

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 **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/>

TARIQ RAMADAN

http://en.wikipedia.org/wiki/Tariq_Ramadan

Tariq Ramadan is professor of Contemporary Islamic Studies on the faculty of Oriental Studies at Oxford University. He spoke about his book *What I Believe* in St. Paul, Minnesota on 23 December 2010 at a conference on *Coexistence: Contributing to the Common Good while Maintaining Islamic Identity and Values*, hosted by the Islamic Civic Society of America. Tariq Ramadan is the grandson of Hassan al-Banna, founder of the Muslim Brotherhood.

"Our societies are awaiting the emergence of a new 'We.' A 'We' that would bring together men and women, citizens of all religions – and those without religion- who would undertake together to resolve the contradictions of their society: the right to work, to housing, to respect, against racism and all forms of discrimination, all offenses against human dignity. Such a 'We' would henceforth represent this coming together of citizens confident in their values, defenders of pluralism in their common society, and respectful of the identities of others; citizens who seek to take up the challenge in the name of their shared values at the very heart of societies. As loyal and critical citizens, as men and women of integrity, they join forces in a revolution of trust and confidence to stem the onrush of fear. Against shallow, emotional, even hysterical reactions they stand firm for rationality, for dialogue, for attentiveness, for a reasonable approach to complex social questions.

The future of Western societies is now being played out at the local level. It is a matter of greatest urgency to set in motion national movements of local initiatives, in which women and men of different religions, cultures, and sensitivities can open new horizons of mutual understanding and

shared commitment: horizons of trust. This shared project must henceforth bring us together and give birth to a new ‘We’ anchored in citizenship. Of course, ‘intercultural’ and ‘interfaith’ dialogues are both vital and necessary, but they cannot have the impact of the shared commitment of citizens in the priority fields: education, social divides, insecurity, racisms, discriminations, and more.”

DRAFT CONSTITUTION FOR THE FEDERAL REPUBLIC OF SOMALIA

The Draft Constitution for the Federal Republic of Somalia by the Independent Federal Constitution Commission has 179 Articles and was passed on July 30, 2010. The Consultation by the Commission is a draft for approval by the Somali people of a citizen-based democracy under Shari’ah Law.

Article 2, State and Religion, Article 22, Freedom of Religion or Belief, is not in compliance with International Human Rights Law under Article 18 of the 1966 International Covenant on Civil and Political Rights.

[FINAL CDC 30 July ENG](#)

[FINAL ISSUES QUESTIONS 30 JULY ENG](#)

[Final Main Consultation 30 July - ENG](#)

Shari’ah - the “path to Allah” includes the Quran (recitation), Hadith (sayings), Qiyas (analogical reasoning), Ijma (consensus of the community) and Ijtihad (free and independent thinking).

“ So which is the real history of the world? The task lies in the never-ending task of compiling them in the quest to build a universal human community situated within a single shared history.”
– *Destiny Distrusted – A History of the World Through Islamic Eyes*, Tamim Ansary.

Article 2. State and Religion

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

Article 22. Freedom of Religion or Belief

- (1) A person is free to practice his or her religion**
 - (2) No Muslim can renounce Islam.**
 - (3) No religion other than Islam can be propagated in Somalia.**
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ARTICLE 18 – INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice and freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

(2) No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.

(3) Freedom of manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others.

(4) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education in conformity with their own convictions.

INTERNATIONAL HUMAN RIGHTS LAW ON FREEDOM OF RELIGION OR BELIEF

The principal instruments for International Human Rights Law on Freedom of Religion or Belief is Article 18 of the International Covenant on Civil and Political Rights (CCPR) and the 1981 U.N. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

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.

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.

UNITED NATIONS HUMAN RIGHTS COUNCIL: RESOLUTION ADOPTED, 14 December 2007

http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf

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.”

UNITED NATIONS GENERAL ASSEMBLY

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;

UNITED NATIONS HUMAN RIGHTS COUNCIL
RESOLUTION ADOPTED, March 24, 2011

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

Introduced by Hungary on behalf of the European Union (EU) adopted by consensus without a vote.

Excerpt:

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;

**UNITED NATIONS HUMAN RIGHTS COUNCIL
RESOLUTION ADOPTED, March 24, 2011**

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

Introduced by Pakistan on behalf of the Organization of the Islamic Conference (OIC) adopted by consensus without a vote.

Excerpt:

(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.

Human rights are universal and individual. What applies to one person applies to all persons and all religions or beliefs: <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

Can a person who is Muslim choose a religion other than Islam? For some Muslims it is an affront to Islamic traditions and cultural norms to even ask the question. To other Muslims and non-Muslims, not ensuring the right to change one's religion is a challenge to the universality of 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.