

Race versus Religion in the Making of the International Convention Against Racial Discrimination, 1965

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The International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (CERD), was negotiated at the United Nations (UN) during the years 1962–1965. At that period, the UN was an organization so highly politicized and split that it was almost paralyzed, operatively speaking.² Human rights codification was a major field whose advancement came to a standstill as a result of the lack of cooperation between UN member-states. Nevertheless, the UN managed to unite around the denunciation of racial discrimination, and unanimously adopted CERD on December 21, 1965.³ Furthermore, the period of time that

1. I dedicate this article to my mother, Batya Barzillay-Friesel, my most loyal reader.

2. Mark Mazoer, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton: Princeton University Press, 2009), 185–89; Malcolm N. Shaw, *International Law*, 6th ed., (Cambridge: Cambridge University Press, 2008), 1206–10; and Peter Malanczuk, Akehurst's *Modern Introduction to International Law*, 7th ed. (London: Routledge, 2002), 391.

3. For a comprehensive legal analysis of the making of CERD, see: Egon Schwelb, "The International Convention on the Elimination of All Forms of Racial Discrimination," *International and Comparative Law Quarterly* 15 (1966): 996; Natan Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination, a Commentary*

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elapsed between the presentation of the initiative and the vote on the final version of the treaty was only 3 years; a rather short period of time, UN experience considered.

The hindrance to the UN's operative capability can be attributed to an interlocking constellation of two major international developments: the Cold War and the decolonization process. The newly established nations, created as a result of the decolonization process, were gradually becoming a majority in the General Assembly, and were using their newfound power to advance their own agendas. The formation of yet another interest group in the General Assembly reinforced the ongoing practice according to which given political interests or objectives hampered its responsibilities, as set out in the UN Charter. At the same time, the United States and the Union of Soviet Socialist Republics (USSR) were growing dependent on the new states' support to safeguard their agendas in the UN and, to a certain extent, outside of it. Ironically, this state of affairs actually contributed to CERD's adoption, because racial discrimination, as will be shown here, was high on the developing countries' agenda, and they had the influence needed to further the issue in the UN.⁴

The present article focuses mainly on one aspect of the negotiations toward the making of CERD: the unusual decision to exclude—from a convention against racial discrimination—a prohibition against religion-based discrimination. This decision stands out as unusual for two main reasons: first, the wide understanding that the two phenomena—race- and religion-based discrimination—are often hard to distinguish; second, because major human rights documents that the UN had accepted by then linked the prohibition against racial discrimination with a prohibition against religious discrimination. Among these documents were the Charter

(Leyden: A.W. Sijthoff, 1970); and Natan Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980). The present article is based on documents gathered mainly in the following archives: The National Archives of the United States (hereafter NARA); the Library of Congress; The National Archives of the United Kingdom (hereafter TNA; formally known as PRO); the Israel State Archives (hereafter ISA); collections held in various American universities (chiefly Emory and Princeton) of papers of individuals who took part in the negotiations of behalf of the American government; and documents published in Foreign Relations of the United States (hereafter FRUS) and other material found on various Internet sites. No relevant material was found in the archive of the UN, the reason being that in the years in question there was not yet a fully organized archive. Many documents were taken by the interested participants in the deliberations and are found today in private collections of papers. The author also corresponded with some participants in the negotiations.

4. Mazoer, *No Enchanted Palace*, 185–89.

of the United Nations, 1945;⁵ the Convention on the Prevention and Punishment of the Crime of Genocide, 1948;⁶ and the Universal Declaration of Human Rights, 1948.⁷ Moreover, diverse bodies of the UN had been engaged since 1953 in the “transformation” of the 1948 Declaration of Human Rights into a binding treaty (approved in 1966 at two separate conventions). The human rights treaties of 1966, a cornerstone in international human rights codification, also tied together protection from racial discrimination and protection from religious intolerance.⁸

It is argued here that this uncharacteristic move of separating racial and religious discrimination was a result of Cold War interests, largely irrelevant to the cause of promoting the protection of human rights. The claim made in this article is that the decision to delete the issue of religious intolerance from CERD was the result of the ongoing race between the United States and the USSR to earn influence within newly created states, especially the African ones. The United States, which was severely criticized for continuing racial discrimination against African-Americans, strove to insure that religious intolerance would be kept within CERD, thus shifting the focus from itself to the USSR, where religious intolerance was widespread. The USSR, eager to keep international focus on racial discrimination in the United States and away from religious intolerance in the USSR, fought hard to eliminate from CERD reference to religious issues.

5. “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;” Charter of the UN, 1945, article 1(3) <http://www.un.org/aboutun/charter/index.html>

6. “In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such...”. Convention on the Prevention and Punishment of the Crime of Genocide, 1948, article 2. <http://www2.ohchr.org/english/law/genocide.htm>

7. “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Universal Declaration of Human Rights, 1948, article 2 <http://www.un.org/en/documents/udhr/>

8. “The states parties to the present covenant undertake to guarantee that the rights enunciated in the present covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” International Covenant on Economic, Social and Cultural Rights, 1966, article 2(2). <http://www2.ohchr.org/english/law/cescr.htm> “Each state party to the present covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the covenant, without distinction of any kind, such as race, colour, sex language, religion, political or other opinion, national or social origin, property, birth or other status.” International Covenant on Civil and Political Rights, 1966, article 2(1). <http://www2.ohchr.org/english/law/ccpr.htm>

The United States, which ultimately lost that battle, actually gave up the fight to retain reference to religious intolerance in CERD, once it understood that further efforts in this direction would result in alienating developing countries.

As will be shown, in these endeavors there was a meeting of interests between the United States, Britain, Israel, and Jewish organizations. Whereas the British shared the United States's wish to remove racial discrimination, with its connotations of colonialism, from center stage at the UN, Israel and Jewish organizations were eager to expose religious persecution of the Jewish minority in the USSR. The USSR also enjoyed the support of other countries that were not necessarily opposed to denouncing religious intolerance, but which for different reasons, decided to prefer, as a first step, a treaty focusing on racial discrimination. First and foremost among them one can mention some African and Asian countries that preferred to remove the problematic topic of religious intolerance from CERD, so as not to hold back the codification against racial discrimination.

The remainder of this article provides an analysis of the complex political battle that took place during the negotiations of CERD, between those who were intent on upholding the idea of a joint denunciation of racial and religious intolerance, and those who hoped, and succeeded, in breaking away from it. It will be shown how both sides' motivation was "tainted" by Cold War considerations, and how, at the end of the day, the scope of protection that CERD ultimately offered was hindered for political reasons.

The Race Factor in American Foreign Policy in the Shadow of the Cold War

The United States came to the negotiating table of the convention against racial discrimination in the UN with a severe record of inequality at home. In the early 1960s, America was still partly held captive by the concept of "white supremacy." Racial discrimination was commonly practiced against African-Americans, and in some cases was incorporated into law.⁹

9. Thomas Borstelmann, *The Cold War and the Color Line: American Race Relations in the Global Arena* (Cambridge, MA: Harvard University Press, 2001), 77–78; Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton: Princeton University Press, 2000), 47–78; Cary Fraser, "Crossing the Color Line in Little Rock: The Eisenhower Administration and the Dilemma of Race for U.S. foreign Policy," *Diplomatic History* 24 (2000): 233, 237; Gerald Horne, "Race From Power: U.S. Foreign Policy and the General Crisis of 'White Supremacy,'" *Diplomatic*

The struggle for racial equality in the United States was intensifying, and equality's adversaries frequently opposed it with violence. The principle of separation between state and federal authority, established in the United States Constitution and prominent in American political culture, often rendered the federal government powerless to act; both against racial strife within the states' jurisdiction and against the incorporation of equality into American law and everyday life.¹⁰

At the same time, the issue of racial equality came to hold a central place in the international agenda, in both the political and the ideological sense. Theories of white supremacy, popular in the Western world throughout the colonialist era, were gradually being rejected. As the new states, created through the decolonization process, increasingly gained political power, international indignation grew against the race situation in the United States. Against its wishes and better interests, the United States came to be seen as one of the last prominent countries where racial discrimination was still preached and practiced.¹¹

With America's growing need for strategic cooperation with developing countries, especially in Africa and Asia, racial discrimination in the United States was increasingly becoming a foreign relations problem. The United States found itself facing a reality in which one of the main obstacles to the strengthening of its status as a superpower lay in the discrepancy between racial relations within its own borders and newly accepted concepts regarding racial equality in the international arena.¹²

History 23 (1999): 457–58; Michal R. Belknap, *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South* (Athens, GA: University of Georgia Press, 1987), IX–XI; and Congressional Quarterly, *Revolution in Civil Rights 1945–1968*, 4th ed., (Washington, DC: Buel F. Weare, 1968), 10–12. For earlier origins of the concept of “white supremacy” in the United States, see: Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line* (Cambridge: Cambridge University Press, 2008), 49–94.

10. Jerrold M. Packard, *American Nightmare: The History of Jim Crow* (New York: St. Martin's Press, 2002), 56, 64–65; and Thomas F. Gossett, *Race: The History of an Idea in America* (New York: Schocken Books, 1965), 278–79.

11. Paul G. Lauren, *Power and Prejudice: The Politics and Diplomacy of Racial Discrimination* (Boulder: Westview Press, 1988) 84–87; and Hugh Tinker, *Race, Conflict and the International Order, from Empire to United Nations* (London: Macmillan Press, 1977), 39.

