

## OSCE HUMAN DIMENSION REVIEW CONFERENCE, WARSAW

### INTRODUCTION TO FoRB SESSION

**OCTOBER 1 2010, 15.00-18.00**

Over the last ten years, there have been significant developments concerning the enjoyment of the Freedom of Religion or Belief as a human right and OSCE Commitment

The most profound of these changes have been the heightened importance of religious concerns for political communities, and the manner in which they address these issues has become a matter of critical political importance, both domestically and internationally. The reason for this change is less easy to explain. Of course, it derives in part from the aftermath of September 11<sup>th</sup>, and all that followed in its wake. But this, I think, was more of an effect than it was a cause. The underlying issue, it seems to me, was – and remains – a rekindling of interest in the role that belief – religious or non-religious – plays in the public life of communities. What we have seen over the last ten years are a series of developments which, in different ways, all relate to the exploration of that question. Such situations, unfortunately, tend to give rise to clashes and controversies rather than compromise, matters become polarised and issues become invested with a significance beyond their true importance. We are, I fear, at such point at the moment.

This can be illustrated with reference to a number of issues which have come to prominence in over the last few years. Unsurprisingly, a first area of difficulty relates to questions of security. It has often been the case that both individuals and states have sometimes felt themselves threatened – and sometimes with good cause – by the rise of certain religious movements, which have the potential to challenge and destabilise the status quo. Over the last few years, however, there has been an increasing trend to associate some forms of religious belief with extremist tendencies, and to see their adherents as potential security threat for no other reason than that they subscribe to such forms of belief. It is not easy to strike the right balance between taking the action necessary to protect individuals from extremist violence and the need to avoid fuelling tensions by demonising those who sincerely hold certain beliefs and seek only to act in accordance with them in a lawful and peaceable fashion. Getting this right remains an on-going challenge. It is important to ensure that legitimate security concerns are not used to justify improper restrictions upon the enjoyment of freedom of religion or belief.

Another issue which has caused some controversy concerns laws relating to the recognition of religious organisations. Whilst such laws are not in themselves objectionable – indeed, they may be very necessary to enable religious bodies to acquire the legal personality they need in order to enable the freedom of religion to be enjoyed – such laws also have the capacity to be used to limit, restrict or even prohibit the free exercise of religion or belief. In a

climate in which there is tension over the role of religion in public life, it is easy to misuse such laws – as has been seen all too often in recent times.

To that end, the OSCE/ODIHR Advisory Council on the Freedom of Religion or Belief, in conjunction with the Venice Commission, is striving to revise its Guidelines pertaining to such laws, in the hope that this will be a useful tool for those seeking to ensure that such laws are well drafted and properly calibrated. Another activity in this field is opinions on legislation provided by ODIHR and the Advisory Council upon request of participating States.

Another area of difficulty has concerned the relationship between the freedom of religion and the freedom of expression. The publication of the ‘cartoons’ of the Prophet Mohammed, and the responses to it, exemplified the tendency to polarise competing values, pitting the one against the other, as if there were in some sense in ‘opposition’ to each other. Not only does this misunderstand the relationship, it also has the effect of escalating tensions rather than addressing the underlying issues. This in turn feeds into a sense that some religious communities do not share ‘our’ value systems, and that by accepting ‘their’ values, ‘our’ values are threatened, etc, etc. The result is a dangerous spiral of mutual suspicion of the actions and motives of others. It is with a growing sense of unease that we now see increased legislative activity within the OSCE region seeking to restrict the wearing and display of religious clothing and of religious symbols because of the threat, or the fear, which they are perceived as representing to the values and traditions of others. Predictably, but equally worryingly, this is met by claims that legitimate constraints, necessary to protect the rights of others, are themselves signs of intolerance and are ‘anti-religious’, rather than representing a judicious balancing on the competing interests at stake.

It is this, I feel, which brings us to the heart of the difficulty. There is a need for greater honesty in accepting that there are competing interests which do indeed to be reconciled. It is not a question of one set of values ‘trumping’ another, but it is all about finding ways in which those values - including perhaps those which we may not necessarily share - can nevertheless be respected. And I do believe that it is through the idea of ‘respect’ that these problems can best be addressed. And why should we show respect for things we might not believe in, nor admire? Because it is what we would want from others, were we dependent on their respect for us in order to enjoy our rights and freedoms.

But, in practical terms, what does this mean for Participating States, particularly as they review the implementation of their OSCE Commitments? It has often been emphasised that the freedom of religion and belief is one of the foundations of democratic life and that, in consequence, democratic States are called on to exercise their regulatory powers in an impartial and neutral fashion as between religions, meaning that States must not privilege one form of religion - or privilege non-religious believe systems - over others. The importance of recognizing the significance of religious tolerance and pluralism within society is also widely acknowledged. The central problem lies in balancing these two considerations, bearing in mind that the first – being ‘neutral and impartial’ is largely a means of achieving the second: it is not an end in itself. Believers may be expected to cope with a fairly high degree of

challenge to their systems of belief from non-believers in the pursuit of the more general goals of securing pluralism and tolerance. It is only when such forms of expression amount to 'malicious violations of the spirit of tolerance' that intervention can be expected to restrict the expression of others. On the other side of the coin, however, society in general might likewise be expected to be able to cope with a fairly high degree of public display of personal religiosity and religious presence. Neutrality and impartiality does not mean that the public space - or the school, or the work place - must be emptied of the religious. On the contrary, it means that all forms of religion or belief must be able to secure their proper place in public life, in the public space, in the school and at the workplace, since other approaches are less likely to help foster pluralism and tolerance or show the appropriate degree of respect for the beliefs of others. It also means that belief communities should be able to be present in public and political debate in order to allow their voices to be heard. It would be naïve in the extreme to pretend that there is no potential threat or danger to the enjoyment of rights posed by the beliefs and activities of some religious groups or belief communities or by their followers. There is, and this must be addressed. But it is equally naïve to think that by demonising those who hold certain beliefs, or by seeking to remove traces of the religious from public view, that states will be doing anything other than making the perfectly normal task of seeking to strike the appropriate balance between the competing interests of those whose interests it should be serving even more complex than it otherwise is.

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