

THE TANDEM PROJECT

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UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF

*The Tandem Project is a UN NGO in Special Consultative Status with the
Economic and Social Council of the United Nations*

Separation of Religion or Belief & State

Can a person who is Muslim choose a religion other than Islam ?

Positive steps have been taken by the United Nations Human Rights Council and the United Nations General Assembly to achieve consensus on the mandate of the UN Special Rapporteur on Freedom of Religion or Belief. Dialogue is still needed to resolve differences between United Nations Member States in respect to national laws and religious norms on the right to change or abandon one's religion.

“Can a person who is Muslim choose a religion other than Islam? When Egypt's grand mufti, Ali Gomaa, pondered that dilemma in an article published last year, many of his co-religionists were shocked that the question could even be asked.

And they were even more scandalized by his conclusion. The answer, he wrote, was yes, they can, in the light of three verses in the Koran: first, “unto you your religion, and unto me my religion” second, “whosoever will, let him believe, and whosoever will, let him disbelieve;” and, most famously, “There is no compulsion in religion.”

The sheikh's pronouncement was certainly not that of a wet liberal; he agrees that anyone who deserts Islam is committing a sin and will pay a price in the hereafter, and also that in some historical circumstances (presumably war between Muslims and non-Muslims) an individual's sin may also amount to “sedition against one's society.” But his opinion caused a sensation because it went against the political and judicial trends in many parts of the Muslim world, and also against the mood in places where Muslims feel defensive.

In the West, many prominent Muslims would agree with the mufti's scripturally-based view that leaving Islam is a matter between the believer and God, not for the state. But awkwardly, the main traditions of scholarship and jurisprudence in Islam – both the Shia school and the four main Sunni ones – draw on Hadiths (words and deeds ascribed with varying credibility to Muhammad) to argue in support of death for apostates. And in recent years sentiment in the Muslim world has been hardening. In every big “apostasy” case, the authorities have faced pressure from sections of public opinion, and from Islamist factions, to take the toughest possible stance. In Malaysia, people who try to desert Islam can face compulsory “re-education.”

Under the far harsher regime of Afghanistan, death for apostasy is still on the statute book, despite the country's American-backed “liberation” from the tyranny of the Taliban. The Western world realized this when Abdul Rahman, an Afghan who had lived in Germany, was sentenced to die after police found him with a Bible. After pressure from Western governments, he was allowed to go to Italy. What especially startled Westerners was the fact that Afghanistan's

parliament, a product of the democracy for which NATO soldiers are dying, tried to bar Mr. Rahman's exit, and that street protests call for his execution.

The fact that he fled to Italy is one of the factors that have made the issue of Muslim-Christian conversion a hot topic in that country. There are several others. During this year's Easter celebrations, Magdi Allam, an Egyptian-born journalist who is now a columnist in Italy, was publicly baptized as a Catholic by Pope Benedict; the convert hailed his "liberation" from Islam, and used his column to celebrate other cases of Muslims becoming Christian. To the delight of some Catholics and the dismay of others, he has defended the right of Christians to proselytize among Muslims, and denounced liberal churchmen who are "soft" on Islam.

Muslims in Italy and elsewhere have called Mr. Allam a provocateur and chided Pope Benedict for abetting him. But given that many of Italy's Muslims are converts (and beneficiaries of Europe's tolerance), Mr. Allam says his critics are hypocrites, denying him a liberty which they themselves have enjoyed.

If there is any issue on which Islam's diaspora – experiencing the relative calmness of inter-faith relations in the West – might be able to give a clearer moral lead, it is surely this one. But even in the West, speaking out for the legal and civil right to "apostasise" can carry a cost. Usama Hasan, an influential, young British imam, recently made the case for the right to change religions – only to find himself furiously denounced and threatened on Islamist websites, many of them produced in the West." – *The Economist*, July 26th-August 1st 2008.

