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ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE

Draft Declaration on the Elimination of All Forms
of Religious Intolerance

Report of the Secretary-General

Addendum

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HOLY SEE

[Original: French]

[23 October 1973]

1. The Holy See recognizes and supports the endeavours of the United Nations to institute the necessary safeguards to ensure freedom of religion for all men. It welcomes the adoption of General Assembly resolution 3027 (XXVII) as a positive development; while affirming the equal importance of both a declaration and an international convention on the elimination of all forms of religious intolerance, the General Assembly wished to give new momentum to that work by initially concentrating on the completion of the Declaration on the Elimination of All Forms of Religious Intolerance before resuming consideration of an International Convention on that subject.
2. The Holy See is also convinced that, if actual cases of religious intolerance and religious discrimination are to be eliminated, the States which will uphold the principles set forth in the Declaration should also assume a strict obligation to implement them and see that they are implemented, since a declaration is only a first step towards the complete realization of the ideals expressed in it. In that respect, a convention is of course more effective than a mere declaration, and the Holy See hopes that the United Nations will pursue its efforts in that direction.
3. The preliminary draft of the United Nations Declaration on the Elimination of All Forms of Religious Intolerance, prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, contains many positive elements. In order that the text of the Declaration should be unreservedly accepted by all those who have the protection of religious freedom at heart, the Holy See considers however that the substance and wording of several articles should be re-examined and submits the following comments, which are essentially aimed at improving the text in order to make it more effective. The Holy See has based its comments partly on the wording contained in the report of the Working Group set up by the Commission on Human Rights at its twentieth session, many articles of which more accurately state the fundamental principles to be included in the Declaration.
4. Although the Declaration does not claim to spell out the exact nature of religious freedom or to list all the actions and attitudes which constitute an infringement of that freedom, but merely deals with the elimination of factors which undermine that religious freedom and constitute religious intolerance, the Declaration must nevertheless be viewed in the more general context of article 18 of the Universal Declaration of Human Rights.

This article proclaims everyone's right to freedom of thought, conscience and religion. This right includes not only freedom to change his religion or belief, but also freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. Freedom of religion, which involves freedom of choice and freedom of worship, is undermined both by religious intolerance and discrimination on religious grounds.

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Religious intolerance is manifested in the denial of the rights associated with religious freedom when by means of force, intimidation or otherwise people are compelled to profess or to renounce any religion whatever, when people are prevented from practising a religion and entering or leaving a religious community or when a direct campaign is conducted against all religion in general or against a particular religion whether on a global basis, on a regional basis or in a given group.

Religious discrimination consists in impairing the legal equality of citizens, overtly or covertly, on religious grounds.

5. The description of religious freedom in the preliminary draft of the Declaration appears to be imprecise and incomplete. The content of the draft should be clarified, in particular by laying greater stress on freedom to express inner convictions in public observances or professions of faith. There is no doubt that the articles are careful to guarantee public religious observances but they are much less concerned with all other outward manifestations which result from conviction and are the expression of a profession of faith with all its logical consequences. It is clear, and history bears ample witness, that without this possibility of outward and public expression and without freedom of worship, religious freedom is gravely diminished, sometimes to the point of being nothing more than a mere affirmation of principle.

6. The Holy See is of the opinion that the draft Declaration has been drawn up in accordance with too individual a conception of religious freedom.

The freedom or immunity from coercion in matters religious which is the endowment of persons as individuals is also to be recognized as their right when they act in community. Religious bodies are a requirement of the social nature both of man and of religion itself.

Accordingly, provided the just requirements of public order are observed, religious bodies fully claim freedom in order that they may govern themselves according to their own norms, honour the Supreme Being in public worship, assist their members in the practice of the religious life, strengthen them by instruction, and promote institutions in which they may join together for the purpose of ordering their own lives in accordance with their religious principles.

Religious bodies also have the right not to be hindered, either by legal measures or by administrative action on the part of government, in the selection, training, appointment, and transferral of their own ministers, in communicating with religious authorities or communities abroad, in erecting buildings for religious purposes, and in the acquisition and use of suitable funds or properties.

