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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 and State

SOMALIA

Somalia is experiencing violent terrorism with a devastating impact on the country. This document is preparation for the May 2011 Somalia Universal Periodic Review: The Tandem Project supports the work of the U.N. Special Rapporteur on Freedom of Religion or Belief and his mandate. The Somalia Universal Periodic Review is an opportunity to consider how the UN Human Rights Council encourages compliance with international human rights law on freedom of religion or belief in the Transitional Federal Government (TFG) Charter and the Somaliland and Puntland constitutions

UNIVERSAL PERIODIC REVIEW

The Universal Periodic Review (UPR) is a unique process launched by the UN Human Rights Council in 2008 to review the human rights obligations and responsibilities of all UN Member States by 2011. Click to open an Introduction to the Universal Periodic Review and Current News:

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

The *Somalia Universal Periodic Review* will be held by the UN Human Rights Council during the 11th session of the Universal Periodic Review 2-13 May 2011. The Somali Review will be on 3 May 2011 from 1500 to 1800. On that date you will be able to click to access the *Somali National Report; Compilation prepared by OHCHR; Summary of Stakeholders Letters prepared by OHCHR; Interactive Dialogue; Comments & Answers; Final Remarks*.

UN ASSISTANCE TO SOMALIA IN THE FIELD OF HUMAN RIGHTS

On 29 September 2010 pursuant to HRC decision 14/119 entitled “Assistance to Somalia in the field of human rights,” a Stand-alone interactive dialogue was held on the status of cooperation, capacity-building programmes inside the country and the effectiveness of United Nations (UN) support in the promotion and protection of human rights. Click to open the interactive dialogue by the; U.N. High Commissioner for Human Rights, Independent Expert on the situation of human rights in Somalia, Special Representative of the UN Secretary-General for Somalia, UNDP Coordinator, African Union Commission for Somalia and head of (AMISOM), UNHCR representative, Director, World Food Program (WFP), Chair Somali Peace Line (NGO), National Union of Somali Journalists (NGO),

Amnesty International (NGO), Cairo Institute for Human Rights Studies (NGO), and 16 country delegations including the United States and Pakistan representing the Organization of the Islamic Conference (OIC). **Some delegations noted the Universal Periodic Review on Somalia could be a meaningful ways of keeping international attention on Somalia.** The President of the UN Human Rights Council concluded in closing that now is the time to translate expression of commitment into concrete actions.

<http://www.ohchr.org/EN/countries/AfricaRegion/Pages/SOIndex.aspx>

EXCERPTS FROM U.S. STATE DEPARTMENT 2010 REPORT ON SOMALIA

“The constitution and charters governing the various regions provided the right to study and discuss the religion of one's choice; however, proselytizing for any religion other than Islam was strictly prohibited. The TFG neither observed nor enforced constitutional provisions guaranteeing the free exercise of religion. Moreover, statutes and regulations provided no effective recourse for violations of religious freedom.

Similarly, Somaliland and Puntland established Islam as the official religion in their regions. The Somaliland constitution prohibited the promotion of any religion other than Islam. The Somaliland criminal code outlined penalties for Muslims who change their religion. The constitution states that candidates for president, vice president, or the house of representatives must be Muslim and further stipulates that Islamic education is compulsory at all levels and that the promotion of Qur'anic schools is the responsibility of the state. The constitution further stated that the laws of the nation shall derive from and not contradict Islam.

The Puntland constitution provides for the freedom to worship; however, it also states that Muslims cannot renounce their religion. In May 2009 the Puntland cabinet approved a new constitution; on June 30, 2009, the Puntland parliament approved the constitution, which went into effect immediately. The new constitution prohibited propagation of any religion other than Islam. It states that non-Muslims are free to practice their religion and cannot be forced to convert; however, the same article prohibits Muslims from converting from Islam. Puntland security forces closely monitored religious activities.

In May 2009 the TFG ratified legislation to implement Shari'a (Islamic law) nationwide. In practice the TFG does not have the capacity or mechanisms to implement the legislation uniformly. Since the TFG's ratification of the legislation, there have been no reports of the implementation.

The judiciary in most regions relied on some combination of Shari'a, traditional law and Xeer (customary law), and the penal code of the pre-1991 Siad Barre government. Legal frameworks varied considerably as each community individually regulated and enforced religious expression, often on an inconsistent basis.”