<http://www.aligomaa.net/>

2007

In 2007 the U.N. Human Rights Council voted 29 in favor, 0 against and 18 abstentions on 14 December 2007 in the sixth session for a three year extension of the mandate on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief (A/HRC/6/L.15/Rev.1). Those abstaining included: Azerbaijan, Bangladesh, Cameroon, China, Mali, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal, South Africa and Sri Lanka.

The abstentions were based on the objections from Pakistan, speaking on behalf of the 57 country Organization of the Islamic Conference (OIC) that norms in Muslim countries prohibit leaving Islam as a religion, and were not being honored in the draft resolution. Portugal, speaking on behalf of the European Union (EU) said over 40 paragraphs in the draft resolution was eliminated in an attempt at consensus with the abstaining states, but consensus over the right to leave one's religion or belief was inviolable and could not be compromised.

The Right to Change One's Religion or Belief – The Resolution (A/HRC/RES/6/37) with recorded votes: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf

9. *Urges States:*

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by provision of effective remedies in cases where the right to freedom of thought,

conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief is violated:

International Services for Human Rights (ISHR)
Report After the Vote

- The OIC wanted a clearer denouncement of recent stereotyping of religions, their adherents and prophets in the media and by political parties in some societies.
- It wanted to see the respect for all religions or belief enshrined in the resolution. They disagreed with the approach taken by the EU, which calls for the promotion of diversity and tolerance instead.
- It called for the “respect for norms about the right to change one's religion”. The EU draft explicitly urges States to guarantee the right to change one's religion or belief, a requirement the OIC could not subscribe to.
- The resolution urges all Governments to respond favorably to requests by the Special Rapporteur. The OIC was of the view that States should only “consider responding favorably” to such requests.

The Human Rights Council resolution extending the mandate of the Special Rapporteur on Freedom of Religion or Belief by three years (A/HRC/6/L.15/Rev/1) was the only resolution not passed by consensus. An attempt was made for consensus by leaving out 24 out of the original 40 paragraphs. According to the International Service for Human Rights report, “Portugal (on behalf of the EU) introduced the draft, regretted that despite intensive consultations since the end of the September part of the 6th session, consensus could not be reached. It said that the negotiations efforts were exhausted and it had no other option than bringing the draft to a vote. However, it pledged that it would take up the negotiations again; hoping that consensus on the issue could be re-established soon.” Before the vote, a total of 71 Member States and Observer States endorsed the Special Procedures resolution.

Based on these disagreements, the OIC called for a vote, and said it would abstain. A large number of OIC members of the Council then took the floor to align with the statement by Pakistan, and, while regretting the failure to achieve consensus, announced their abstention as well.” Eighteen Human Rights Council members abstained on the resolution.”

2010

In 2010 in the 65th session of the UN General Assembly Morocco spoke on behalf of the Organization of the Islamic Conference (OIC) and made a positive statement on the elimination of all forms of intolerance and of discrimination based on religion or belief, and work of the UN Special Rapporteur on Freedom of Religion or Belief.

“In a general statement, the representative of Morocco, on behalf of the OIC, said all forms of intolerance and discrimination based on religion and belief were opposed by that Organization, which condemned all acts of violence carried out in the name of religion. It was the belief of the Organization that all religions shared the same message of peace and respect for others. Terrorism could not and should not be associated with any religion, nationality or ethnic group. The mandate of the Special Rapporteur on the issue had been consistently supported by the Organization, which had no problem with the general thrust of the resolution. Many of the Organization’s considerations had been taken into account by the co-sponsors in the final stages of consultations; it was understood that they had to work very hard with their constituents.”

However, the representative of Morocco, on behalf of the Organization of the Islamic Conference said **it had not been possible to resolve differences on respect for national laws and religious norms regarding changing one’s religion**. Despite such divergences, it had been decided by the Organization not to oppose the draft; such resolutions ought to be adopted by consensus.

