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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

Universal Periodic Review reports in six languages

<http://www.ohchr.org/EN/HRBodies/UPR/PAGES/SOSession11.aspx>

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Universal Periodic Review - Somalia

Only contributions submitted in one of the United Nations official languages are admissible and posted on this webpage

Date of consideration: Tuesday 3 May 2011, 3:00pm - 6:00 pm

National report ¹ : A | C | E | F | R | S



Compilation of UN information ² : A | C | E | F | R | S

Summary of stakeholders' information ³ : A | C | E | F | R | S

Questions submitted in advance : E only

Addendum 1 : E only

Addendum 2 : E only

Outcome of the review:

Report of the Working group : A | C | E | F | R | S

[Related webcast archives](#):

Main Country Page: <http://www.ohchr.org/EN/countries/AfricaRegion/Pages/SOIndex.aspx>
Inter-active Dialogue: <http://www.un.org/webcast/unhrc/archive.asp?go=110503>

REPORT OF THE WORKING GROUP – RECOMMENDATIONS RELATING DIRECTLY TO FREEDOM OF RELIGION OR BELIEF

Recommendations that include a direct reference to religious practices include # 69, 71, 80. One recommendation included religious leaders or mentioned religion directly #81.

http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-6_en.pdf

REPORTS OF THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF

<http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx>

There have been no documents, visits, issues in focus on Somalia by the Special Rapporteur on Freedom of Religion or Belief.

BACKGROUND

General Comment 22 on Article 18 of the International Covenant on Civil and Political Rights
[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?OpenDocument)

The 1981 UN Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief http://www.tandemproject.com/program/81_dec.htm.

DRAFT CONSTITUTION REPUBLIC OF SOMALIA

[FINAL CDC 30 July ENG](#); [FINAL ISSUES QUESTIONS 30 JULY ENG](#); [Final Main Consultation 30 July - ENG](#)

Article 1. Founding Principles

(1) The Constitution of Somalia is based on the foundations laid by the Holy Quran and Sunna and promotes the higher objectives (maqasid) of Shari'ah and social justice.

Article 2. State and religion

(1) Islam is the religion of the Somali Republic.
(2) No religion other than Islam can be propagated in the Republic.
(3) No law which is not compliant with the general principles and with Shari'ah can be enacted.

UNITED NATIONS ASSISTANCE TO SOMALIA

Somalia is experiencing violent terrorism and famine with a devastating impact on the country. 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. The UN Human Rights Council held a day long dialogue on Somalia on 29 September, 2010. To read a Summary of this dialogue open the link to the Main Page and click on: [Summary stand-alone interactive dialogue on Somalia, 29-9-2010](#)

SEPARATION OF RELIGION OR BELIEF AND STATE

Separation of Religion or Belief and State is a term used to express core principles of international human rights law on freedom of religion or belief. It encourages UN Member States to consider how their constitutional and legal systems implement the following objective at national and local levels.

OBJECTIVE

The right of persons to manifest their own values, cultural identity and core principles based on religion or belief, in tandem with human rights law on freedom of religion or belief for the common good.

UNIVERSAL CORE PRINCIPLE

International human rights law on freedom of religion or belief protects *theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief*, - General Comment 22 on Article 18 of the International Covenant on Civil and Political Rights. The United Nations Universal Declaration of Human Rights cannot favor one religion or belief over another. Human Rights Law protects individuals from discrimination based on religion or belief. It values the equal rights of majority and minority religions or beliefs, indigenous, traditional and new religious movements. It is a universal moral principle.

FREEDOM OF RELIGION OR BELIEF

U.S. State Department 2010 International Religious Freedom Report, Somalia

<http://www.state.gov/g/drl/rls/irf/2010/148720.htm>

Excerpts

“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."

U.S. State Department 2010 Religious Freedom Report, Somalia

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 Liberation 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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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 Bosasso, 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.

REFLECTIONS

The Tandem Project

The First Preamble to the Universal Declaration of Human Rights reads: Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Surely one of the best hopes for humankind is to embrace a culture in which religions and other beliefs accept one another, in which wars and violence are not tolerated in the name of an exclusive right to truth, in which children are raised to solve conflicts with mediation, compassion and understanding.

There is an increase in dialogue today between religions and other beliefs to embrace diversity, but few persons, less than one percent of any population, ever participate. This is a challenge. The value of such dialogues is proportionate to the level of participation. For civil society increased participation would create opportunities for education on inclusive and genuine approaches to human rights and freedom of religion or belief.

In 1968 the United Nations deferred passage of a legally-binding convention on religious intolerance saying it was too complicated and sensitive. Instead, they adopted a non-binding declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. While very worthwhile, the declaration does not carry the force and commitment of a legally-binding international human rights convention on freedom of religion or belief.

Religions and other beliefs historically have been used to justify wars and settle disputes. This is more dangerous today as the possible use of nuclear and biological weapons of mass destruction increases. Governments need to consider whether religions and other beliefs trump human rights or human rights trump religions and other beliefs or neither trumps the other. Can international human rights law help to stop the advance and use of such weapons in the face of this historic truth?

- **QUESTION:** Weapons of mass destruction as history teaches are often legitimized for national security and justified by cultural, ethnic, religious or political ideology. The U.N. Review Conference on the Nuclear Test Ban Treaty and studies on biological and cyber weapons demonstrate advances in science and technology is being used to increase their potential for mass destruction. The question is whether an International Convention on Human Rights and Freedom of Religion or Belief, elevated and supported equally by the U.N. Human Rights Council and U.N. Security Council, would help offset the risk of weapons of mass destruction. Recognition of the need for synergy to balance rights and security is a foundation for solving this issue.

“I am become death, the destroyer of worlds”

- Robert Oppenheimer, quote from the Bhagavad Gita after exploding the first atomic bomb, Trinity 1945.

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 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 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.

