

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 and State

Universal Periodic Review reports in six languages

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

Universal Periodic Review - Somalia

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

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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 UN Member States by 2011. The UN Human Rights Council has recommended a second cycle starting in 2013. UPR Process and News: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

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

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

INTERFAITH-INTERCULTURAL DIALOGUE

SOMALIA & SOMALI DIASPORA

Can Shari'ah Law in Article 2 and 22 of the Draft Constitution of the Federal Republic of Somalia be in compliance with Human Rights Law in Article 18 of the International Covenant on Civil and Political Rights?

Can a person who is Muslim choose a religion other than Islam in Somalia, in the Somali Diaspora?

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 and 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 Distrupted – 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.

Can this article be written to comply with the general principles and laws of Shari'ah in the draft Constitution of Somalia, and Article 18 of the International Covenant on Civil and Political Rights?

(3) No law which is not compliant with the general principles and with Shari'ah can be enacted.

Can this article be written to comply with the general principles and laws of Shari'ah in the draft Constitution of Somalia, and Article 18 of the International Covenant on Civil and Political Rights?

Article 22. Freedom of Religion or Belief

(1) A person is free to practice his or her religion or belief.

(2) No Muslim can renounce Islam.

Can this article be written to comply with the general principles and laws of Shari'ah in the draft Constitution of Somalia, and Article 18 of the International Covenant on Civil and Political Rights?

(3) No religion other than Islam can be propogated in Somalia.

Can this article be written to comply with the general principles and laws of Shari'ah in the draft Constitution of Somalia, and Article 18 of the International Covenant on Civil and Political Rights?

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.

The Principle of Neutrality

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 cannot favor one religion or belief over another. This 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, neutral and impartial moral principle. Lexicographers may describe the terminology as agnostic, *the third rail* on the God idea between theism and atheism.

**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. 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:

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.

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](#)

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>

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.

The question – Can a person who is Muslim choose a religion other than Islam is for the Muslim community and Muslims to decide. For some Muslims it is an affront to Islamic traditions and cultural norms to even ask the question. For others, Muslims and non-Muslims, not ensuring the right to change one's religion is a challenge to the universality of human rights and freedom of religion or belief. It makes UN Human Rights Council consensus on this question problematic for now. The answer must be one way or the other. It can't be both.

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.

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 bring all matters relating to freedom of religion or belief under one banner, a core international human rights legally-binding treaty.

