



Freedom of religion is no license to discriminate

ODIHR HDIM meeting on 1 October 2014

Contribution to working session 14:

Fundamental freedoms II including

Freedom of thought, conscience, religion or belief

By Aurélie Wielchuda (CAL)

The Centre d'Action Laïque, CAL, which is a member of the European Humanist Federation has always been committed to the right to freedom of thought, conscience, religion or belief as a fundamental right of every human being. As a universal human right, freedom of religion or belief safeguards respect for diversity. It includes the right to change or leave one's religion or belief, as well as the right to hold no religion or not to believe. Freedom of religion or belief applies to individuals, as right-holders and the CAL firmly condemn any attack against individuals because of their beliefs or non-beliefs.

Several aspects of this right need to be outlined. First of all, the right to freedom of thought, conscience, religion or belief is a right granted to people, not to their beliefs. Some fundamentalist Christian organisations have been mixing criticism against the Catholic Church and attacks against Christians¹. Nonviolent forms of contestation against a belief such as caricatures or protests can in no way be considered as a case of discrimination. It is merely an expression of the most basic freedom of expression and doesn't deprive holders of this belief of any fundamental right.

Also, while the right to hold – or indeed not hold – a religion or belief is absolute, the right to manifest one's religion or belief is not. It may be subject to limitations provided that they are prescribed by law, are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others as stated in Vienna in 1989 in the OSCE principles of Questions Relating to Security in Europe².

¹ See for instance the report of Mr Valeriu Ghiletschi of the Committee on Equality and Non-discrimination of the Council of Europe <http://humanistfederation.eu/news-eu.php?pages=twisted-report-claims-discrimination-against-christians-in-europe>

² Page 119 : <http://www.osce.org/odihr/76894?download=true>

These restrictions on the manifestations of religion are necessary to ensure that the rights of other people aren't put at risk, as it has been the case recently. An example is a case of discrimination against LGBT people disguised as freedom of religion. Recently, a British Court had to judge a case that was then brought before the Council of Europe in a report on discrimination against Christians in Europe. A gay couple was refused a bed in a B&B because the Christian B&B owners considered non-marital and thereby homosexual relationships a sin. A court decided that it was an obvious case of discrimination and condemned the owners to pay the couple damages. The B&B owners felt discriminated against because they weren't allowed to express their beliefs by discriminating against others. Another case of "discrimination" reported was the obligation of registrars to conduct same-sex marriage. It seems peculiar and dangerous to consider that obeying the law –which is the same for all- would be considered a case of discrimination. Or that your personal beliefs could put you above the law. The ECtHR rejected such an interpretation in the Lillian Ladele and Gary McFarlane against the United Kingdom case.

This is why the CAL would like to stress again that even though the freedom of thought, conscience, religion or belief is a necessity, it has to be limited when infringing on the liberties and rights of others. A religion or a belief should never be used as an excuse to discriminate other or to not follow the law.