

Kjell Magne Bondevik, former Prime Minister of Norway, received an Honorary Doctor of Humane Letters, *Honoris Causa*, and gave the Commencement Address at Augsburg College, Minneapolis, Minnesota, United States of America. This informal discussion was held the day before Commencement.

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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

**PRELIMINARY & INFORMAL DISCUSSION
AT AUGSBURG COLLEGE**

WITH

**FORMER PRIME MINISTER KJELL MAGNE BONDEVIK
PASTOR IN THE LUTHERAN CHURCH OF NORWAY**

**FOUNDER & PRESIDENT
THE OSLO CENTER FOR PEACE & HUMAN RIGHTS**

AGENDA

- 1. The Question**
- 2. The Issue & Impasse**
- 3. Somalia Constitutions**
- 4. Norway Constitution**
- 5. The Opportunity**

I.

THE QUESTION

CAN A PERSON WHO IS MUSLIM CHOOSE A RELIGION OTHER THAN ISLAM?

“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 in 2008, 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, an 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.

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.

II.

THE ISSUE

COMPLIANCE WITH 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.

THE IMPASSE

The UN Mandate on Freedom of Religion or Belief – 2007-2011

Since 2007 the European Union (EU) and the Organization of the Islamic Conference (OIC) in the UN Human Rights Council have disagreed on this paragraph 9 (a) guaranteeing in all Constitutions and legal systems including under Sharia’ah Law the right to change or abandon one’s religion or belief.

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:

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.

2010

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.

III.

DRAFT CONSTITUTION FEDERAL REPUBLIC OF SOMALIA *

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 propagated 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?

SOMALILAND & PUNTLAND REGIONAL CONSTITUTIONS

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

“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.

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.”

*** Preliminary exchange of views at Augsburg College on differences between Norway and Somalia on (1) freedom to change one's religion or belief and (2) propagation of Islam but no other religion in Somalia draft federal constitution and regional constitutions, (3) Article 18 of the International**

Covenant on Civil and Political Rights, recognition of rights-based choice and expression respecting pluralism and cultural norms is the key to stability, democracy and development.

IV.

NORWAY CONSTITUTION *

National Report: “Norway has a constitutional state church system that has been the subject of criticism as a matter of principle from several quarters, including the UN Human Rights Committee. Article 2 of the Constitution protects certain aspects of freedom of religion or belief, but does not go as far as the protection provided by international human rights principles.” “A White Paper has been discussed in Parliament, and formal proposals to amend all seven articles in the Constitution establishing the state church system has been submitted. The proposals will be voted on in the next parliamentary session.” “In connection with continuous focus on dialogue, cooperation between religious and life stance communities, the authorities and the general population, grants are provided for three councils for religion and belief: the Council of Religious and Life Stance Communities, the Islamic Council of Norway and the Christian Council of Norway.” “Religious and belief communities outside the Church of Norway have a statutory right to claim an annual financial grant from the State and municipal authorities. This grant scheme is unique internationally.”

Norway Humanist Association: “In 1814, Norway’s Constitution outlawed Jews, Jesuits and Atheists. The situation has improved since, but we are very unhappy that while Article 2 of the present Constitution guarantees freedom of religion, at the same time it declares “The religion of the state remains Evangelical-Lutheran. Inhabitants of that confession are committed to raising their children in the same.”

Then Article 12 of the Constitution stipulates that at least 50% of the Prime Minister’s cabinet has to be members of the state church. **Norway’s King is also required to be a member of the Lutheran Church** – strangely, the head of the state is denied freedom of religion or belief!

The Norwegian Humanist Association’s aim is to separate Church and State, and to introduce liberty for all religions and life stances on equal terms.

What happened in Sweden is a small separation but not really a divorce between the State and the Church. There is still a specific law governing the Church but it is Parliament which makes this law, and the government does not appoint bishops or leaders of the church anymore.

While Sweden achieved neutrality, we are going for equality of treatment, and that is why the Norwegian Humanist Association worked to obtain our share of the state funds. In Norway most political parties today would favor a separation of Church and State. Of course, the Christian Party is against it, and because 2/3 majority in the Storting (Parliament) is needed we need the Labor Party to take a principled stance in this matter. That has not been forthcoming.”

* Former Prime Minister Bondevik assured the Augsburg College discussion that Article 2 of the Norwegian Constitution has been amended by Parliament and there is no longer a State Church of Norway. Article 12 has been amended accordingly for the Prime Minister's cabinet with the exception that the King will still be head of the Lutheran Church of Norway, which implies he must be Lutheran.

V.

THE OPPORTUNITY

RESOLUTION COMBATING INTOLERANCE, STEREOTYPING, DISCRIMINATION & INCITEMENT TO VIOLENCE AGAINST PERSONS BASED ON RELIGION OR BELIEF (A/HRC/16/L. 38)

Pakistan sponsored resolution A/HRC/16/L.38 by consensus without a vote in the sixteenth session of the UN Human Rights Council with help from Organization of Islamic Conference Ambassadors, United Kingdom, United States of America, Norway and regional groups. It implicitly acknowledges **Interfaith dialogue has not worked to resolve current conflicts**. The resolution is a challenge to go deeper in a rights-based Interfaith-Intercultural dialogue with constructive and respectful debate of ideas and a global strategy of awareness building and education to combat intolerance, stereotyping, discrimination and violence against persons based on religion or belief in local, national and international settings.

[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](#)

Human rights are universal and individual. What applies to one person applies to all persons in all religions or beliefs: <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>. Individual rights-based freedom of choice and freedom of expression respecting pluralism and cultural norms is the key to stability, democracy and development.

PARAGRAPHS FROM A/HRC/16/L.38

(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.**

The Islamic Civic Society of America (ICSA) and Dar Al-Hijrah Mosque hosted a lecture by Tariq Ramadan: *Coexistence: Contributing to the Common Good While Maintaining our Values*,” sponsored ICSA and others in St. Paul on 23 December 2010.

Tariq Ramadan is a Geneva born Swiss intellectual and professor of Contemporary Islamic Studies in the Faculty of Oriental Studies at Oxford University. His lecture was based in part on his book, *What I Believe*. “Our societies are awaiting the emergence of a *New 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” In *What I Believe* Ramadan reflects on *Local, National*; “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.** These shared projects 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 shared commitment of citizenship in the priority fields: education, social divides, insecurity, racisms, discriminations, and more.”

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.