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On behalf of

The International Civil Liberties Alliance

Pax Europa

Mission Europa

Wiener Akademikerbund

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Use of intimidation to curb civil liberties

Recent cases in the OSCE area

We are concerned about the increasing use of intimidation to curb the exercise of civil liberties in the OSCE area. This covers fundamental liberties such as freedom of movement, freedom of assembly and, not least, freedom of expression. Here we present recent cases on the matter, and our recommendations for political initiatives to counter this trend.

Modern, secular society was built with centuries of relevant criticism of religion, in particular by questioning religious authority. No form of intimidation can make us abandon our fundamental values of critical thinking and free speech. We expect our institutions and elected politicians to protect these, to take the relevant precautions as well as any risks involved in doing so.

Unfortunately, we are witnessing a slow but steady decline in the state of civil liberties. This decline is to a great extent due to intimidations, threats or even violence from non-state actors, aided and abetted by our police, courts and other authorities not standing up to the challenges. We need to identify the new challenges and adopt our approaches, so that we are able to counter repressive activity from non-state actors and loosely organized groups in order to preserve freedom and diversity.

Dr. Jussi Halla-aho convicted for 'incitement to hatred' at Finnish court

Dr. Jussi Halla-aho is a Helsinki city councilman, a linguist with a PhD in Slavic studies, and a web columnist who maintains a very popular (and controversial) blog called [Scripta](#). He is best known for being a consistent critic of the problems created by mass immigration and multicultural policies in Finland. After his December 2008 election to the city council of Helsinki, he was accused of 'racist writings', due to an article he had written about the increasing number of rape cases by immigrants against Finnish women. The investigation was launched at the request of the Women's organization of the Green Party, who filed a complaint concerning the last paragraph of text in a blog post of his, and sought the police to investigate to help determine whether the paragraph constitutes incitement to rape. This investigation was abolished on technical grounds, but later Jussi Halla-aho was convicted and fined for "breaching the sanctity of religion" and "inciting hatred against an ethnic group" due to his critical articles about Islam.

<http://www.internationalfreepressociety.org/2009/09/23-minute-interview-with-jussi-halla-aho/>

Disrupting peaceful demonstration I Copenhagen January 10th 2009

On January 10th 2009, a legal and peaceful pro-Israel demonstration was held in the town square of Copenhagen, Denmark, in support of Israel against Hamas. Counter-demonstrators disrupted the demonstration with a siren, then assembled with shouts of "Heil Hitler", "Kill the Jews", "Allah-hu Akbar" and more, accompanied by Hitler salutes. After the pro-Israel demonstration had ended, the pro-Palestine demonstration marched the square with shouts of "Khaybar Khaybar ya Yahoud, Jaish Muhammad sauf ya'ud" ("Khaybar, Khaybar, O Jews, Muhammad's army will return"), a reference to Muhammad's violent assault on the Jewish settlement of Khaybar, Medina, and thus an implied threat of violence against Jews. Gülay Kocbay and Havva Kocbay participated in the counter-demonstration, using the siren and holding a speech. They were at the time members of the organisation Muslimer i Dialog ("Muslims in Dialogue"), but resigned due to the siren incident. The open display of anti-semitism was not mentioned in their resignation announcement. Danish authorities investigated the matter, but decided not to press charges of racism, citing difficulties identifying the participants.

<http://www.uriasposten.net/?p=6471>

www.jihadwatch.org/archives/024366.php

Disrupting peaceful demonstration II Copenhagen, August 28th 2009

In August 2009, SIOE organized a demonstration against plans for an Iranian-funded mosque in Copenhagen, Denmark, citing concerns that the mosque would be a front for the Iranian Revolutionary Guard, and that its real purpose was to enable the Iranian regime to keep track of dissidents and to radicalize Muslims in Denmark. The Danish authorities did not permit the demonstration at the desired location in Nørrebro, relegating it instead to be held in front of the Danish parliament. Here, left-wing radicals turned up in order to loudly disrupt the demonstration, and were successful in dissuading many from participating.

When the SIOE organizers requested the police to call the counter-demonstration to order, the police officer cited "freedom of expression" as justification for not intervening against the disturbances.