12. Borstelmann, *The Cold War and the Color Line*, 45; Dudziak, *Cold War Civil Rights*, 23–26; Carol Anderson, “From Hope to Disillusion: African Americans, the United Nations and the Struggle for Human Rights, 1944–1947,” *Diplomatic History* 20 (1996) 548–51; Lauren, *Power and Prejudice*, 205; and Dean Rusk, *As I Saw it* (Daniel S. Papp, ed.) (New York, Penguin Books, 1991), 584.

The United States' foreign policy in the two decades following World War II was to a large extent shaped in the shadow of the Cold War, specifically the clear threat of a new clash between itself and the USSR. Securing influence in newly created states as a result of the decolonization process was cardinal in order to maintain the "balance of terror" with the USSR.¹³ It is argued that this influenced the Kennedy administration's decision to take part in the codification of the prohibition of racial discrimination in the UN, a decision that was far from trivial. Grave American interests must have been at stake for the United States to be willing to expose itself to the international public debate on racial discrimination that would naturally accompany the codification process. The assumption that once a convention would be adopted, the United States would also come under international pressure to join it, makes one wonder why the United States would lend its hand to such an initiative.

The United States' changed policy on issues related to racial discrimination that were high on the UN agenda—such as decolonization, apartheid, and, specifically, the codification of CERD—was to a large extent an outcome of the Cold War's shadow. An additional interest the United States had in developing countries in Africa and Asia is thought to have stemmed from the idea that transferring the conflict into locations remote from the United States might be another way of containing it.¹⁴ Thus the United States' participation in the codification of CERD and its decision to support the inclusion of religious intolerance, but later to "cave in" was, as implied, to a large extent the outcome of a need to secure the "good opinion" of developing states, mainly African ones, whereas those sought-after countries were impatient with the two superpowers' tendency to engage in "power politics," and had their own agendas.¹⁵

The codification of CERD presented the United States with an opportunity to show developing countries that had rallied around the denunciation of racial discrimination in the UN, that it was committed to race equality, and worthy of their cooperation. This, at a time when the United States' perception of the UN was as both an organization able to assist in containing the conflict between the superpowers as it had done during the Cuban

13. Hans J. Morgenthau, "To Intervene or not to Intervene," *Foreign Affairs* 45 (1967), 428.

14. *Ibid.*, 428.

15. Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2010), 15–17; Borstelmann, *The Cold War and the Color Line*, 45; Dudziak, *Cold War Civil Rights*, 153; Norman D. Palmer, "The Afro-Asians in the United Nations," in *The United States and the United Nations*, ed. Franz B. Gross (Norman: University of Oklahoma Press, 1964), 125; and Lauren, *Power and Prejudice*, 219–32.

missile crisis, and as a forum where the United States could strive to stop developing countries, mainly African ones, from coming under Soviet influence.¹⁶

As early as the Truman administration, American policy makers understood the necessity of minimizing racial discrimination against African-Americans as a condition for improving America's international standing. The Truman administration, and the three that followed until the signing of CERD (the Eisenhower, Kennedy, and Johnson administrations), underwent shifts in the extent of their commitment toward combating racial discrimination in the United States, but all were aware of the international price the United States was paying, in terms of its ability to achieve its foreign policy strategic goals, as long as racial discrimination at home continued.¹⁷

Constrained by insufficient congressional support, the mentioned administrations tried to diminish racial discrimination in the United States by means that bypassed Congress. An important initiative, first taken by the Truman administration and later adopted by the following administrations, was federal involvement in legal cases dealing with racial discrimination, argued before the United States Supreme Court, by means of *amicus curiae* briefs,¹⁸ and various means available to the federal government without congressional support, to somewhat diminish discrimination in different fields, such as education, transportation, and housing, among others.¹⁹

16. In the words of Dean Rusk, secretary of state at the time: "in that crisis alone the United Nations earned its pay for a long time to come," Rusk, *As I Saw it*, 412; see also: Arnold Beichman, *The 'Other' State Department: The United States Mission to the United Nations, Its role in the making of Foreign Policy* (New York: Basic Books, Inc., 1968), 25–28; Franz B. Gross, "The United States National Interest and the United Nations," in *The United States and the United Nations*, ed. Franz B. Gross (Norman: University of Oklahoma Press, 1964), 28–29.

17. Mary L. Dudziak, "Desegregation as a Cold War Imperative," *Stanford Law Review* 41 (1988): 98–102; Carol Anderson, *Eyes off the Prize: the United Nations and the African American Struggle for Human Rights, 1944–1955* (Cambridge: Cambridge University Press, 2003), 109–10.

18. Dudziak, "Desegregation as a Cold War Imperative" 103–18; and Azza S. Layton, *International Politics and Civil Rights in the United States 1941–1960* (Cambridge: Cambridge University Press, 2000), 111–12.

19. Anderson, *Eyes off the Prize* 109–10; see also: Guidance paper, December 28, 1962, Sub-Commission on the Prevention of Discrimination and Protection of Minorities, 15th Session, January 14–February 2, 1963, Position Papers for U.S. Delegations to the UN 1953–1965 (NARA, Record Group 59, box 6, folder SD/E/CN.4/222-289); Richard N. Gardner, International Organization Affairs, Department of State, to Morris B. Abram, January 11, 1963 (NARA, RG 59, 1960–1963, central decimal file, box 550, file 341.72); and United States Mission to the United Nations, Press Release No. 4249, October 1, 1963, Statement by Ambassador Adlai E. Stevenson, in Committee III, on the Draft

However, the results of these efforts were far from satisfactory. The fact that prohibition of racial discrimination was already incorporated in the UN Charter,²⁰ and practices in the United States were in breach of that principle, the growing prominence of the race issue in international politics, its importance on the agendas of developing countries, and growing media coverage of the extremely tense racial relations within the United States, all contrived to highlight race discrimination in the United States, during the years between the establishment of the UN and the mid-1960s.

In a reality of extremely complex competition between the two superpowers to gain influence in developing parts of the world, the United States found itself at an unfavorable starting point that was directly correlated to issues of racial discrimination, because the United States was competing against the USSR for influence in the very regions from which its highly discriminated against African-American population had originated. Moreover, it was happening at a time of increased internal racial tensions in America that engendered severe international criticism.²¹

There were other obstacles that the United States faced in its attempts to create an ongoing relationship with newly created African countries, which were also strongly linked to issues of racial discrimination. One such obstacle was the ambivalent American stand on questions of decolonization. Many viewed the United States as a supporter of colonialism, and as such it was again the target of much criticism. The United States's conflict of interests was that on the one hand it wanted to appear pro-decolonization in the eyes of developing countries, but on the other hand preferred not to take a stand against those of her allies, some of which were North Atlantic Treaty Organization (NATO) members, which still held colonies.²²

One of many examples of the problematic situation of the United States in this regard is clearly seen in a memorandum from the president's special assistant Arthur M. Schlesinger, to Attorney General Kennedy, dated July 1, 1963. Schlesinger wrote:

Declaration on the Elimination of all Forms of Racial Discrimination, Abram Papers, Emory University, box 94, folder 1. See also: UN document A/C.3/SR.1217, 29–30.

20. Charter of the United Nations. <http://www.un.org/en/documents/charter/> See in particular the preamble, articles 1, 55, and 56.

21. Dudziak, *Cold War Civil Rights* 153; Borstelmann, *The Cold War and the Color Line*, 45; and Congressional Quarterly, *Revolution in Civil Rights* 2–3.

22. Lauren, *Power and Prejudice*, 205; Dudziak, *Cold War Civil Rights* 23–26; Anderson, "From Hope to Disillusion," 548–51; and Borstelmann, *The Cold War and the Color Line*, 47.

The basic problem is what position we should take in the meeting of the Security Council late in July when the African states, following the Addis Ababa meeting, plan to force the issue on the Portuguese colonies and on South Africa. Their basic policy is to try to make us choose between Portugal and South Africa, on the one hand, and the rest of Africa, on the other. We wish to evade that choice. We are opposed to sanctions against Portugal and South Africa, to their expulsion from the UN, etc. On the other hand, we recognize that the African states have history on their side and probably justice too; and that, unless we want to abandon Africa altogether, we will have to do something to show our support of the principle of self-determination. The question is how far we can go without risking the Azores base and various tracking stations, etc., made available to us in South Africa—or, even more essentially whether these military facilities are so indispensable to us that they must determine our African policy. The choice may well be between the military risk of losing the Azores and the South African tracking stations and the political risk of losing Africa.²³

The memorandum suggests another grave problem confronting the United States: its ongoing ties with South Africa's apartheid regime did little to improve its international image, and further damaged its efforts to establish cooperation with developing countries, especially the African ones. Apartheid in South Africa aroused severe international criticism, held a prominent place in the international debate on racial discrimination, and was very high on the agenda of developing nations. Opposition to apartheid rule was very widespread and united a great number of UN member-states, as well as important segments of American society.²⁴ While faced with international criticism for its continuing ties with South Africa, the United States was also criticized by the South Africans. As described in a memorandum sent from G. Mennen Williams, to Roswell L. Gilpatric, in September 1961:

Foreign Minister Louw's reaction to the U.S. aide-memoire explaining its policy towards South Africa (Tab A) was adverse in the extreme (Tab B). In essence, he interpreted our policy as one in which we would cooperate with the Federation only in matters of benefit to the U.S., such as the missile and satellite tracking facilities. On other matters we would not only not cooperate with South Africa, but would oppose it, until it changes its

23. Memorandum, Arthur M. Schlesinger, Jr., special assistant to the president, to Robert F. Kennedy, attorney general, July 1, 1963 – *FRUS*, vol. XXI (1961–1963), no. 315. For elaboration see Ofra Friesel, *Racial Discrimination, the Balance of Terror and Anti-Semitism: The Birth of a Human Rights Treaty* (in Hebrew) (Jerusalem: Sacher Institute, the Hebrew University and Nevo, 2011) 63–77; 2nd ed. In English (London: Vallentine Mitchell forthcoming).

