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Human Rights Without Frontiers Int'l

Newsletter "Intolerance and Discrimination Based on Religion or Belief"

An early warning mechanism monitoring freedom of religion or belief

**Freedom of religion or belief in the UN human rights system:
gaps and perspectives**

**UN human rights system & freedom of religion or belief:
gaps and perspectives**

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**Freedom of religion or belief in the UN human rights system:
gaps and perspectives**

***Expert group gathered in Geneva to identify gaps and potential improvements in the
UN human rights system concerning freedom of religion or belief***

HRWF (18.12.2012) - "More needs to be done to protect the freedom of religion or belief of people who are partly or wholly denied this right in today's world and who are victims of intolerance and discrimination, based on religion or belief," said a group of experts who gathered in Geneva on 14 December.

The seminar was organized by *Geneva for Human Rights*¹¹, with financial assistance from the

Netherlands government, to take a fresh look at the available UN standards and mechanisms addressing the issue of freedom of religion or belief (FORB).

FORB experts exchanged views on the current state of the subject, identified a number of gaps and tried to propose potential improvements for better protection of FORB.

Participants included experts on religious intolerance, freedom of religion and religious minorities appointed by the UN Human Rights Council, members of human rights treaty bodies, academics, governments and representatives from religious groups and non-governmental organizations. The participants were diverse in background, ethnicity and geography. Nearly every region of the world was represented.

A full report of the expert seminar's results and participants will be published at a later date. Among the observations made at the seminar^[2]:

- It is important to understand that religious freedom standards are designed to protect both believers and non-believers, not the religion or belief itself;
- These standards also protect places of worship and sacred objects of religious groups;
- Freedom of religion implies the right to change one's religion and the right to hold non-theistic and atheistic beliefs;
- The freedom of religion or belief should be considered as part of the whole corpus of human rights standards and analyzed and utilized as such;
- Many of the human rights mechanisms that are available for protecting the freedom of religion or belief can be accessed more often and more effectively, such as the international human rights treaty bodies, the Human Rights Council's Special Rapporteur on FORB, the UN Council's independent expert on minorities, the Council's Universal Periodic Review mechanism and the submission of complaints at international, regional and national levels through the courts, national human rights commissions and ombudspersons.
- Gaps in current standards should be addressed, such as how to impose more accountability and better transparency in state efforts to protect freedom of religion or belief, how to improve women's rights in circumstances when such rights conflict with religious beliefs or where women are threatened because of such beliefs, how to address lesbian, gay and transgender rights when such rights conflict with religious beliefs or where such persons are threatened because of such beliefs and how to establish better preventive mechanisms to provide early warning and avoid situations of mass violence and persecution against religious groups.
- However, the complexity of FORB is poorly served if one only considers human rights law standards. Law will never be able to engage in the full complexity of FORB practice. Attitudes and cultural practices also need to change.
- It is acknowledged that religious and belief groups are valuable assets for our societies. Religion or belief is one of the fundamental elements in a person's conception of life itself. The freedom of religion or belief should be fully respected and guaranteed.
- The position of people belonging to religious minorities is often vulnerable.
- Religious and belief groups would be more effective in protecting FORB if they would advocate not only for the protection of their own religion or beliefs but those of others as well.
- To the extent that faith groups seek protection for their own members, there is an ethical obligation to consider how they can best structure and administer their own organizations in ways that are consistent with human rights standards.
- Religious groups should not seek privileged status for their own group, triggering problems for other groups.
- The human rights treaty bodies could help by developing more guidance on how the freedom of religion or belief applies to their particular treaty framework.
- A compilation of available jurisprudence and guidance from the treaty bodies and other mechanisms relating to the freedom of religion or belief should be collected and made widely available to rights holders, advocates and religious groups.
- The UN Treaty Bodies and the monitoring mechanisms of the Human Rights Council, such

as the Special Rapporteur on the Freedom of Religion or Belief, should be able to rely on high-quality and consistent servicing to enable them to perform their tasks; this requires the allocation of sufficient funds.

- A forum or other meeting should be organized to bring together relevant stakeholders on these issues and discuss gaps, improvements, patterns and trends.

For more information about the seminar and the future publication of the full report, please contact *Geneva for Human Rights* at:

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[1] Geneva for Human Rights (GHR) is a non-profit international association organized under Swiss law with tax exemption status from the Geneva authorities since 2005. It obtained consultative status with the UN Economic and Social Council in July 2009. Its central activity is training human rights defenders and those involved in countries at the national level who are in human rights promotion and protection. Geneva for Human Rights holds expert seminars on important human rights topics from time to time. GHR offers a unique expertise in the training of intergovernmental organizations on international human rights standards and procedures, and on national and international implementation strategies. All GHR courses combine the theoretical knowledge of international relations and international law with exposure to the reality of international diplomacy and the experiences of defenders in the field.

[2]Source: Press release of Geneva for Human Rights (17 December 2012).

UN human rights system & Freedom of religion or belief: gaps and perspectives

***Expert Seminar on "UN and Freedom of Religion or Belief"
(Geneva, 14 December 2012)***

By Willy Fautré, *Human Rights Without Frontiers*

HRWF (18.12.2012) - The UN is a complex organization with 6 principal organs overseeing 15 agencies and other specialized departments. The UN system is based on treaty-based bodies and charter-based bodies monitoring the implementation of certain treaties. With the passing years, a number of gaps have come to light in respect to the Freedom of Religion and Belief (FORB):

Gap 1: Two "unfree" countries, Mauritania and Maldives, were elected to be vice-presidents of the United Nations Human Rights Council (HRC) for 2012, even though they have laws providing for the death sentence for anyone who renounces Islam. How is this possible? There should be objective and undisputable criteria which bar access to such positions, such as the failure to ban the death penalty or ratification of the First Protocol to the ICCPR which provides a complaint recourse mechanism (see below).

Gap 2: The First Protocol to the ICCPR (1976) empowers the Human Rights Committee to receive communications from individuals of those countries which have ratified this Protocol and who claim a violation of their ICCPR rights. Only 105 countries have ratified the First Protocol!

For instance, Japan has still not ratified this Protocol, although this was one of the recommendations addressed to Japan at its Universal Periodic Review in 2008. More than four years later, this has still not been done.

Gap 3: Resolution 1503 of the HRC Complaint Procedure called "Procedure for Dealing with Communications Relating to Violations of Human Rights and Fundamental Freedoms" is implemented in total secrecy. It is confidential in nature, decisions are not made public and applicants are not informed of them. The procedure only reviews situations involving gross and systematic violations and not individual contraventions of human rights. The Council only announces which countries are under examination.

Gap 4: Another concern is the narrowing of the freedom of religion (freedom to change one's religion) from the Universal Declaration to the ICCPR and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

The Universal Declaration language is about "*freedom to change his or her religion or belief;*" however, in the ICCPR only the "*freedom to have or to adopt a religion or belief of his choice*" is respected. Similarly, in the 1981 Declaration, "*Everyone shall have the right to freedom of thought, conscience and religion, [including] freedom to have a religion or whatever belief of his choice.*"

Gap 5: The status of the Special Rapporteur on FORB should be enhanced. He should be granted more resources and be allowed to make more country visits. He should also be paid and not have to work pro bono.

These are a few gaps, among others, that were raised by *Human Rights Without Frontiers* in a presentation at an expert seminar on "The UN and Freedom of Religion or Belief" on 14 December 2012 in Geneva. Some of these gaps will be challenging to fill, but addressing them now could result in a more comprehensive and coherent FORB policy in the future.