The representative of Belgium, the main sponsor, on behalf of the European Union, recalled that similar resolutions had been adopted by consensus in previous years. This year’s draft had been the subject of many rounds of open and transparent informal consultations. It was regretted that, once again, it had not been possible to explicitly state in the resolution that the freedom of religion and belief included **the right not only not to have, but also to change or abandon one’s religion or belief**; such language had been let go for the sake of a highly valued consensus.

On 16 November 2010 the General Assembly Third Committee adopted without a vote a comprehensive draft resolution (A/C.3/65/L.32.Rev.1) on the elimination of all forms of intolerance and discrimination based on religion or belief.

http://www.tandemproject.com/pdf/65_gen_assembly.pdf

Urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all without distinction, inter alia, by the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practice one’s religion, including the right to change one’s religion or belief, is violated;

2011

On March 24, 2011 the United Nations Human Rights Council adopted two resolutions without a vote. These draft resolutions will be sent to the Third Committee of the United Nations General Assembly for review and approval in October 2011.

[A-HRC-16-L.14 - Resolution on Freedom of Religion or Belief](#)

[A-HRC-16-L.38 - Resolution Combating Intolerance, Stereotyping, Discrimination & Incitement to Violence Against Persons Based on Religion or Belief](#)

The Draft Resolution on Freedom of Religion or Belief (A/HRC/16/L.14) is the same as 2007 and 2010 urging states to guarantee in constitutions and legal systems the right to change one's religion. * **Oral revisions made from the floor** before the vote strengthen the language by including provisions found in (A/HRC/16/L.38). Operative paragraph twelve was eliminated in oral revisions distributed in the room.

7. *Urges* States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all without distinction by, inter alia, the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practice one's religion, including the right to change one's religion or belief, is violated;

The Draft Resolution (A/HRC/16/L.38) Combating Intolerance, Negative Stereotyping, and Stigmatization of, and Discrimination, Incitement to Violence, and Violence Against Persons Based on Religion or Belief was introduced by Pakistan on behalf of the OIC with members of the UN Human Rights Council adopting it without a vote.

This is a groundbreaking draft resolution with the potential to replace Defamation of Religion resolutions passed by the UN Human Rights Council and General Assembly. Pakistan, speaking on behalf of the OIC, said they have gone the "extra-mile" in this approach. A plenary panel at the UN Human Rights Council on this Resolution will be held in session 17 of the UN Human Rights Council.

(g) Understanding the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through, inter alia, education and awareness-building;

(h) Recognizing that the open, constructive and respectful debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels, can play a positive role in combating religious hatred, incitement and violence;

9. *Calls for* strengthened international efforts to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs, and decides to convene a panel discussion on this issue at its seventeenth session within existing resources.

Moving Forward

The Draft Resolutions (A/HRC/16/L.14) and (A/HRC/16/L.38) adopted together by the UN Human Rights Council on March 24, 2011 by consensus without a vote may be a significant *step step forward* to resolve the question of **universality vs. cultural relativity** relating to the norms to change one's religion or belief in the long history of the United Nations on Freedom of Religion or Belief on Article 18 of the ICCPR and the 1981 UN Declaration.

<http://www.tandemproject.com/program/history.htm>

In 1968, the United Nations deferred work on a legally-binding treaty on religious intolerance as too complex and sensitive and passed a non-binding declaration in its place. The Tandem Project believes until a core legally-binding human rights *Convention on Freedom of Religion or Belief* is adopted international human rights law will be incomplete. It may be time to begin to consider reinstating the 1968 Working Group to better organize and bring all matters relating to freedom of religion or belief under one banner, a core international human rights legally-binding treaty.

The Tandem Project a non-governmental organization (NGO) founded in 1986 to build understanding, tolerance, and respect for diversity of religion or belief, and to prevent discrimination in all matters relating to freedom of religion or belief. The Tandem Project has sponsored multiple conferences, curricula, reference material and programs on Article 18 of the International Covenant on Civil and Political Rights- Everyone shall have the right to freedom of thought, conscience and religion – and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

*Global Advocacy for Universal Values and Principles on Human Rights
and Freedom of Religion or Belief through Education and Research*