24. Borstelmann, *The Cold War and the Color Line*, 153.

apartheid policy. In Louw's view, the U.S. appears to want "to have its cake and eat it too."²⁵

What the South African viewed as a simple "interest-based" American foreign policy, the Americans experienced as a grave difficulty. The depth of the American dilemma on this issue can be found in a letter that Adlai E. Stevenson, United States representative at the United Nations, sent to Dean Rusk, secretary of state, on June 2, 1961. Stevenson wrote:

I have recently heard about the proposed agreement with the Union of South Africa for (a) a missile tracking station, and (b) a sale of arms including fighter aircraft. While I am not fully informed about the necessity for this transaction, I am sufficiently concerned to presume to send you this note of caution. At a time when the feeling about apartheid and the policy of the Union of South Africa is rising everywhere, including pressure for sanctions in the U.N., I would think that the necessity must be very compelling to risk the repercussions from a transaction of this kind if and when it becomes known, as it must inevitably. I hardly need add that relations with the rest of Africa, and especially the new states, are important to our security too.²⁶

The United States was interested in strengthening its international image and, by doing so, its international standing as well. International public opinion on the matter of apartheid, combined with the severe state of race relations in the United States, made the United States's refusal to join wholeheartedly in the condemnation of apartheid into an extremely costly decision in terms of international diplomacy. On the other hand, taking a clear stand against South Africa meant endangering complex military interests and lucrative economic ties. As a result, all through the Kennedy, and later the Johnson, administrations, there was an ongoing debate among American policy makers as to the right path to take in United States–South African relations. To a large extent, the decision that was reached was not to decide, and America embraced a two-faced policy regarding South Africa. Whereas the official American line increasingly denounced apartheid, primary sources show that the United States government maintained its ties with South Africa's government, at times secretly, in accordance with United States military and economic interests.²⁷

25. Memorandum, G. Mennen Williams, deputy assistant secretary of defense for international security affairs, to Roswell L. Gilpatric, deputy secretary of defense, September 16, 1961 – *FRUS*, vol. XXI (1961–1963), no. 385.

26. Letter, Adlai E. Stevenson, United States representative at the UN, to Dean Rusk, secretary of state, June 2, 1961 – *FRUS*, vol. XXI (1961–1963), no. 380.

27. Friesel, *Racial Discrimination*, 77–95.

The emergence of racial equality as a major issue in international diplomacy, combined with strategic considerations deriving from the Cold War reality, forced the United States to adopt a terminology that supported self-determination, decolonization, and equality among races. The discrepancy between this terminology and actual race relations within the United States, compounded by the United States' conduct in different spheres (such as the South African case) caused deep suspicion of the United States among developing countries. This incongruity also led to a tendency among African states to prefer ties with the USSR over cooperation with the United States. In such an international climate, an American refusal to take part in the codification of an international treaty aimed at combating racial discrimination could have had further consequences for the United States's international image, and in turn its international standing, a price the Americans were reluctant to pay.

Racial Discrimination, Religious Intolerance and Political Interests behind the Scenes

At least initially, the start of the chain of events that ultimately led to the UN codification against racial discrimination had little to do with the new African and Asian countries. The deliberation on CERD owes its "birth" to an outburst of anti-Semitic incidents that occurred in Europe during the winter of 1959–1960, and triggered a debate at the UN regarding racial discrimination, and national and religious intolerance. The debate, conducted in various UN organs, culminated in the General Assembly resolution of December 12, 1960, condemning "all manifestations and practices of racial, religious and national hatred... as violations of the Charter of the United Nations and the Universal Declaration of Human rights...".²⁸

Nevertheless, an official request for international codification denouncing racial discrimination, suggested during the 17th session of the General Assembly (1962), was made by a number of African states, which were later joined by other states.²⁹ During the debate, a proposal was added that the document would also address the matter of religious

28. UN document A/C.3/SR.1311, p. 115 <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/84/IMG/NR015284.pdf?OpenElement> Schwelb, "International Convention," 998; and Lerner, *The U.N. Convention*, 24. For earlier Jewish organizations' contribution to codification of human rights, see: Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878–1938* (Cambridge: Cambridge University Press, 2004), 148–53, 257–67; and Jerold S. Auerbach, "Human Rights at San Francisco," *American Jewish Archives* 16 (1964): 55–56.

29. Schwelb, "International Convention," 998.

discrimination. The proposal to include religious intolerance in the operative part of the convention was put forward by the representative of Liberia, acting in response to a request by Israel.³⁰

During the 1960s, the struggle against racial discrimination came to represent a major issue internationally, and even more so within the UN. One reason for this was that the new African and Asian states, now part of a majority of developing states in the General Assembly, chose the topic of racial discrimination as a common unifying theme.³¹ Such a development was not self-evident, for a number of reasons. One was that in many of the new states themselves, racial discrimination was prevalent. There were severe racial tensions in different African and Asian countries, anchored in deeply rooted traditions. Another reason that made unification around the issue of racial discrimination problematic for African and Asian states was the need for economic assistance. Many of the countries in question struggled with insufficient food production, undeveloped economies, political instability, and regional conflicts. A significant part of the much-needed assistance, economic and other, that was offered to them, came from the United States. In this sense, the choice to concentrate on a struggle against racial discrimination at the UN did not square up with their interests, as it embarrassed the United States, which, as mentioned, in the 1960s, had serious internal problems of its own with the issue of racial discrimination.³²

A plausible explanation for these new countries' decision to nevertheless turn the question of racial discrimination into a major political issue at the UN was the "matter of fact" recognition that it was a theme around which they could come together. Successfully forming a voting bloc at the UN meant the creation of a powerful and influential political force. These new states were extremely varied in character and frequently also mutually hostile, and getting them to unite around a common theme was not self-evident. The two factors most shared by them were a history of colonial domination and the nonwhite complexion of the majority of their population. These two characteristics came together under the broad title of "racial discrimination." In addition, years of colonial rule and a history of enslavement and exploitation made the subject of racial discrimination an emotionally loaded one, likely to bind the new states together into a relatively solid pressure group at the UN.³³

30. Theodor Meron, Report of the Delegation of Israel to the UN, 17th General Assembly, November 8, 1962, summary of meeting of the Israeli delegation to UN, November 1, 1962 (ISA/Ministry of Foreign Affairs, box 19, folder 6534).

31. Tinker, *Race, Conflict and the International Order*, 33; Rusk, *As I Saw it*, 585–86.

32. Lauren, *Power and Prejudice*, 228.

33. *Ibid.*

After the proposal to include religious intolerance in CERD was approved, diverging interests brought about the formation of two groups, each with its own concepts about the document. As noted, on the one side a group took shape that was led by the United States, and chiefly supported by Britain, Israel, and the Jewish organizations, which wished to make use of CERD as a means to condemn religious persecution and ethnic discrimination experienced by different minorities. On the other side, a coalition emerged between the USSR, which aimed to remove the topic of religious intolerance from the agenda of the UN, and African and Asian states with, to a lesser extent, Arab countries that wished to give the highest priority to racial discrimination, although not opposed to denunciation of religious intolerance as such.

In the 1960s, the issue of racial bigotry still represented a major problem in the United States because of the discriminated-against status of its African-American population. As a result, the United States earned the international reputation of the “racial superpower,” a reputation that greatly harmed its international interests, as it weakened its standing vis-à-vis the USSR in the competition for influence in developing countries.³⁴ Pro-egalitarian rulings by the United States Supreme Court and antidiscriminatory legislation adopted by Congress, mainly the in 1957 and 1960 Civil Rights Acts, did not do enough to restrain the rising tide of resentment and rancor among African-Americans and the harsh criticism from external observers, led by the USSR. To “even the picture,” an implicit American objective was to call attention to discrimination against religious minorities in the USSR.

Once it was decided to include denunciation of religious intolerance in the draft against racial discrimination, the codification became a golden opportunity for the United States to deflect the heat of international reproach away from itself toward the USSR, because of the limitations on religious freedom found there.³⁵ For the Americans, a shift in the emphasis of deliberations in the UN from racial discrimination to religious persecution represented a vital interest. It was a way of avoiding further damage to its

34. Dudziak, *Cold War Civil Rights* 153; and Borstelmann, *The Cold War and the Color Line*, 45.

35. Baruch Eyal, *The Attitude of the French Communist Party to Jews, Judaism and Israel after the Second World War (1945–1959)* (in Hebrew) (PhD diss., Hebrew University of Jerusalem, 1974), 110, 163, 236 fn 2, 265; Guidance paper, December 28, 1962, Sub-Commission on the Prevention of Discrimination and Protection of Minorities, 15th Session, January 14–February 2, 1963, in: Position Papers for U.S. Delegations to the UN 1953–1965 – NARA, RG 59, box 6, folder SD/E/CN.4/222–289; and Fred A. Lazin, *The Struggle for Soviet Jewry in American Politics, Israel versus the American Jewish Establishment* (Lanham, MD: Lexington Books, 2005), 25.

international standing while at the same time weakening the USSR's position.