FREEDOM OF RELIGION OR BELIEF

SOMALIA

U.S. State Department 2010 International Religious Freedom Report

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[International Religious Freedom Report 2010](#)

November 17, 2010

Although the Transitional Federal Charter (charter) provides for freedom of religion, there were limits on the extent to which this right was respected in practice.

Active violent conflict among militia groups and the TFG continued during the reporting period. The Transitional Federal Government (TFG) generally did not enforce legal protections of religious freedom in practice. There was a decline in the status of respect for religious freedom during the reporting period primarily as a result of extremist militias taking control over significant territory in the country although some territory has been transferred back to the TFG.

There were reports of societal abuses and discrimination based on religious affiliation, belief, and practice. Militia groups, particularly those associated with the U.S.-designated Foreign Terrorist Organization (FTO) al-Shabaab harassed persons suspected of conversion from Islam, killed Sufi clerics, and destroyed Sufi graves and mosques. There were also reports that non-Muslims experienced discrimination, violence, and detention because of their religious beliefs.

The U.S. government does not maintain a diplomatic presence, and travel to the country by U.S. government officials is restricted; however, the U.S. government discussed religious freedom with its contacts in the country and with regional authorities as part of its overall policy to promote human rights.

Section I. Religious Demography

The country has an area of 246,200 square miles and a population of seven million; however, population figures are difficult to estimate since the last census dates from 1975, and the instability of the country makes precise data collection impossible. A large majority of citizens are Sunni Muslims of a Sufi tradition. There is a small, low-profile Christian community and small numbers of followers of other religions. The number of adherents of strains of conservative Islam and the number of Islamic schools supported by religiously conservative sources continued to grow.

Section II. Status of Government Respect for Religious Freedom

Legal/Policy Framework

The charter establishes the norms for protecting religious freedom. The charter states: "All citizens of the Somali Republic...have the right to equal protection and equal benefit of the law without distinction of race, birth, language, religion, sex, or political affiliation."

Although the charter does not have a section that limits or protects religious practice, article 71 decrees that the 1960 constitution and other national laws shall apply "in respect of all matters not covered and not inconsistent with this charter." Article 29 of the constitution states: "Every person has the right to freedom of conscience and to profess freely his own religion and to worship it subject to any limitations which may be prescribed by law for the purpose of safeguarding morals, public health, [and] order."

The TFG exercises limited control over most of the country, with the exception of the self-declared Republic of Somaliland in the northwest, which has its own constitution and legal and policy framework. Somaliland does not recognize the charter or the transitional process and is seeking recognition as an independent country. The semiautonomous region of Puntland, which does not seek independence, also has its own charter and legal framework.

A political process to establish peace and stability in the country continued as the TFG and the Alliance for the Reliberation of Somalia (ARS) signed the Djibouti Agreement in 2008. In January 2009 the TFG and ARS formed a unity government, extended the transitional period by two years, and elected Sharif Sheikh Ahmed as the new TFG president. On March 15, 2010, as part of the implementation of the Djibouti peace process, members of a Sufi affiliation, Ahlu Sunna Wal Jama'a (ASWJ), signed an agreement to join and support the TFG against armed terrorist and extremist groups opposed to peace and stability. The charter established Islam as the national religion.

The constitution and charters governing the various regions provided the right to study and discuss the religion of one's choice; however, proselytizing for any religion other than Islam was strictly prohibited. The TFG neither observed nor enforced constitutional provisions guaranteeing the free exercise of religion. Moreover, statutes and regulations provided no effective recourse for violations of religious freedom.

Similarly, Somaliland and Puntland established Islam as the official religion in their regions. The Somaliland constitution prohibited the promotion of any religion other than Islam. The Somaliland criminal code outlined penalties for Muslims who change their religion. The constitution states that candidates for president, vice president, or the house of representatives must be Muslim and further stipulates that Islamic education is compulsory at all levels and that the promotion of Qur'anic schools is the responsibility of the state. The constitution further stated that the laws of the nation shall derive from and not contradict Islam.

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In May 2009 the TFG ratified legislation to implement Shari'a (Islamic law) nationwide. In practice the TFG does not have the capacity or mechanisms to implement the legislation uniformly. Since the TFG's ratification of the legislation, there have been no reports of the implementation.

The judiciary in most regions relied on some combination of Shari'a, traditional law and Xeer (customary law), and the penal code of the pre-1991 Siad Barre government. Legal frameworks varied considerably as each community individually regulated and enforced religious expression, often on an inconsistent basis.