Religious bodies also have the right not to be hindered in their public teaching and witness to their faith, whether by the spoken or by the written word. In addition, it comes within the meaning of religious freedom that religious bodies should not be prohibited from freely undertaking to show the special value of their doctrine in what concerns the organization of society and the inspiration of the whole of human activity. The social nature of man and the very nature of

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religion afford the foundation of the right of men freely to hold meetings and to establish educational, cultural, charitable and social organizations, under the impulse of their own religious sense (cf. Vatican Council II, Declaration on Religious Freedom, section 4).

It would seem that the Declaration should further elaborate on and clarify the rights of religious bodies along the lines indicated below in paragraphs 12 to 17.

7. In order to make the true meaning of the articles clearer in accordance with the Universal Declaration of Human Rights, the following sentence could be added to the preamble of the Declaration:

"Considering that anything implying deprivation or illegitimate restriction of a fundamental right on grounds of religion or belief, but not promotion of activities or institutions conducive to the expression, cultivation and development of religious or non-religious beliefs, must be regarded as discrimination."

This clarification seems necessary in order to avoid in the Declaration an interpretation whereby certain activities or institutions, such as denominational educational institutions, would be regarded as discriminatory, whereas the aim of such institutions is educational and in keeping with the requirements of the religious faith or belief of their adherents who organize them freely and avail themselves of them freely.

8. According to the information given above, it would be appropriate to state clearly in article I what is meant in the Declaration by religious freedom. To that end, there could be introduced, as the first sentence of article I, a text similar to that of article IV of the preliminary draft of the Declaration or article I as prepared by the Working Group: "Everyone has the right to freedom of thought, conscience and religion. This right shall include freedom to adhere or not to adhere to any religion or belief, to profess it, in public or in private, to change his religion or belief in accordance with the dictates of his conscience, without being subjected to any legal, administrative, political, economic or other coercion likely to impair his freedom of choice, decision and exercise in the matter."

9. Having thus stated the rights which form part of religious freedom, article I should then condemn religious intolerance as manifested by the denial of those rights and by discrimination on grounds of religion or belief (Cf. Vatican Council II, Declaration of Religious Freedom, sections 2, 3 and 15; Vatican Council II, Pastoral Constitution on the Church in the Modern World, section 29).

10. Article II of the preliminary draft of the Declaration could be amplified by stipulating that discrimination must not be practised in respect of persons or in respect of groups. Thus, article II would reproduce the idea set forth in article 18 of the International Covenant on Civil and Political Rights (1966). (Cf. John XXIII, Encyclical letter "Pacem in Terris", sections 95 to 96; Vatican Council II, Pastoral Constitution on the Church in the Modern World, section 59, para. 5, and section 73, paras. 3-4).

11. Greater precision is desirable in the enumeration, in article III, of the rights which must not be impaired by discrimination on grounds of religion or belief. It would be appropriate in particular to mention protection of employment and the right to work. Obviously, religious freedom cannot exist if man is faced with the dilemma of either keeping his freedom of faith or conscience but suffering material poverty or agreeing to renounce the requirements of faith or conscience and enjoying security and wealth. (Cf. John XXIII, Encyclical letter "Pacem in Terris", section 18; Declaration on Religious Freedom, adopted at the Third Assembly of the Ecumenical Council of Churches, New Delhi, 1961, arts. 2 and 23).

12. The fact that international courts now exist in the sphere of human rights, as for example the European Commission on Human Rights of the Council of Europe, requires that article III, paragraph 2, should also mention remedial relief by the competent international tribunals.

13. Article V concerning religious education should be redrafted and expanded.

In the case of a child who has been deprived of his parents, their expressed or presumed wish should be taken into account, the guiding principle being the best interests of the child and the need to make it possible for him at least when he attains his majority to make an informed choice.

This article should furthermore declare that every family, as a society in its own original right, has the right freely to live its own domestic religious life under the guidance of parents.

It should also be acknowledged that parents have the right to make a genuinely free choice of schools and of other means of education; that freedom of choice is not to be made a reason for imposing unjust burdens on parents, whether directly or indirectly (Cf. Universal Declaration of Human Rights, article 26, paragraph 3; Vatican Council II, Declaration on Religious Freedom, section 5).

The rights of parents are also violated if their children are forced to attend lessons or instruction which are not in agreement with the religious beliefs of the parents, or if a single system of education, from which all religious formation is excluded, is imposed upon all. (Cf. Vatican Council II, Declaration on Religious Freedom, section 5; Vatican Council II, Declaration on Christian Education, sections 6 and 8.)