Although the Soviet authorities tried to repress them, reports about religious persecution in the USSR trickled out of the country. A British memorandum prepared for the same session at which the initiative to codify prohibition of racial discrimination was presented (17th session of the General Assembly 1962), indicated the gap existing between the Soviet Constitution, which stressed, as the Soviets repeatedly emphasized, religious freedom, and the reality, which was quite different. For example, article 124 of the Soviet Constitution ensured freedom of conscience and separation between church and state, while at the same time recognized the freedom of antireligious propaganda as a right of all citizens. The British memorandum underscored that the right to conduct proreligious propaganda was not included in the Constitution, which in practice meant an emphasis on antireligious activities. It also commented that in the Soviet regime there was a general intolerance toward religion of any kind, except in cases in which political expediency dictated otherwise. Two examples mentioned were Poland, where religion was so deeply rooted in society that caution was advisable; and instances in which the religious establishment could be used for political purposes, as was the case with the Orthodox churches in Bulgaria and Rumania.³⁶

The Soviets were well aware of the political harm that the success of the American strategy might cause. Accordingly, Soviet representatives in the UN were determined to keep the topic of racial discrimination as the focus of international deliberations, while pushing aside the issue of religious persecution. An early example of Soviet efforts to ward off accusations against the existence of religious and ethnic prejudice in the USSR can be found in reports presented to the UN in 1963. The framework for these reports, which were presented to the office of the general secretary of the UN by the Ukrainian Soviet Socialist Republic and by the USSR, was a research study on "Manifestations of Racial Prejudice and National and Religious Intolerance" conducted by the UN. The report, which was submitted by the Ukrainian Soviet Socialist Republic and published by the UN General Secretariat in August 1963, declared that there were no cases of racial prejudice or national and religious intolerance in the Ukraine, neither in legislation nor in real life. Ukrainian law, it was stated, dictated severe penalties for propaganda or incitation aimed at provoking racial or national hatred.³⁷ In its

36. J.D. Campbell, British Foreign Office, to H.P.L. Attlee, U.K. Mission to the UN, September 21, 1962 (TNA, FO 371, 166950).

37. Report: USUN and US Policy, Human Rights (unsigned, undated) – Goldberg Papers, Library of Congress, I:48.

September 1963 report, the USSR stressed that “the USSR Constitution proclaims the equality of the rights of all the citizens regardless of their nationality or race by the means of an indefeasible statute.”³⁸

These utterances were greeted at the UN with sharp criticism and expressions of incredulity, particularly following the publication in Kiev, in late 1963, of a book by Tophim Kichko, *Judaism without Embellishment*. An official publication of the Ukrainian Academy of Sciences, it was a book with blatant anti-Semitic content. At first, the Soviet reaction was to try to ignore the book and the criticism it aroused.³⁹ When the Soviet delegation finally responded to allegations regarding their responsibility for its publication, their reaction was feeble, but the book soon disappeared from circulation.⁴⁰ However, the Soviet response came too late; in the meantime the book had been translated into English under the auspices of Moshe Decter, an associate of the organization *Bar*.⁴¹ The book’s venomous contents made the English version a “propaganda hit” against Ukrainian and Soviet anti-Semitism.⁴²

Planton D. Morozov, the Soviet representative in the UN Commission on Human Rights, nevertheless continued heatedly denying the existence of anti-Semitic prejudice in the USSR. To back his claims, he went so far as to quote a long list of statistics to prove that there was no discrimination against the Jews in the USSR.⁴³ The Soviet case was undercut by the fact that the Soviet delegates were not themselves free from voicing anti-Semitic remarks about Jews serving at the UN. Later on, in 1967, the American representative to the Commission on Human Rights, Morris B. Abram, decided to personalize the issue and retorted to the Soviet representative, Y.A. Ostovsky saying:

I am a man; but he would not refer to me as that. I am an American; he did not so identify me. I am honored to be the American representative to this Commission; he said nothing of this. I am a Jew and president of the American Jewish Committee. This, he chose to mention in an obviously

38. Ibid.

39. Statement by Morris B. Abram, UN Sub-Commission for the Prevention of discrimination and Protection of Minorities, January 12, 1965, Emory University, box 94, folder 12. In answer to repeated demands of Abram for a Soviet reaction to the openly anti-Semitic content of the book, Abram eventually was given the answer that as the book was written in Ukrainian, the Soviet representative was unable to read it. Ibid.

40. Moshe Avidan to Carl Wormann, May 6, 1964 (ISA/MFR, box 5, file 3575).

41. About “BAR”, see section below.

42. Nechemia Levanon, *The Code – “Nativ”* (in Hebrew) (Tel-Aviv: Am-Oved, 1995), 193. The English edition was published in 1964, apparently under the auspices of the AJC.

43. Meir Rosenne (New York) to Yoram Dinstein (Jerusalem), March 17, 1964 (ISA/MFR, box 4, file 3576).

angry and polemical way. The choice of this one association to which the Soviet delegate has now twice referred shows what all mankind now knows – that deep prejudice which has been deplored by Communist parties in other states. I want it clearly understood that Communist parties in Poland, Rumania and elsewhere fight anti-Semitism, and there is no necessary connection between Communism and anti-Semitism. The manifestation of anti-Semitism is in the Soviet Union. The other Communist parties around the world were morally forced to condemn the Kichko book when it was published in the Soviet Union.

Abram went on to cite a long list of anti-Semitic comments made by the Soviet representatives to the UN in 1964, 1965, and 1966, among them that the Jews dominate the United States, and that the Jews consider themselves a superior people.⁴⁴

In their struggle to “keep a good propaganda face”⁴⁵ the Soviets used another tactic against the United States. When an American representative mentioned religious intolerance in the USSR during a debate at the UN, the Soviets were ready with a counterattack about discrimination against African-Americans. For example, when in a 1962 debate, Marietta Tree, the American representative to the Commission on Human Rights, asked the Soviet representative why Jews were identified in Soviet passports by their religion, the Soviet representative retorted by asking why it was necessary to summon armed forces in the United States to allow a black person to enroll in the University of Mississippi, adding that the United States itself was sitting in a “glass house.” Tree answered that the important fact in the Mississippi incidents was that the United States used all its force to protect the rights and liberties of one individual.⁴⁶

44. NEWS, The American Jewish Committee Publication, undated (Abram Papers, Emory University, box 2, folder 10).

45. An expression used by Tree when describing the Soviets’ “betrayal” of the “Moslem group” during the 17th session of the United Nations Commission on Human Rights that met in New York February 20–March 17, 1961. Tree wrote: “On the item of anti-Semitism, we supported the French to keep the word ‘Anti-Semitism’ in the title of a resolution. The Moslem group (Iraq, Afghanistan and Pakistan) in order to eliminate this word had been voting previously with the Russians in order to get a quid pro quo on this point. The Russians must have encouraged them in this bargain. However, when the moment came to vote the Communist bloc voted (with us) to retain the word, thus letting down their Moslem colleagues to their obvious chagrin. It was interesting to me that the Soviet bloc would break with the Moslems and apparent obligations to keep a good propaganda face.” Letter, Marietta Tree, representative to the UN Commission on Human Rights, to Secretary of State, Dean Rusk, April 17, 1961 – *FRUS*, vol. XXV (1961–1963), no. 292.

46. Arnold H. Lubasch, “Russia accused at the General Assembly of anti-Semitism,” *New York Times*, Press Cutting, November 2, 1962, received November 7, 1962 – TNA, FO 371, 166950.

This kind of dynamic continued throughout the deliberations on CERD, and the Americans apparently calculated that Soviet retaliation was a price worth paying. For example, in an American position paper dated February 1963, Tree was explicitly instructed to address, if possible, situations requiring greater demonstration of religious tolerance. In this context, Tree was referred to information presented in a UN report concerning limitations on religious schooling in the USSR. The position paper mentioned that any such comment made by an American representative in the UN was immediately followed by a counterattack regarding discrimination against African-Americans in the United States. Tree was instructed that, should that occur, she must describe the efforts being made in the United States in order to deal with the problem.⁴⁷

Cooperation between the United States, Jewish Organizations, and Israel

Cooperation between the United States, Jewish organizations, and Israel in the matter of securing denunciation of religious intolerance in the UN can be traced back to the beginning of 1961. In the 17th session of the United Nations Commission on Human Rights, in February–March 1961, the Commission continued the debate on “the item of anti-Semitism,” the result of the abovementioned outbreak of anti-Semitic incidents. In her report to Secretary of State Dean Rusk about the developments in the debate, Tree acknowledged continuing cooperation between Jewish organizations and the United States government. Tree emphasized the Jewish organizations’ usefulness as a source of information regarding the situation of Soviet Jewry, and the official recognition their findings received at the UN. Moreover, the report testified to the specific use that Tree made of information provided by the Jewish organization B’nai Brith, so as to embarrass the USSR during the discussions. She wrote: “Incidentally, the Russians did not enjoy my referring to anti-Semitic outrages in Russia recorded in a UN document by B’nai Brith.”⁴⁸

The shared Jewish and Israeli interest in cooperating with the United States for the inclusion of religious intolerance in CERD can be attributed to growing apprehension as to the well-being of the Jews in the USSR. In

47. Position paper, February 22, 1963, UN Commission on Human Rights, 19th Session, NARA – RG 59, Position Papers for United States Delegation to the UN 1953–1965, box 6, folder SD/E/CN.4/222–289.

