposition of the restrictions prescribed by law for the purpose of meeting the legitimate requirements of morality, health, public order and the general welfare in a democratic society. The imposition of restrictions in the interests of public order is in accordance with article 8 of the Cambodian Constitution, which specifies that freedom of

conscience and worship "is subject only to the restrictions necessary for the maintenance of public order".

The Royal Government welcomes this felicitous initiative of the United Nations, which further strengthens the religious institutions of Cambodia - particularly Buddhism, a religion noted for its spirit of tolerance and adhered to by 99 per cent of Cambodia's population.

CAMEROON

[Original: French]

Generally speaking, the draft which has been prepared calls for no comment from the Government of Cameroon.

The discussion as to whether the words "religion or belief" cover atheism, free thought, positivism or rationalism would appear to be quite beside the point so far as the Federal Republic is concerned.

The convention might provide for the possibility, in certain cases, of making the outward practices of the various religions subject to the requirements of public order.

In other respects, the draft declaration and draft convention are in conformity with the Constitution and policies of the Government of the Federal Republic of Cameroon.

The preamble to the Constitution of the Republic of Cameroon dated 4 March 1960, as amended by the Constitution of the Federal Republic of 1 September 1961, states that:

"The independent and sovereign Cameroonian people, placing itself under the protection of God, proclaims that every human being, without distinction as to race, religion, sex or creed, possesses certain inalienable and sacred rights.

"It affirms its adherence to the fundamental freedoms inscribed in the Universal Declaration of Human Rights and the United Nations Charter, including the following principles:

...

"No one may be harassed because of his origin or his religious, philosophical or political beliefs or opinions, subject only to the preservation of public order. The State proclaims its neutrality with respect to all creeds. Freedom to profess and to proclaim a religion shall be guaranteed.

"The principle of secularity, under whose protection the Cameroonian people place the Republic, shall be understood as the separation of Church and State. That principle shall signify that the Republic is neither clerical nor religious.... The State shall guarantee the rights and freedoms enumerated in the preamble to the Constitution to all citizens of either sex" and "shall ensure the equality of all citizens before the law."

Intolerance, discrimination and persecution in religious matters are in flagrant conflict with the principles on which the Federal Republic of Cameroon bases its official policy and its national institutions. As the State, which includes in its motto the ideal of peace, has placed itself under the protection of God but has also adopted the principle of secularity, it has deliberately barred the possibility of any religious conflict. Its neutrality is reflected in its complete impartiality vis-à-vis of the many existing faiths.

Cameroon thus grants the greatest possible freedom to every religious or non-religious belief whose expression does not disturb public order and peace or conflict with the national laws and institutions.

It goes without saying that there can be no question of the Government of Cameroon allowing religious hatred to be preached on its territory, since such preaching would itself constitute a manifestation of religious intolerance and therefore an attack upon the basic freedoms and fundamental rights of the human person and the citizen.

It is, however, highly desirable to repeat and stress the following principles, which the Commission should take into account when preparing the final version of the draft:

1. Guarantee by the State of freedom of religious belief
  - (a) There should be no discrimination in any field of political, economic, social and cultural life;
  - (b) There should be no discrimination against individuals or groups by any religions or groups of believers or non-believers;
  - (c) All religious or non-religious beliefs and their followers should be protected from discrimination so long as they do not disturb public order and peace or come into conflict with the national laws and institutions.
2. Non-utilization of religion for political ends
  - (a) Religious parties should not be formed for the purpose of gaining power;
  - (b) The Church should not interfere in the political life of the State;
  - (c) Religious or anti-religious quarrels of States should not be used as pretexts for international conflicts.

3. Principle of the separation of Church and State (secularity)

- (a) There should be no State religion;
- (b) All religious or anti-religious beliefs should be equal before the law and before State institutions;
- (c) There should be freedom of instruction and education.

CENTRAL AFRICAN REPUBLIC

/Original: French/

In the preamble to its Constitution, the Central African Republic formally declared that:

"Freedom of conscience and the profession and free practice of religion shall be guaranteed to all, subject to public policy /ordre public/.

"Religious institutions and communities shall have the right to develop without hindrance. They shall be outside the State's control and shall regulate and administer their affairs independently. They shall be recognized as agencies of moral training.

