

Human Rights & Human Welfare

Volume 10

Issue 2 *January Roundtable: An Annotation of
"My Compatriots' Vote to Ban Minarets is
Fuelled by Fear" by Tariq Ramadan*

Article 5

1-1-2010

Minarets Vote Compromises Human Rights for Everyone

Anna Talbot
Amnesty International

Follow this and additional works at: <https://digitalcommons.du.edu/hrhw>



Part of the [European Law Commons](#), [Human Rights Law Commons](#), [International Humanitarian Law Commons](#), [International Law Commons](#), [International Relations Commons](#), [Other International and Area Studies Commons](#), [Public Policy Commons](#), [Religion Law Commons](#), and the [Social Policy Commons](#)

Recommended Citation

Talbot, Anna (2010) "Minarets Vote Compromises Human Rights for Everyone," *Human Rights & Human Welfare*: Vol. 10: Iss. 2, Article 5.

Available at: <https://digitalcommons.du.edu/hrhw/vol10/iss2/5>



All Rights Reserved.

This Roundtable is brought to you for free and open access by the Josef Korbel School of International Studies at Digital Commons @ DU. It has been accepted for inclusion in Human Rights & Human Welfare by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

Minarets Vote Compromises Human Rights for Everyone

Abstract

Minarets, like church steeples, are a physical manifestation of religion. There is little doubt, then, that their recent banning in Switzerland following a referendum constitutes a breach of the right to freedom of religion, with respect to the right to manifest ones religion. This right is protected under a number of instruments, including the Universal Declaration of Human Rights (Article 18), the International Covenant on Civil and Political Rights (ICCPR) (Article 18), and the European Convention on Human Rights (Article 9). Under these instruments, the right to manifest ones religion can only be limited if such a limitation is necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others (ICCPR Article 18.3, for example). Minarets do not threaten any of these.

Keywords

Human rights, Switzerland, Minarets, Freedom of religion, Political rights, Religious discrimination, Muslims

Copyright Statement / License for Reuse



All Rights Reserved.

Publication Statement

Copyright is held by the Josef Korbel School of International Studies, University of Denver. User is responsible for all copyright compliance.

Minarets Vote Compromises Human Rights for Everyone

by Anna Talbot

Minarets, like church steeples, are a physical manifestation of religion. There is little doubt, then, that their recent banning in Switzerland following a referendum constitutes a breach of the right to freedom of religion, with respect to the right to manifest one's religion. This right is protected under a number of instruments, including the Universal Declaration of Human Rights (Article 18), the International Covenant on Civil and Political Rights (ICCPR) (Article 18), and the European Convention on Human Rights (Article 9). Under these instruments, the right to manifest one's religion can only be limited if such a limitation is necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others (ICCPR Article 18.3, for example). Minarets do not threaten any of these.

The Human Rights Committee and the Special Rapporteur on freedom of religion and belief have further clarified the principle of freedom of religion and permitted restrictions. In its General Comment 22, the Human Rights Committee, which monitors the implementation of the ICCPR, made it clear that the permissible limitation to the freedom of religion must be interpreted strictly, and must be directly related and proportionate to the need identified. The Special Rapporteur on the freedom of religion and belief, in her report from her visit to Turkey in 1999, recommended that the right to establish and maintain a place of worship and to build such facilities should be in conformity with international jurisprudence. She referred to the Human Rights Committee General Comment specifically in this recommendation. Both the [Special Rapporteur and the Human Rights Committee responded to the news](#) of the outcome of the Swiss referendum by expressing concerns that this ban amounts to an undue restriction of the right to manifest one's religion in breach of Switzerland's international human rights obligations.

This breach of international law, however, points to a troubling trend. At the Human Rights Council, there is a clear split between progressive states and those who are more conservative. This split played out in the March 2009 session of the Council, with the passing of another [resolution on the defamation of religion](#). The only religion explicitly mentioned in the resolution is Islam, in relation to (among other things) the targeting of Muslims that has occurred since September 2001. This resolution refers repeatedly to the use of the media to stereotype or incite intolerance against certain religions. It also emphasizes the fact that the right to freedom of expression carries with it special duties and responsibilities. At the time of its passing, [this resolution was quite controversial](#). Germany made a statement to the Council on behalf of the European Union (EU) arguing that the concept of the defamation of religion was not valid in human rights discourse, and that the issues raised in the resolution would benefit from a more rights based approach. With the Swiss referendum, however, we see an EU member state expressing in very clear terms a popular intolerance of Islam. In such circumstances, it is easy to see why there is a lack of faith in the effectiveness of the current international framework.

This referendum ultimately points to a failure of leadership. It is up to national and social leaders to help the population to understand why a referendum to ban the manifestation of one religion is dangerous. The structure of human rights law we have at the moment, while by no means perfect, provides a strong framework with which to ensure respect and security for all. It is when this structure is undermined, and when particular groups feel threatened, that developments with

the potential to undermine existing human rights (as has happened with the recent Human Rights Council resolution) can occur. It is not good enough to argue against developments such as the resolution on defamation of religion without backing this argument up with action. Such action would include positive leadership regarding acceptance of religious diversity, and the resultant manifestations. In Switzerland, we have seen the opposite—that religious groups can be marginalized by popular will, as reflected by this referendum.

**The views expressed in this article do not necessarily reflect the views of Amnesty International*

Anna Talbot has worked in the legal department of Amnesty International since January 2008. Before that she graduated with honors in Law and History from the Australian National University and qualified as a barrister and solicitor of the Supreme Court of Victoria (Australia) in 2007. She has also completed the Advance Course on the International Protection of Human Rights through the Institute for Human Rights at Åbo Akademi University in 2009.