48. Letter, Marietta Tree, representative to the UN Commission on Human Rights, to Secretary of State, Dean Rusk, April 17, 1961 – *FRUS*, vol. XXV (1961–1963), no. 292.

the early 1950s, the USSR's leader Joseph Stalin had started a new wave of anti-Semitic actions that soon influenced other countries in the Soviet sphere. Soviet propaganda declared that Zionism, Jewish nationalism, and the major Jewish organizations were the enemies of Communism and the working class. The so-called "Doctors' Plot," unveiled in January 1953, made it clear to all how worrying the situation of Soviet Jewry was.

In February 1953, the USSR cut diplomatic relations with Israel. Once the Doctors' Plot came to light, followed by the severance of diplomatic relations (albeit for a short period), Israel—which until then had proceeded with relative caution—no longer hesitated to openly criticize the persecution of Jews in the Soviet Union.⁴⁹ In a sense, the Doctors' Plot represented a turning point in Israeli policy regarding the Jews in the USSR. Shortly afterwards, the foreign minister of Israel, Moshe Sharett, declared his intention to raise the matter of the situation of Jews behind the Iron Curtain at the UN General Assembly. At the same time, Berl Locker, the chairman of the executive branch of the Jewish Agency, addressed the government of the USSR with the call that would come to symbolize the campaign for Soviet Jewry: "Let my people go."

Soviet mistreatment of the Jewish minority did not cease in the second half of the 1950s. In this sense, the Soviet regime followed in the steps of Stalin, even though after his death he was severely criticized at the 20th Congress of the Communist Party held in February 1956. A possible explanation for this is that the Soviet leadership intended to hush up the persecution of the Jews, as well as the continuing discrimination against them, during Stalin's days, and thus hold up the image of the USSR as the superpower that respected minority rights, as opposed to the discriminating superpower, the United States.⁵⁰

Isser Harel, head of the Israeli *Mossad* in the 1950s, was convinced that the continuing incitement against Jews in the USSR had engendered an atmosphere of intimidation that might even lead to physical injuries and perhaps to pogroms.⁵¹ In 1952, Israel decided to create a special department, affiliated with the prime minister's office, which would be tasked with organizing the emigration of Soviet Jews to Israel. Later on, this department became known under the name *Lishkat Hakesher*, the Contact Bureau. The executive arm of *Lishkat Hakesher* was called

49. Yaacov Ro'i, *The Struggle for Soviet Jewish Emigration 1948–1967* (Cambridge: Cambridge University Press, 1991), 4, 8, 93–94; and Yosef Govrin, *Israel–Soviet Relations* (in Hebrew) (Jerusalem: Magnes, 1990), 39–40.

50. Eyal, *Attitude of the French Communist Party to Jews* 57, 99; Levanon, *The Code – "Nativ,"* 15; and Govrin, *Israel–Soviet Relations*, 9.

51. Levanon, *The Code – "Nativ,"* 15.

Nativ. A second section of *Lishkat Hakesher* was created in 1955, under the name *Bar*. Alongside the activities of *Nativ* within the Soviet bloc, *Bar* was active in the West, aiming to bring Soviet Jewry's plight to the attention of Western public opinion. One of *Bar*'s prominent activists was Meir Rosenne, who held the official status of consul of Israel in New York, but was also, confidentially, a representative of *Bar*.⁵² Rosenne played a major role in trying to utilize the CERD negotiations in the UN as a platform from which to issue the call to free Soviet Jewry.

Israel, which had participated in the preliminary steps relating to the drafting of CERD, had a double objective in the convention's creation: one was to denounce racial and religious intolerance in general; the other was to generate an international debate on the situation of the Jews in the USSR.⁵³ The Israeli goal was that the delegates of the developing countries, in particular, should be informed about, and possibly influenced by, the issue of Soviet Jewry, being aware of the importance the Soviets attributed to retaining its image as the "good superpower" in the eyes of those countries. It was a systematic effort, during which for several years most of the countries with which Israel had diplomatic relations were approached.⁵⁴

Jewish organizations also came on board. As early as January 1953, the Zionist Organization of America demanded that the 2,500,000 Jews who were estimated to reside in the communist countries be allowed to emigrate to Israel.⁵⁵ Later on, it was because of the initiative of Jewish organizations that the wave of anti-Semitic incidents in Europe in the winter of 1959–1960 was brought to the UN's attention.⁵⁶ In January 1960, the chairman of the *B'nai Brith* organization addressed the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities on the topic of emigration, and delivered a critical report on the situation of Soviet Jewry. Later that year, the American Jewish Committee (AJC) approached the American administration, and sought its intervention on behalf of Soviet Jews. The AJC provided the American delegation to the UN with

52. Levanon, *The Code* – "Nativ," 10–11, 15, 185–90; and Lazin, *The Struggle for Soviet Jewry* 8, 19, 23, 24–25, 58 fn – Among the representatives of *Bar* were Benjamin Eliav (1960), Meir Rosenne (December 1961– July 1967), and Yoram Dinstein (1961–1962, 1966–1970).

53. The broader Israeli strategy was explained in a letter from Arie Levavi, director-general of the Israeli Ministry of Foreign Affairs, to Israel embassies, November 1, 1964 (ISA/Ministry of Foreign Affairs, box 2, file 3575).

54. Yoram Dinstein to Arie Aroch (Israel delegation to the UN), April 24, 1962 (ISA/Ministry of Foreign Affairs, box 19, file 3035).

55. Govrin, *Israel–Soviet Relations*, 39–40; and Ro'i, *Struggle for Soviet Jewish Emigration* 4, 8, 93–94.

56. UN document A/C.3/SR.1311, 115; Lerner, *The U.N. Convention*, 24.

material on anti-Semitism in the USSR and offered its assistance with further material.⁵⁷ In January 1961, the Coordinating Board of Jewish Organizations (CBJO) sent a critical memorandum to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, describing massive discrimination against the Jews in the USSR.⁵⁸ Soviet spokespeople reacted sharply to the accusations. “Jewish Zionist organizations” were engaged in “the divulcation of evil defamations against the Soviet Union,” said a Soviet representative. He declared that “in his land the Jews, like other minorities, enjoy all social, economic, political and religious rights, without any discrimination.”⁵⁹

After much preparatory work, the opinion among the Israeli delegation to the 18th session of the Commission on Human Rights, in 1962, was that it would be the right forum and timing to raise the issue of Soviet Jewry during the negotiations of principles concerning freedom of religion.⁶⁰ Later on, in October 1962, Michael Comay, who represented Israel in the UN Economic and Social Council (ECOSOC), made use of that forum to describe the precarious situation of the Soviet Jews. Intermittent collaboration between the Jewish organizations and the Israeli representatives to the UN was also established.⁶¹

After this “début,” the Israelis started raising the issue of discrimination against Soviet Jewry at every opportunity in the UN, and discussions of CERD were a natural stage for this endeavor. Representatives of other states occasionally joined in. In November 1962, the Australian representative to ECOSOC accused the USSR of anti-Semitism, and cited several examples of religious discrimination. He suggested that if the Jews could not enjoy religious freedom, they should be allowed to leave the country. Again, the Soviet delegate denied all the accusations, and stated that they were a Western attempt to slander the USSR and to draw attention away from racial discrimination originating in colonialism.⁶² However, the

57. Herbert B. Ehrmann, president, AJC, to Francis O. Wilcox, assistant secretary of state for international organization affairs, September 9, 1960 – NARA, RG 59, decimile file 1960–1963, box 550, file 341.72.

58. CBJO was founded in 1947 as an advisory board for Jewish organizations in all parts of the world, although most of the participating bodies were American. It had a recognized advisory status at the UN as a nongovernmental organization (NGO) and was especially active in the Economic and Social Council.

59. Ro'i, *Struggle for Soviet Jewish Emigration*, 166.

60. Yoram Dinstein to A. Aroch (Israel delegation to the UN), April 24, 1962 (ISA/FO, box 19, file 3035).

61. Meir Rosenne (consul, New York) to Michael Comay (Israel delegation to the UN), February 12, 1963 (ISA/Ministry of Foreign Affairs, box 19, file 3035).

62. Press cutting, subject: Russia accused at the General Assembly of anti-Semitism, November 2, 1962 (TNA, FO 371, file 166950).

problem of the Jews in the USSR was now becoming a permanent theme in the various organs of the UN, and the issue was widely publicized in the press.⁶³

Although cooperation between the United States and Jewish organizations, mainly American ones, did take place, as Tree's 1961 letter shows, things did not always work out smoothly. As described by William Korey, B'nai Brith's director of the United Nations office, the organization did not even try to apply pressure on the State Department through senators and other people of influence, deeming it useless. Even the hope of obtaining assistance from Supreme Court Judge Arthur Goldberg⁶⁴ was soon shattered. The meeting with Goldberg lasted only a few minutes and consisted mainly of handing over written information about discrimination against Soviet Jewry. Korey's impression following the encounter was that he doubted whether Goldberg would even bother to read the material. Korey also met with Tree, a meeting he described as disappointing, as he found her insufficiently informed about the matters under discussion. Korey wrote that the one bright point in the meeting with Tree was her agreement to raise the issue of Soviet Jewry in the UN Human Rights Commission, on condition that Korey's people would write a speech for her and that her advisers would approve it.⁶⁵

Albeit Korey's pessimistic note, one can actually detect signs of close cooperation between the Jewish organizations and the American administration from his report. For example, the very fact that Korey had access to high-placed officials in the United States administration, and Tree's condition that the speech be written by representatives of Jewish organizations (she went so far as to name the person she wanted to do the writing, Sidney Liskofsky of the AJC) together seemed to portray a different state of affairs, one of a quite close relationship.