"The law shall protect the right to work.

"No one shall suffer in his work or employment by reason of his origin, opinion or belief."

It is therefore evident that the Central African Republic prohibits, throughout its territory, any discrimination based on religion in the fields of civil and political rights and citizenship and of labour and employment.

Consequently, it cannot but give its full approval to the stand adopted by the Commission on Human Rights in opposition to any discriminatory measure applied against an individual on the grounds of his religion or his beliefs.

The Working Group's report (annex II) calls for the following comments:

Article I: It does not seem necessary to define the terms "religion" and "belief", whose meaning, as is stated in the annex, are well understood in United Nations usage.

If a choice must be made between the various definitions proposed for the term "belief", we prefer that of Austria. This definition in fact covers all religious and non-religious beliefs.

It does not seem necessary to include the words "to any religious or non-religious" before the word "belief" as used for the first time in article I.

Article II and article III, paragraph 1: No comments.

Article III, paragraph 2: The acts of discrimination in question should be acts of some gravity, so as to prove that the Government of the State concerned deliberately intended to violate the fundamental rights and freedoms of the individual.

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It seems necessary to add the words "with respect to his rights and fundamental freedoms as defined by the Constitution or by law".

Article IV, paragraph 1: No comments.

Article IV, paragraph 2: The expression "access to citizenship" is restrictive. It seems preferable to write: "especially in the fields of civil rights, citizenship ...".

Discrimination based on a difference of religion occurs fairly often in the labour field. Consequently, it seems necessary to prevent any discrimination in the field of employment and labour.

Paragraph 2 might therefore be drafted as follows: "Particular efforts shall be made to prevent discrimination based on religion or belief, especially in the fields of civil rights, citizenship and the enjoyment of political rights, such as the right to participate in elections, to hold public office, or in other ways to take part in the government of the country, as well as in the field of labour and employment."

Article V, paragraph 1: The religious practices followed by deceased parents, their creed or the beliefs expressed by them are calculated to indicate - where they were unable to make their wishes expressly known - the religion or belief in which they wanted their child or children to be raised. This set of facts constitutes the "presumed wish" of the parents. It should therefore be complied with.

"If the child has reached a sufficient degree of understanding, his wish shall be taken into account." It does not seem necessary to add this sentence. It may happen, in fact, that the child's wish is contrary to his interests.

How is this conflict to be resolved?

Article V, paragraph 2: No comments.

Article VI: The word "disseminate" implies, of itself, the idea of propaganda. It does not seem necessary to add "at home and abroad". No further comments.

Articles VII to XIV submitted by the Sub-Commission: No comments.

COLOMBIA

[Original: Spanish]

The Ministry of Foreign Affairs is in agreement with the "Preliminary Draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance", submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. For the moment it has no comments to make with regard to the preliminary draft, and it is gratified that the United Nations is concerning itself with a matter which is so very important at the present time. The preliminary draft in question may be regarded as a useful and even necessary complement to article 18 of the Universal Declaration of Human Rights, adopted and proclaimed by the United Nations General Assembly on 10 December 1948. Moreover, it is a faithful reflection of the aspirations cherished in this field by the most highly qualified political and religious leaders of the world; this universal movement has been furthered even by the highest authority of the Catholic Church, the Supreme Pontiff Paul VI, who has just established and organized within the Vatican a department, directed by an eminent prelate, for the purpose of maintaining and sustaining friendly relations with the dignitaries of other religious creeds which differ not only from the Catholic creed but from the Christian creed in general - such as Mohammedanism, Buddhism, etc.



GHANA

[Original: English]

The Government of Ghana is in agreement with the terms of the two drafts.

JAMAICA

[Original: English]

The Jamaica Government endorses the report of the Working Group of the United Nations on the Draft Declaration on the Elimination of All Forms of Religious Intolerance as well as the views set out in the Draft Declaration.

JAPAN

[Original: English]

The Government of Japan has no particular comment to make on the report, or on the draft Declaration.

NEPAL

[Original: English]

It is desirable to define the words "religion or belief", as this would add clarity to the Declaration. The text of the articles as prepared by the Working Group is satisfactory and His Majesty's Government of Nepal has no specific comments regarding the articles.

