



Working session 4: Fundamental freedoms I

*As delivered by Paul Coleman
ODIHR-OSCE: 2013 Human Dimension Implementation Meeting
Warsaw, Poland: 25 September 2013*

My recommendation is that Participating States reform, repeal or abolish all domestic “hate speech” laws that violate clear international human rights law on the right to freedom of expression.

While everyone accepts that there must be some limitations on speech in a civilized society, limitation of speech must remain an exception. Accordingly, any limitations must have a high threshold, be well-defined and well-targeted, and freedom of speech must not be restricted any further than is absolutely necessary.

Many “hate speech” laws, however, do not come close to meeting these standards. In fact, most people have a hard time even defining what they mean by the term “hate speech”, and often it can simply mean speech they do not like. “Hate speech” laws are loosely worded and arbitrarily enforced. They only protect certain groups and rarely require an actual victim. They are focused more on the listener’s response than the truth of the statement. In short, they often represent an invalid restriction on free speech according to international law.

Despite the importance of freedom of speech and robust public debate, the nations of Europe have all adopted criminal laws against so-called “hate speech.” In Germany, for example, committing “an insult” is a criminal offence and in Poland “offending religious feelings” carries a two year prison sentence. In Cyprus, anyone who promotes “feelings of ill will” may be committing a crime, while in Sweden anyone who “expresses contempt” towards a group of persons may be imprisoned.

Across Europe, such laws are readily being used. Ministers of religion have been arrested for preaching sermons from the Bible, journalists have been routinely fined and even private conversations between citizens have resulted in criminal investigations.

Undoubtedly, giving strong protections to freedom of speech does not come without a risk— in a society that tolerates offensive and insulting speech there is always the risk that other citizens will be hurt and offended by what they hear. But that is the risk that liberal democratic nations simply have to take. Once it is accepted that the State must censor public debate through the coercive criminal law, there is no logical stopping point, and the state may become empowered to prohibit the expression of an idea simply because the State, or society, finds that idea offensive or insulting. If real progress in human rights is to be made, such a future must be averted.

For more information, see P Coleman, *Censored: How European “hate speech” laws are threatening freedom of speech*, Kairos Publications: Vienna, 2012.