Adding to this impression was Korey's ability to assess Tree's weak points and plan the strategy accordingly. Korey mentioned that his main concern was that Tree would engage in an argument with the Soviets, and his estimation was that she would be bound to fail in such a debate because she had insufficient knowledge of the relevant facts. Hence his suggestion was that Tree should "simply" ask the Soviets an innocent question—based on news publications—about the prohibition to make matzo in

63. Ro'i, *Struggle for Soviet Jewish Emigration*, 229.

64. At that time, United States supreme court judge, and as early as 1965 nominated as United States ambassador to the United Nations, who signed CERD in 1966.

65. Dr. Korey became the founding director of B'nai B'rith International's UN office in 1960, and continued in that role alongside additional professional leadership positions. Yoram Dinstein to A. Aroch (Israel delegation to the UN), April 24, 1962 (ISA/FO, box 19, file 3035).

the Soviet Union, and to seek confirmation or denial. The initiative ended with Rusk vetoing the idea that Tree would set off a discussion of discrimination against Soviet Jewry in the UN, and maintaining that the only way to achieve results was through discreet, behind-the-scenes negotiations. Still, this decision was made at the highest level, by the secretary of state himself.⁶⁶

Israel saw great importance in cooperating with the United States in its endeavor to use negotiations in the 18th session of the Commission on Human Rights, and later on those around CERD, to advance the Soviet Jewry issue. As mentioned, Israel decided to raise the issue of Soviet Jewry during the 18th session in 1962, in the context of negotiations over principles concerning freedom of religion. Ahead of the session, Yoram Dinstein of the Israeli delegation wrote that Israel “saw in Washington’s position the key to the position of many other capitals, mostly—but not only—Latin ones.” Dinstein wrote that it would be preferable for the Americans to refrain from opening the discussion, out of concern that if they did so the issue would be tainted with the colors of the Cold War. Later, however, American approval seemed crucial for approval by other countries, which needed to know that the Americans would back them once they became involved in arguments with the Soviet delegates.

However, in that instance, the Americans did not come through. The closer the debate came, the more hesitant American support grew. Following the American withdrawal, one by one, delegates of other states that had promised to mention Soviet Jewry’s plight in the deliberations went back on their promises. Dinstein concluded by writing: “thus the structure we have built broke down like a house of cards. . .” On the eve of the debate in the Commission, Philip Klutznick of the American delegation—a former president of the AJC—said that no issue on the agenda allowed raising the subject of Soviet Jewry. The Israeli conclusion was that the Americans were clearly unwilling to get publicly involved.⁶⁷

Despite the American refusal to engage in a public discussion at that point, sources attest that the Americans had publically attacked the USSR in the UN, accusing it of religious discrimination, as early as the Eisenhower administration. In March 1963, responding to criticism about America’s silence regarding religious intolerance behind the Iron Curtain, the State Department drafted a paper that summarized American efforts in that respect. It included examples of public criticism made

66. *Ibid.* For Tree’s input see: letter, Tree, United Nations Commission on Human Rights, to Secretary of State, Rusk, May 14, 1962 – *FRUS*, vol. XXV (1961–1963), no. 294.

67. Yoram Dinstein to A. Aroch (Israel delegation to the UN), April 24, 1962 (ISA/FO, box 19, file 3035).

against the Soviets by American representatives in the UN. Most of these examples had to do with discrimination against the Jews in the USSR, and they included statements made in 1954, 1960, 1961, and 1963 by different American representatives to the UN, among them President Kennedy himself.⁶⁸

At the same time, the United States continued briefing its representatives to the UN about persecution of Jews and other minorities in the USSR. In a meeting held in November 1962 between State Department personnel and Abram, then the United States representative in the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, he was briefed on the situation of Soviet Jewry as one of the issues he would have to confront in this capacity. It was pointed out that “the treatment of the Jews in the Soviet Union is part of the anti-religious policy of the Soviet Government which is a basic tenet of Communism.” Reference was also made to the “stepped-up” antireligious campaign since the 1961 Communist Party Congress, and to the fact that “while the Russian Orthodox Church, the Baptists and the Jews are feeling the effects of this campaign, perhaps the unorganized sects, such as the

68. Mary D. Mack, Department of State, to Morris B. Abram, March 26, 1963 – Abram Papers, Emory University, box 94, folder 8. An example of views on religious persecution behind the Iron Curtain, which the United States presented to the UN, was, among others, the following statement made in November 1954, by Philip Halpern, United States expert member to the UN Sub-Commission on Prevention of Discrimination and the Protection on Minorities. “That religious intolerance is one of the pressing problems of our time is not open to question... The oppression of minority religious groups by the dominant religious organization or governmental authorities is not a new phenomenon in human history... However, a new phenomenon has appeared in our time, in governmentally-inspired drives against all formal religion in countries dedicated to militant atheism.” Six years later, on January 14, 1960, Halpern again addressed the issue at the UN. Halpern questioned “the legal recognition given by the USSR to the right of freedom of thought, conscience and religion, pointing out that: ...freedom of anti-religious propaganda was recognized in article 124 of the USSR Constitution, but not freedom of religious propaganda. Furthermore, article 122 of the Soviet Penal Code made the teaching of any religion an offence.” President Kennedy, in his speech before the UN General Assembly, on September 25, 1961, said that in the “Communist Empire”, where a population far larger than that officially termed “dependent” lives under government installed by foreign troops instead of free institutions, under a system which knows only one party and one belief...”. On January 18, 1963, Morris B. Abram, United States expert member to the UN Sub-Commission on Prevention of Discrimination and the Protection on Minorities, called attention to a group of Russian evangelicals who had appealed to the United States Embassy in Moscow for assistance. Abram said: “It was not enough that the laws of a State proclaimed lofty principles... If everyone in the USSR had the right to leave the territory of the Soviet Union, he wondered how it was that recently 30 members of an evangelical sect had begged officials of the United States Embassy to obtain for them authorization to leave a country where they claimed to be victims of a religious persecution.”

Seventh Day Adventists, Jehovah's Witnesses and the Pentecostal-Shaker Sect, are even more forcefully treated."⁶⁹

Later on, during the negotiations of CERD in the UN, the Americans did not adhere to their earlier strategy of quiet and behind-the-scenes discussions with the Soviets concerning matters of religious intolerance in general and Jewish persecution in particular. From December 1963 on, there are more and more examples of public criticism made by American representatives. One such example is found in a speech made by Richard Gardner of the State Department, before the World Jewish Congress. Admittedly, the speech was not made before the UN, but it was passed by the American delegation to the UN for publication by the press. In his speech, Gardner spoke out against the violations of many political freedoms in the USSR and said they were affecting all the religious and national elements that made up the Soviet population. He then went on to specifically denounce persecution of Jews in the USSR. Mordechai Gazit, from the Israeli embassy in Washington, called Gardner's speech "one of the clearest American public statements made to this day."⁷⁰

Separating the Codification of Racial Discrimination and that of Religious Intolerance

Because racial discrimination had such a high position on the UN's agenda, it seemed the best way to assure that the topic of religious intolerance would be dealt with in the near future was to include it in the draft on the elimination of racial discrimination, an issue that many UN members considered extremely important and urgent. Furthermore, as has been shown, such an option had precedents in the work of the UN. Important international documents already approved by that time included articles that bound together the protection of both issues; their separation was actually the exception to the rule.

When the proposal was made to include religious intolerance in the operative part of CERD, it was accepted, as many states were interested in the convention's including protection against this phenomenon. Arab states, for example, were especially interested in protecting religious dietary customs. When Abram suggested in the Sub-Commission on Prevention of

69. Memorandum of meeting, subject: consultation with Mr. Morris Abram, United States Representative to the Sub-Committee on Minorities, Commission of Human Rights of the UN, November 5, 1962 – NARA, RG 59, 1960–1963, central decimal file, box 550, file 341.72.

70. Mordechai Gazit (Washington) to Israel Foreign Ministry, December 10, 1963, (ISA/MFR, box 4, file 3576).

Discrimination and Protection of Minorities that the document include protection of religious groups' right to act according to their religious dietary requirements, his suggestion was supported by Arab representatives.⁷¹ However, during the negotiations, those states that had reasons to support the inclusion of protection against religious persecution, and which initially did so, ultimately backed down. As mentioned, Arab states decided to oppose the inclusion of religious intolerance in the convention. Some researchers suggest that the implicit intention of this position was to remove from the draft the possibility of mentioning anti-Semitism, condemnation of which they saw as a declaration of support in Israel. Because they viewed anti-Semitism solely as a form of religious intolerance, they were eager not to allow religious intolerance to be mentioned in CERD.⁷²

Moreover, even though Liberia proposed including religious discrimination in CERD, at the deciding vote in the fall of 1962, the developing countries choose to support a division between the codification of the two themes, race and religion. The underlying logic was that a discussion about the prohibition of religious intolerance, with its many and complex aspects, might delay the codification on racial discrimination.⁷³

Still, documentation shows that at the beginning of the General Assembly's 17th session (Fall 1962) the Israeli delegation was optimistic regarding the prospects for CERD to include religious intolerance. It was deemed that support could be expected from Western countries such as the United States, Great Britain, Ireland, and Australia. There were also hopes that other states would support the mention of religious intolerance, among them some Latin American countries, and also several states in the Communist bloc, such as Romania and Poland. It was thought that even Pakistan might support the amendment.⁷⁴

It turned out that the Israelis' optimism was unrealistic. The Western representatives also supported the separation, although in principle they were against both religious discrimination and racial discrimination. Still, their wish to accommodate the representatives of the African and Asian countries that preferred focusing on racial discrimination alone, took precedence. The African–Asian group that, as mentioned, had growing

71. Letter, Rachel C. Nason, Department of State, to Morris B. Abram, Position Paper for Economic and Social Council's 37th Session, June 8, 1964 – Abram Papers, Emory University, box 94, folder 9.