The TFG and regional administrations in Puntland and Somaliland observe the following religious holidays as national holidays: Eid al-Fitr, Eid al-Adha, Muharam (Islamic New Year), and Mi'raaj; in addition, Friday is designated a weekly day of prayer.

The Somaliland constitution restricted the formation of political parties based on a particular religious group, religious beliefs, or interpretations of religious doctrine; however, the new Puntland constitution had no such restriction on the formation of political parties based on religious orientation.

The Ministry of Religious Affairs was authorized to register religious organizations; however, the ministry has no capacity to conduct registrations.

In Somaliland the government required religious schools and places of worship to obtain the Ministry of Religion's permission to operate. In Puntland religious schools and places of worship must receive permission to operate from Puntland's Ministry of Justice and Religious Affairs.

The TFG and the Somaliland and Puntland administrations permitted religious instruction in public schools. Private schools provided the primary source of education in all regions, with the majority offering religious instruction. A significant number of externally funded madrassahs existed throughout the country, providing inexpensive basic education and adherence to conservative Islamic practices. Mogadishu University; the University of East Africa in Bosaso, Puntland; and many secondary schools in Mogadishu were externally funded and administered through organizations affiliated with Al-Islah, an Islamic organization.

Restrictions on Religious Freedom

There was no change in the status of respect for religious freedom by the TFG during the reporting period. The TFG generally did not enforce legal restrictions or protections concerning religious freedom.

There were no public places of worship for non-Muslims. Although it was illegal to convert from Islam in Somaliland and Puntland, there were no reported cases of persons punished for doing so. Proselytizing for any religion except Islam was prohibited in Puntland and Somaliland and was effectively blocked by informal societal consensus elsewhere in the country.

Abuses of Religious Freedom

The TGF engaged in armed conflict with various groups, some of which professed conservative Islamic beliefs, including al-Shabaab and Hisbul Islam. There also were intermittent clashes between al-Shabaab and Ahlu Sunna wal Jamaa (ASWJ) militia in Galgaduud and Banadir Regions.

There were no developments reported in the case of Abdi Welli Ahmed, a Kenyan citizen and Christian convert from Islam, whom Somaliland border officials in Wajaale reportedly detained and assaulted in February 2009 as he tried to cross the border from Ethiopia.

There were no reports of religious prisoners or detainees in the country

Forced Religious Conversion

There were no reports of forced religious conversion.

Abuses by Rebel or Foreign Forces or Terrorist Organizations

Active violent conflict among militia groups and the TFG continued during the reporting period. Some of the militia groups were aligned with al-Shabaab, which the U.S. secretary of state designated an FTO in 2008.

During the reporting period, al-Shabaab militia expanded areas under its control in Galgaduud Region. In the areas they controlled, al-Shabaab systematically closed cinemas, burned kiosks selling the narcotic khat, shaved the hair of persons with Western haircuts, ordered women to be fully veiled, instituted total bans on smoking and music, and strictly prohibited behavior they deemed un-Islamic.

Throughout the reporting period, al-Shabaab destroyed graves of Sufi saints, prominent clerics, and members of other religious groups in areas under its control, igniting conflict with ASWJ. Al-Shabaab militias killed many prominent leaders from ASWJ in the Galgaduud Region.

On May 4, 2010, al-Shabaab militia fatally shot an underground church leader in Nur who had been on a list of persons they had suspected of being Christians.

On January 17, 2010, an al-Shabaab administration in Lower Shabelle stoned and killed Hussein Ibrahim Mohamed for sexually abusing a young girl under his care.

On November 17, 2009, al-Shabaab followers stoned a woman to death for alleged adultery in Wajid District, Bakol Region.

On November 6, 2009, al-Shabaab members stoned and killed Abdirahman Hussein, in Lower Shabelle Region, for raping a woman.

At different times in March 2010, al-Shabaab destroyed graves of Somali clerics, reportedly exhuming the clerics' remains. Destruction of graves and mosques in Mogadishu caused ASWJ and other local militia groups to arm themselves and wage war against al-Shabaab in parts of Mogadishu and other regions of the country.

As part of its efforts to have exclusive control in areas under its control, al-Shabaab confiscated the keys of four mosques in the Bakara market area. On May 9, 2010, al-Shabaab arrested a prominent Kismayu cleric and several of his students. Al-Shabaab earlier warned the sheikh not to conduct Islamic classes in the mosque because they disagreed with his "questionable views."