SENEGAL

[Original: French]

The Government of Senegal has no comments to make concerning the "Draft Convention on the Elimination of All Forms of Religious Intolerance" in its present form.

TURKEY

[Original: Turkish]

Just as religious tolerance is one of the firm traditions of Turkish society, so also it is one of the prerequisites of the freedom of conscience and religion guaranteed in article 19 of the Turkish Constitution. The Turkish Government is therefore entirely in favour of the preparation under United Nations auspices of a declaration concerning the elimination of all forms of religious intolerance.

The preliminary draft declaration prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the outline of the first six articles, prepared on the basis of that preliminary draft, which are the subject of the report of the Working Group set up at the conclusion of the twentieth session of the Commission on Human Rights, are considered satisfactory.

In our opinion, a point to be scrupulously borne in mind in the preparation of the text of the declaration is that the principles embodied therein should not be formulated in such a way as to permit a religious institution, under cover of the requirements of religious tolerance, to be used as a means of exerting political influence, particularly from a foreign source, and that the text of the declaration should include the principle that freedom of religious ceremonies and rites shall be granted only on condition that they are not contrary to public order and general moral rules. Article XIII, paragraph 2, of the draft declaration contains firm guarantees to this effect which should be retained in the same form in the final text. There is no objection to the inclusion, in the form suggested in the text of the draft declaration, of the provisions enumerated in the first paragraph of that same article, which, as stated therein, shall not be subject to any restrictions.

Our views with regard to certain of the articles proposed by the Working Group and by the Sub-Commission for inclusion in the draft declaration are set forth below:

As indicated in the report of the Working Group set up by the Commission on Human Rights, some members of the Group felt that the text should clearly indicate that the concept of "religious belief" covered non-religious beliefs. In our opinion, it is not necessary that the text should define the term "religious belief". Should the Commission on Human Rights decide to insert a definition in

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the text, our choice from among the proposals submitted would be for that of the United Kingdom, in view of its simplicity and comprehensiveness.

Article II as set forth in the text prepared by the Working Group (which is the same as article I of the text of the Sub-Commission) would seem to cover article III, paragraph 1 (which is the equivalent of article II in the Sub-Commission's text). For this reason it is felt that the said article III, paragraph 1, could be deleted without impairing the substance of the text.

The inclusion in the text of the wording of article III, paragraph 2, as set forth in the text of the Working Group, would be desirable in that it would help to make the text more explicit.

We are of the opinion that the words "as well as in the field of labour and employment" in article IV, paragraph 2 of the text of the Working Group should be deleted, for if this wording is used it will impose obligations affecting the employment policy of private enterprise. As great difficulties may be encountered in the enforcement of such obligations, the question of the extent to which such intervention is compatible with freedom of contract is likely to give rise to controversy.

The text of article VI as drafted by the Working Group is preferable to article VI in the Sub-Commission's text, for the latter article contains provisions which could be prejudicial to public order and national security, such as the right to bring religious teachers from abroad and the right to have contact with religious communities and institutions abroad. For the same reason, the words "at home and abroad" in article VI (b) of the text of the Working Group should be deleted. The words "... by expressing the implications of religion or belief in public life" in sub-paragraph (c) of that same article might be misunderstood and might be interpreted in such a way as to be prejudicial to the principle of secularity.

Article X in the text of the Sub-Commission might lend itself to exploitation for political purposes.

In our opinion, this provision, which is in parenthesis in any case, should be deleted.

Of the proposals appearing in the appendix to the report of the Working Group, the text submitted by the Union of Soviet Socialist Republics in clauses (b) and (c) could usefully be included in the declaration. In fact,

the text of clause (b) is in harmony with article 19, fifth paragraph, of the Turkish Constitution prohibiting the exploitation of religion or religious feelings for the purpose of political benefit or of gaining influence. The proposal for a new article (c) is also of interest, for just as religious discrimination among individuals cannot be sanctioned, so the exerting of any influence in international relations which is of such a nature as to be prejudicial to the establishment and preservation of religious peace and security and to friendship and co-operation among States is impermissible.

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