72. Schwelb, "International Convention," 999; and Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination*, 14, 21, 82.

73. Marietta Tree, American representative to the Commission on Human Rights, to Secretary of State Dean Rusk, 14 May 1962 – *FRUS*, vol. XXV (1961–1963), no. 294.

74. Summary of meeting of the Israeli delegation to the UN, November 1, 1962 (ISA/MFR, box 19, file 6534).

influence at the UN, considered it more important and more urgent to reach a clear condemnation of discrimination with a racial background, and their wish carried weight with the Western states.⁷⁵

Finally, support for separating the racial issue from the religious one came from the states belonging to the Soviet bloc. Researchers have described that attitude as reflecting those countries' traditional tendency to manifest solidarity with racial, rather than religious, minorities. In their eyes, the concept of religious discrimination was not such an important topic. To this one should add that it seemed politically more rewarding to support the African and Asian states in their quest to condemn racial discrimination as a first priority.⁷⁶

Thus, in December 1962 the General Assembly (UNGA res. 1780, 1781) resolved that two separate sets of documents should be prepared. According to the relevant UNGA resolutions, a draft declaration and a draft convention for the elimination of racial discrimination would be prepared alongside separate drafts dealing with religious intolerance.⁷⁷ A resolution adopted a year later, UNGA resolution 1906, made matters worse. In this resolution, adopted on November 20, 1963, the General Assembly decided "to give absolute priority to the preparation of a draft international convention on the elimination of all forms of racial discrimination." In practical terms, this meant that the topic of religious intolerance could in fact be somewhat neglected.⁷⁸

The General Assembly's decision to separate the codification of the two issues did not put an end to the criticism leveled against that step, and the decision to separate the two topics was severely criticized. It has been described as a compromise made to overcome the political and ideological objections that an integrated document had caused. The doubts as to whether the separation truly served the codification's purpose continued to feature in deliberations at the UN.⁷⁹

Ideologically, it caused unease among member states because, as described, the emphasis of the racial over the religious question did not

75. Schwelb, "International Convention," 999; Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination*, 14, 21, 82; and Natan Lerner, *Group Rights and Discrimination in International Law*, 2nd ed. (The Hague: Martinus Nijhoff Publishers, 2003), 131.

76. Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination*, 14; Howard Tolley, *The UN Commission on Human Rights* (Boulder: Westview Press, 1987), 47.

77. A/RES/1780(XVII) & A/RES/1781(XVII), December 7, 1962 <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/192/88/IMG/NR019288.pdf?OpenElement>

78. A/RES/1906(XVIII) <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/185/81/IMG/NR018581.pdf?OpenElement>

79. Schwelb, "International Convention," 999; Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination* 14, 21, 82; Lerner, *Group Rights and Discrimination in International Law*, 131.

necessarily reflect indifference on the part of many delegates to religious matters. American sources reported that representatives of African and Asian states “were quick to oppose USSR efforts to postpone or minimize work on religious intolerance in favor of the race convention, and repeatedly took the lead in forcing discussion of the religious declaration in the sub-commission.”⁸⁰ Similarly, the Catholic countries of Latin America were sensitive to the theme of religious freedom, as were many of the Arab states.⁸¹

The practical meaning of the decision to separate codification of racial discrimination and religious intolerance was that efforts would now have to be channeled into drafting two separate sets of documents, something that was bound to cause delay. It was also estimated that the distinction between race and religion would later cause trouble in the implementation of the convention against racial discrimination, because of the difficulty of discerning what exactly caused prejudice against a given minority. At that point, it was already clear that the concept of “race” lacked clear scientific meaning, a finding that was bound to add to the ambiguity of the phenomena that the convention addressed.⁸²

From a political point of view, as could be expected, the decision to separate the codification of religious intolerance from that of racial discrimination did not upset only Jewish and Israeli organizations: it also caused much dissatisfaction among the Americans and the British. Once the issues were separated, the intention of the Americans, the British, and the Israelis to connect the debate in the UN on racial discrimination to one on religious persecution in the USSR became an uphill effort.

According to an Israeli analysis, the separation between religion and race was mainly the initiative of the African countries, as they wanted to emphasize the situation of people of African origin in various countries. Although the Israelis understood the reasons motivating the African countries, it was also clear that separating the issues would strongly harm the Israeli interest. The conclusion was that, as in cases of anti-Semitism it was difficult to separate the racial/ethnic aspect from the religious one, it was to be hoped that Israel might in the future act

80. Rachel C. Nason, US Department of State, to Morris B. Abram, Position Paper for the Economic and Social Council’s 37th Session, June 8, 1964 (Abram Papers, Emory University, box 94, folder 9).

81. *Ibid.*

82. Position Paper, Draft Declaration and Convention on All forms of Racial Discrimination, Commission on Human Rights, 19th Session, February 22, 1963, NARA, RG 59, Records of Offices Responsible for the Affairs of International Organization, box 6, folder SD/E/CN.4/252; UNESCO, *Four Statements on the Race Question* (Paris: UNESCO, 1969); and Lerner, *The U.N. Convention on the Elimination of all Forms of Racial Discrimination*, 41.

in the framework of the two sets of documents: the one opposing racial discrimination and the other condemning religious intolerance. A major point, from an Israeli perspective, was that in either case a tangible opening had been created at the UN for action on behalf of the Jews in the USSR.⁸³

Israel was aware that African nations might perceive its efforts to promote a UN document aiming at the denunciation of religious intolerance as harming their efforts at the UN on behalf of the codification against racial discrimination. In deliberations held in high Israeli government circles in September 1963, several views were expressed about how to advance the topic of religious intolerance without antagonizing the African countries. Michael Comay, head of the Israeli delegation to the UN, thought that as it no longer seemed probable that the article on religious discrimination would be included in the convention, it was better to use the deliberations on the other articles to express the Israeli position on “our issue.” Golda Meir, the then Israeli foreign minister, cautioned that the Israeli intention should be presented without arousing antagonism. As the issue of racial discrimination had become so central, there was a danger that any Israeli deviation might attract negative attention, and cause the opposite of what Israel was trying to achieve. In the end, however, Golda Meir decided that there was no other way for the Israeli representatives than to adhere to the view that the themes of religious and racial discrimination belonged together, and to disregard any the negative reactions that such a position might cause.⁸⁴

The British were also aware of the disadvantages of the separation between religious intolerance and racial discrimination and were unhappy about the tactical understanding that had taken shape between the USSR and the African states. They stressed that discussions on religious intolerance cast an unfavorable light on the USSR and served the common interest of the United States and Great Britain. J. E. Powell-Jones, from the UN Department of the British Foreign Office, wrote in December 1963 that the Third Committee of the United Nations (Social, Humanitarian & Cultural), had become increasingly anticolonial in its behavior, which was convenient for the USSR, but represented a disadvantage for the British and the Americans. On the theme of religious intolerance, Powell-Jones suggested that its codification should be brought up again, as it represented a matter in which the Soviets were open to criticism, and previous

83. Theodor Meron, report of the delegation of Israel to the 17th General Assembly of the UN, November 8, 1962 (ISA/Ministry of Foreign Affairs, box 19, file 6534).

84. Summary of the meeting of the Third Committee’s Sub-Commission, September 27, 1963 (ISA/FM, box 13, file 2632).

resolutions of the General Assembly (1780 and 1781) had established that religious intolerance and racial discrimination had equal priority.⁸⁵

Powell-Jones returned to the theme several months later. In a memorandum from March 1964, he wrote that it was evident that for most representatives on the Third Committee, the issue of racial discrimination continued to be the central theme, which put the British on the defensive. He suggested that the British, as a diversionary maneuver, should propose at the next session of the Third Committee that the delegates concentrate on the main task before the committee, namely, to finish the large amount of work still outstanding in connection with the human rights treaties. The aim was to make sure, as he pointed out, that not enough time would be left for dealing with more awkward matters.⁸⁶

At the same time, the British were well aware of the diplomatic price they were paying for their support of the codification on religious intolerance. In a previous memorandum from December 1963, Powell-Jones had recommended that the British should *not* concentrate too much on religious codification. He remarked that although efforts should focus on diverting international attention from the theme of racial discrimination, it was not certain that insistence on religious discrimination was the best way to do it. As he pointed out, there was a risk that a political debate on the theme would not be advantageous for the West, and might set off strong opposition from Arab countries and their allies.⁸⁷ Similarly, in an internal memorandum of the British delegation to ECOSOC from August 1964, there was a recommendation to continue efforts to advance the issue of religious tolerance, although the theme had to be handled carefully.⁸⁸

Unlike the British, the Americans and Israelis did not refrain from openly expressing their dissatisfaction with the decision to separate codification of the two issues. In April 1963, the Israeli representative Moshe Bartur addressed the UN Commission on Human Rights about the blurred line between religious and racial oppression, saying that there was no clear line among racial, ethnic, and religious discrimination, and that all were diverse aspects of the same ugly mixture of hatred and barbarism from which humanity, in spite of its astonishing technological and scientific

85. J.E. Powell-Jones, assistant head, United Nations Department, Foreign Office, United Kingdom, to secretary of state, minutes, Third Committee, December 31, 1963 – TNA, FO 371, 172740.

