Speech by Professor Theo van Boven

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Historical Note

Having been closely associated with the early efforts in the sixties and seventies of the last century to shape a comprehensive United Nations instrument on freedom of religion or belief and on religious non-discrimination, I am very pleased to be given this opportunity to offer some reflections at this important event marking the 25th anniversary of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

It should be recalled that the UN General Assembly, in reaction to a worldwide wave of anti-Semitic incidents, requested in 1962 in two parallel resolutions the drawing up of a declaration and convention on the elimination of all forms of racial discrimination and a declaration and convention on the elimination of all forms of religious intolerance. It is quite striking for political processes prevailing at the time that the two instruments on racial discrimination were already adopted by the United Nations in 1963 and in 1965 respectively, but that it lasted up till 1981 that the declaration on religious intolerance was finally agreed upon. The convention on religious intolerance, though strongly propagated in earlier and later years by interested constituencies, never saw the light. I will refer to this in a moment.

The slow progress in the framing of instruments on freedom of religion or belief and on religious non-discrimination was not due to lack of solid ground work. The basic standards were already included in Articles 18 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and a good deal of high quality preparatory work was done by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the basis of an excellent study carried out by expert rapporteur Arcot Krishnaswami. The reason for lack of progress was essentially political inasmuch as the subject matter of religious freedom was overshadowed in the Commission on Human Rights by Cold War East-West controversies. This was a highly frustrating experience to those who wished to see progress in the promotion and
protection of religious freedom. It is thanks to unrelenting efforts by a number of Governments and the strong support of civil society organizations that the hope of a positive outcome was kept alive. A major tribute deserves the late and much regretted Judge Abdoulaye Dieye from Senegal who chaired with authority and skill the crucial session of the 1981 drafting committee of the Commission on Human Rights and who managed to break a series of deadlocks and pressed for effective decision making. Finally, in that year the decisive step was set towards adoption of the declaration by the General Assembly. I still sense a good deal of satisfaction that this milestone was reached twenty five years ago while I was the director of the UN human rights programme.

**Toward a Convention?**

As I already indicated, the request of the UN General Assembly in 1962 for a convention on religious intolerance has not been complied with in spite of expressions of support for such an endeavor. In a paper I wrote in 1989 for the Sub-Commission on Prevention of Discrimination and Protection of Minorities I advised to proceed in this matter with caution, to give due emphasis to interreligious dialogue and to the search for a common ethical ground across religious, cultural and socio-political dividing lines. I also suggested that, if at all a new binding instrument would be elaborated, this may preferably be done in the form of an additional protocol to the International Covenant on Civil and Political Rights rather than in a new separate convention.

It is no secret that the call for a convention as envisaged by the UN General Assembly in 1962 is less vocal these days than in earlier times. One reason may be that we have been further moving from the stage of standard-setting to the stage of implementation, although it cannot be said that generally speaking the process of standard-setting has reached its completion. A more concrete consideration is the work carried out with increasing effectiveness and impact by treaty bodies such as the Human Rights Committee and notably by the UN Special Rapporteur on freedom of religion or belief as custodians of religious freedom and religious non-discrimination. I refer in particular to General Comment No. 22 adopted by the Human Rights Committee in 1993 setting out in detail the interpretation and significance of Article 18 of the International Covenant on Civil and Political Rights. Further, the mandate and the activities, since 1985, of the UN Special Rapporteur on freedom of religion or belief have been gaining considerable strength and significance. She sees to it that the Declaration on the Elimination of Intolerance and Discrimination Based on Religion or Belief functions as a living and dynamic instrument and be used as a global yardstick in identifying and dealing with situations of serious concern and with allegations on violations of religious freedom and related human rights.