On May 4, 2010, ASWJ militia conducted an operation to confiscate face veils from women at Dabka junction in Mogadishu. The militia stopped public passenger vehicles at Dabka intersection and ordered women to remove their face veils. The militia forcefully removed the veils from women who refused to comply with their order and burned the veils.

In early February 2010 al-Shabaab started a campaign to shave forcefully young men and teenagers who they believed to have inappropriate hairstyles.

In October 2009 al-Shabaab militia banned women from wearing brassieres. The militias patrolled Mogadishu streets inspecting women suspected of contravening the ban. The media reported that some women were forced to remove their brassieres. Al-Shabaab claimed wearing brassieres constituted "deception."

On May 14, 2010, al-Shabaab released Abdullahi Siyad Kanyare after 75 days of captivity in Middle Shabelle. Speaking to the media after his release, Siyad said al-Shabaab arrested him on suspicion that he converted to Christianity after they found a copy of the Bible in his house. He said a group of foreigners with whom he worked with in 1993 had given him the Bible. Al-Shabaab claimed its courts found Siyad not guilty of converting to Christianity.

Section III. Status of Societal Respect for Religious Freedom

There were reports of societal abuses and discrimination based on religious affiliation, belief, and practice. There was strong societal pressure to respect traditions that reflected the traditional interpretation of Sunni Islam.

Non-Muslims who practiced their religion openly faced occasional societal harassment. Conversion from Islam to another religion was considered socially unacceptable. Those suspected of conversion faced harassment or even death from members of their community.

On June 15, 2010, Muslim parents of a Somali teenage girl beat her severely for converting to Christianity from Islam. Reports indicated that she had been tied to a tree on a regular basis from May 10 when her family became aware of her conversion, and she had also been badly beaten when she refused to recant her Christian faith.

Al-Shabaab and affiliated organizations imposed their own interpretation of Islamic laws and practices on other Muslims. Al-Shabaab destroyed the tombs of Sufi clerics and killed clerics, civilians, and government officials of Sufi orientation. In targeted assassinations members of these extremist groups killed TFG officials and allies and denounced them as non-Muslims or apostates.

Al-Shabaab killed and wounded hundreds of civilians in several separate suicide car bomb attacks against TFG and African Union Mission in Somalia (AMISOM) targets during the year.

On September 17, 2009, al-Shabaab suicide bombers killed 21 persons, including a dozen AMISOM peacekeepers, and wounded several others. Five suicide bombers in two cars laden with explosives drove past security guards at AMISOM headquarters and detonated the explosives inside the compound.

On December 3, 2009, al-Shabaab killed an estimated 30 persons, including three government ministers, and wounded more than 60 when a suicide bomber blew himself up at a university graduation ceremony in Mogadishu.

On May 1, 2010, a twin explosion at a mosque in Bakara market, Mogadishu, killed an estimated 30 persons and wounded up to 70 others, including a senior al-Shabaab leader.

Section IV. U.S. Government Policy

The U.S. government does not maintain a diplomatic presence, and travel to the country by U.S. government officials is restricted; however, the U.S. government discussed religious freedom with its contacts in the country and with regional authorities as part of its overall policy to promote human rights.

The Draft Constitution for the Federal Republic of Somalia by the Independent Federal Constitution Commission passed on July 30, 2010 has 179 Articles. The Consultation by the Commission covers all issues relating to a citizen-based democracy under Islamic Law. There is no article, or provision within an article for the right to change one's religion. For student preparation of the Somalia Universal Periodic Review & Freedom of Religion or Belief the focus is on Article 2, State and Religion; Article 22, Freedom of Religion or Belief.

[FINAL CDC 30 July ENG](http://www.tandemproject.com/pdf/cdc_30.pdf) Location: http://www.tandemproject.com/pdf/cdc_30.pdf

[FINAL ISSUES QUESTIONS 30 JULY ENG](http://www.tandemproject.com/pdf/final_issues.pdf) Location: http://www.tandemproject.com/pdf/final_issues.pdf

[Final Main Consultation 30 July - ENG](http://www.tandemproject.com/pdf/final_main.pdf) Location: http://www.tandemproject.com/pdf/final_main.pdf

The United Nations Human Rights Council on March 24, 2011 adopted two draft resolutions without a vote. They 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;

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 by consensus without a vote.

This is a groundbreaking resolution with the potential to replace the 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. The draft Resolution announced a plenary panel on the 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 by the UN Human Rights Council on March 24, 2011 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*