86. *Idem*, minutes, Third Committee, March 19, 1964 – TNA, FO 371, 172740.

87. *Idem*, minutes, Third Committee, December 31, 1963 – TNA, FO 371, 172740.

88. K. Unwin, United Kingdom delegation to ECOSOC, to A.D. Wilson, Foreign Office, August 13, 1964 – TNA, FO 371, 178331.

progress, had not yet managed to free itself.⁸⁹ Speaking before ECOSOC⁹⁰ 3 months later, Bartur reiterated the Israeli position. In September 1963, Eliezer Yapou, the Israeli delegate to the Third Committee, also criticized the separation between religion and race, this time during deliberations on the draft of the convention for the elimination of racial discrimination.⁹¹ Abram, the American delegate to the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, declared in January 1964 that it was a mistake to separate race and religion in the considered codification, as racial, religious, and ethnic discrimination frequently erupted together, and could not be detached from each other.⁹²

Everything considered, it seems the apparent tactic behind insistence on the similarities between the themes of racial discrimination and religious intolerance—the General Assembly had already decided in late 1962 to separate the two issues—was that the assertion regarding the bonds between the two themes would ultimately also promote the codification against religious intolerance, which otherwise might end in being pushed aside. And indeed, efforts were being made at the same time to enlist support for the religious issue. A letter from Rachel C. Nason of the United States State Department, from December 1963, demonstrates the importance the State Department ascribed to participation by Jewish, Catholic, and Protestant nongovernmental religious institutions in the ongoing deliberations. Nason notified Abram that the United States mission to the UN (USUN), was planning a meeting for him and all their contact people with the nongovernmental organizations for updating purposes. According to her letter, it was a follow-up meeting to one held the prior year, with a turnout of approximately 100 participants.⁹³ Abram himself, in his additional capacity as president of the AJC, was active in securing the support of representative figures from other religious denominations. One example is his correspondence during November–December 1964 on this matter with Msgr. Alberto Giovannetti, the representative of the Vatican at the UN (permanent observer of the Holy See to the UN), who expressed great interest.⁹⁴

89. Speech before the UN Commission on Human Rights, April 3, 1963 (ISA/MFR, box 13, file 2632).

90. Moshe Bartur, Statement in ECOSOC, July 5, 1963 (ISA/MFA, box 13, file 2632).

91. Declaration of the representative of Israel, September 30, 1963, Third Committee, 18th Session, General Assembly of the UN (ISA/MFA, box 12, file 2632).

92. Statement at the 16th session of UN Sub-Commission for the Prevention of Discrimination and Protection of Minorities, January (undated), 1964 (Abram Papers, Emory University, box 94, folder 9).

93. Rachel C. Nason, human rights officer, State Department, to Morris B. Abram, December 20, 1963 (Abram Papers, Emory University, box 94, folder 7).

94. Albert Giovannetti to Morris B. Abram, December 1, 1964; Abram to Roger Baldwin, January 1965 (Abram Papers, Emory University, box 94, folder 5).

Despite the described efforts, in December 1963, Rosenne, who coordinated the Israeli political efforts on behalf of Soviet Jewry, presented a pessimistic outlook with regard to negotiations aimed at reaching a declaration against religion intolerance. To a large extent, Rosenne's pessimism was a result of the Soviet opposition, as the Soviet representatives hardly sat idle, faced with efforts to advance the denunciation of religious intolerance. The Soviets rightly estimated that codification against religious intolerance might in the end be turned against them, and did their best to stall it.⁹⁵

In February 1964, an Israeli representative addressed the Soviet delay tactics regarding the deliberations on religious freedom. Yoel Bar-Romi wrote that the Soviets used any means possible to delay the deliberations, and maintained that they had managed to waste much precious time using procedural and even technical tricks, such as demanding simultaneous translation of the proceeding into Russian. Bar-Romi's estimation was that the Soviets would be unable to prevent work on the codification of religious discrimination altogether, but that all the signs were that they would do their absolute best to postpone discussions as long as possible, and thus prevent reaching a productive ending.⁹⁶ The Americans shared this estimation. Harlan Cleveland of the State Department wrote to Secretary of State Dean Rusk in March 1964 that "The USSR has filibustered against the declaration [condemning religious intolerance] from the start, and will undoubtedly continue so."⁹⁷

The British, for their part, were more optimistic. H.P.L. Attlee, from the British delegation to the UN, wrote in January 1964 that work for codification against religious intolerance was progressing well in the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and that the Soviets and Poles had abandoned their hope of derailing the deliberations.⁹⁸ Interestingly, by June 1965, Abram, now the American representative to the Commission on Human Rights, shared the British view. In a letter to Secretary of State Rusk, where he summed up the developments of the 21st session of the Commission on Human Rights, he wrote: "...I think I discern a dramatic and decided change in the way the Soviets are beginning to look at the quantum of rights

95. Meir Rosenne, segment from letter, (undisclosed recipients), December 3, 1963 (ISA/Ministry of Foreign Affairs, box 12, file 2632).

96. Yoel bar-Romi, Israel delegation to the UN, to Yoram Dinstein, Israeli Ministry of Foreign Affairs, February 25, 1964 (ISA/MFR, box 4, file 3576).

97. Memorandum, Harlan Cleveland, assistant secretary of state for international organization affairs, to Dean Rusk, secretary of state, March 20, 1964 – *FRUS*, vol. XXXIV (1964–1968), no. 315.

98. H.P.L. Attlee to P.J. Weston, United Nations Department, British Foreign Office, June 16, 1964 – TNA, FO 371, 178330.

which the human personality should enjoy. This year, in Geneva, when discussing the Draft International Convention on the Elimination of All Forms of Religious Intolerance, a Soviet attaché told me frankly that this year his Government was positive – not negative (as formerly) – towards this proposal. . .” Abram concluded this point with the following statement: “The Commission was not able to complete the drafting of this Convention and will do further work on it at its next session. My best estimate is that the draft will be completed and in a form which will receive practically unanimous support if the Commission.”⁹⁹

Unfortunately, the hopes of the British and those voiced by Morris Abram were unfounded. The work on CERD was brought to a successful end in the UN in 3 years and, as mentioned, the convention was unanimously approved by the General Assembly by December 1965. Only in November 1981 would the General Assembly approve a declaration denouncing intolerance and discrimination based on religion or belief.¹⁰⁰ A convention to this effect has not been concluded to this very day.

Concluding Remarks

This article has attempted to portray the struggle behind the scenes during the deliberations on CERD, on the matter of race versus religion. The weight that political considerations bore in this debate was enormous, to a point that the alleged reason for the codification, protection of human rights around the world, seems almost obscured. Entangled in the discussion we can find the United States’ effort to secure African and Asian support as a means for strengthening its standing against the USSR; African and Asian nations rallying around the denunciation of racial discrimination for political reasons, while continuing these practices themselves; the USSR’s opposition to denunciation of religious intolerance, so as to protect its image as a superpower devoted to safeguarding minority rights; Jewish and Israeli support for codification against religious intolerance as a means to help the Jewish minority in the USSR; and other UN member states putting aside their support for protection against religious intolerance, even though ideologically they supported it.

99. Morris B. Abram to Dean Rusk, June 1, 1965, NARA, RG 59, Central Foreign Policy files, 1964–1966, Special Instructions, Box 3268, folder ECOSOC.

100. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, General Assembly Resolution 36/55 of November 25, 1981. <http://www2.ohchr.org/english/law/religion.htm>; see also Tolley, *UN Commission*, 47; and Lerner, *Group Rights and Discrimination in International Law*, 131.

As early as May 1962, Marietta Tree wrote about the codification of religious freedom in the UN: “The Human Rights Commission devoted many days of hard work to the draft principles on religious freedom and produced an agreement on only five preambular [sic] paragraphs, because of the wide and frequently wild differences between those Member States where organized religion has considerable political status and others where organized religion and the state are separated. I am afraid that many years will pass before these draft principles are finally completed in the UN.”¹⁰¹ Tree was indeed correct in her estimation.

Looking back, it seems that the opportunity that opened up in the early 1960s, to bring about a UN codification denouncing religious intolerance, was lost when the United States and its associates failed to include it in the codification against racial discrimination. The shared support, even if to a large extent “interest motivated,” that all sides—the West, the Soviet bloc, developing countries, Arab states, and Israel—had expressed for concluding a convention against racial discrimination, did not materialize with regard to the codification against religious intolerance, and, therefore, the window of opportunity in this regard was shut.¹⁰² It is yet to be reopened.

101. Marietta Tree to Secretary of State Dean Rusk, May 14, 1962 – *FRUS*, vol. XXV (1961–1963), no. 294.

102. For a discussion about the later attempt to add a clause in CERD addressing anti-Semitism specifically, see Ofra Friesel, “Equating Zionism with Racism: the 1965 Precedent,” *American Jewish History* 97 (2013): 283–313.