14. In article VI, paragraph 1, it should be clearly stated that every person and every group has not only the right to worship, either alone or together with others, in public or in private, but also to hold meetings concerned with religion, to establish and maintain houses of worship or places in which such meetings can be held, to establish organizations or movements for the purpose of promoting religious life and expression. In fact, the expression of faith cannot be limited merely to cultural meetings or to houses of worship. (Cf. Vatican Council II, Declaration on Religious Freedom, sections 2-4.)

15. An important addition should be made to article VI, paragraph 2. Every person and every group has the right, in conformity with his religion or his belief, to organize and maintain local, regional, national and international associations which relate to their activities. Religions of a universal character have the right to maintain organic relations with their adherents and their respective communities. The adherents have likewise the right to maintain relations with the centres of religions of a universal character. The individual's freedom of religion would lose much of its meaning if, at least for a good number of religions, there was no corresponding liberty for associations or churches. (Cf. Vatican Council II, Declaration on Religious Freedom, section 4.)

All persons should be guaranteed the right freely to enter into contact with their co-religionists or with those with the same beliefs and to visit them in the case both of individuals and organizations, at home or abroad.

16. Article VI, paragraph 3, correctly affirms that every person and every institution has the right to teach and learn his or its religion, sacred language and religious traditions, both in public and in private. Similarly, no one shall be compelled to receive instruction in a religion or belief contrary to his convictions or, in the case of children, contrary to the wishes of their parents or legal guardians. (Cf. Vatican Council II, Declaration on Religious Freedom, sections 2 and 3; Vatican Council II, Decree on the Church's Missionary Activity, section 13). Moreover, every religious group, community or association has the right to determine freely the rules concerning the admission and the expulsion of its members. For while the community cannot compel anyone to join its ranks, it must remain free to accept or to reject a new member or to expel a member, in accordance with the requirements and the character of the religion or faith.

17. Every religious group or community has the right not only to write, to print and to publish (article VI, paragraph 4), but also to import, to translate and to circulate religious works and texts as well as all the other elements which are necessary to it, and to exchange them with other communities, both within the country and abroad.

In addition to the possibility of training the personnel required for the performance of practices, rites and other duties, every religious group or association must also have the right to use that personnel freely in the manner best corresponding to religious and pastoral needs, and to transfer it from one country to another. (Cf. Vatican Council II, Declaration on Religious Freedom, section 4).

It should be added here that every person has the right to choose freely the state of life which he prefers and through which he realizes, to the highest degree of service and gift of self, the demands and the free choices of faith, including the anchorite and monastic form of life, that is, one lived alone or in community. (Cf. John XXIII, Encyclical letter "Pacem in Terris", section 15).

18. Article X should specify that every religious community or association, whether local, regional, national or international, has the right to receive and administer, through its own organs or internal services, the funds necessary for the carrying out of its religious activity.

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All persons should also have the right to practise their religion or belief and give expression to it by performing acts of charity, by making donations and bequests, by founding or maintaining charitable institutions (hospitals, leprosaria, orphanages, homes for the aged, etc.) as well as educational establishments, and by expressing the precepts of religion or belief in the social, economic and political fields, at both the national and international level.

19. Article XI should also specify that no one shall be compelled to perform acts which are incompatible with the prescriptions of his religion or belief. Every person who is subject to conscription for military service should have the right, for reasons of conscience or deep conviction based on religious, ethical or moral grounds, to refuse military service or any direct or indirect participation in wars and armed conflicts, provided he agrees to serve the human community in some other manner.

20. The restrictions, referred to in article XIII, paragraph 2, on the freedoms and rights set out elsewhere in the Declaration should be carefully defined in order to make clear the objective criteria for the restrictions as recognized by a consensus arrived at with the greatest possible precision so as to preclude arbitrary action by States or other powers in the specific application of this provision. Otherwise, there is a danger that this latter provision will negate the entire value of the Declaration.

21. The Holy See, in submitting the above comments, does not claim to have exhausted the subject and reserves the right to specify its view further. It hopes to have contributed in this manner to the necessary, but difficult task being carried out by the eminent members of the Commission on Human Rights.