<http://sioe.wordpress.com/2009/08/29/attempts-to-destroy-the-sioe-demonstration/>

Demonstration at Harrow mosque attacked by Muslims

<http://www.independent.co.uk/news/uk/home-news/rightwing-protestors-target-harrow-mosque-1785797.html>

Demonstration in Cologne obstructed by Antifa activists and Muslims

On 19 September 2008, an approved rally by citizens' group Pro Köln to protest against the construction of a mosque complex to dwarf the cathedral of Cologne in Germany was brought to an abrupt end when the speaker system was pulled and the people who had managed to access the Heumarkt were besieged and surrounded by aggressive groups of black-clad Antifa activists. Many others who had wished to join the protest were prevented from reaching the rally and blocked at railway stations, or even physically assaulted. The rally was repeated on May 9th 2009 but not allowed to take place in central Cologne. Once again, the Pro-Köln supporters were subjected to harassment and abuse at the hands of Antifa activists and Muslims.

<http://gatesofvienna.blogspot.com/2009/04/pro-kolns-plan-b.html>

Wilders barred from entering the UK for 'security reasons'

One of the most worrisome developments in the United Kingdom was the ban on entry for Dutch MP Geert Wilders, known for his short movie *Fitna* about Islam and terrorism. He was barred entry to the UK on grounds that his entry "would threaten community harmony and therefore public security", even though Wilders has never advocated the use of violence or threatened anyone. On the other hand, Britain's Muslim peer, Lord Nazir Ahmed, threatened to mobilize 10,000 Muslims to protest Wilders' appearance and the showing of *Fitna* in the British Parliament. Rather than reprimanding Lord Ahmed for this act of intimidation, the British government chose to ban Wilders from entering Britain, returning him at arrival to Heathrow Airport. This constitutes not only giving in to intimidation, but is also an abuse of the law to restrict freedom of movement within the European Union.

<http://www.nytimes.com/2009/02/13/world/europe/13britain.html?partner=MOREOVERNEWS&ei=5040>

Libel tourism as an assault on freedom of press

Libel tourism is the exploitation of poorly written libel laws in one country to silence critical voices in others. The libel laws of Great Britain have been used extensively for this purpose, due to the fact that the burden of proof in British law is reversed compared to comparable law in other countries. Under British law, an author or journalist sued for libel will have to prove his statements true in order to avoid sentence. Using this approach, persons with deep pockets can silence critical voices. Such a lawsuit was filed in a British court by Khalid Salim bin Mahfouz against American author Rachel Ehrenfeld for her 2003 book "Funding Evil", even though the book was never published in Britain. Ms. Ehrenfeld was convicted a fine of \$225,000 and destruction of her book. As a reaction, in order to protect freedom of press in the United States, US lawmakers passed legislation making the UK law unenforceable in the United States. This protects US authors, but not others. Relevant books, such as *Alms for Jihad* by Burr & Collins, have been withdrawn or even remained unpublished due to the fear of libel suits. Such books can be found published Samizdat-style on the Internet. The legal problem in Britain still exists, and publishers shy away from critical titles due to the risk of expensive lawsuits. In order to protect authors and journalists, and to live up to modern standards for freedom of press, British law needs to be amended.

http://www.nytimes.com/2008/01/20/technology/20iht-libel21.1.9346664.html?_r=1

Oriana Fallaci sued for 'Defaming Islam'

In 2002 in Switzerland the *Islamic Center* and the *Somal Association of Geneva*, *SOS Racisme of Lausanne*, along with a private citizen, sued Italian author Oriana Fallaci for the allegedly "racist" content of *The Rage and The Pride*. In May 2005, Adel Smith, president of the *Union of Italian Muslims*, launched a lawsuit against Fallaci charging that "some of the things she said in her book *The Force of Reason* are offensive to Islam." Smith's attorney cited 18 phrases, most notably a phrase that referred to Islam as "a pool that never

purifies." Consequently an Italian judge ordered Fallaci to stand trial set for June, 2006 in Bergamo on charges of "defaming Islam." The preliminary trial began on 12 June in Bergamo and on 25 June Judge Beatrice Siccaldi decided that Oriana Fallaci should indeed stand trial beginning on 18 December. Fallaci accused the judge of having disregarded the fact that Smith called for her murder and defamed Christianity.
http://en.wikipedia.org/wiki/Oriana_Fallaci

OIC seeks to censor art exhibition in Denmark

Kurt Westergaard, the cartoonist behind the most famous of the 12 Muhammad cartoons in Danish daily Jyllands-Posten, has been living with around-the-clock police protection since a plot to assassinate him was uncovered on February 12th, 2008. This threat has not caused him to repent or apologize for his drawings, and he now proceeds to talk for the freedom of speech, and keeps drawing as well. On August 29th 2009, an exhibition of his latest drawings, including a reproduction of his famous Muhammad cartoon. The OIC spokesman said that the exhibition of the cartoon could incite hatred and intolerance and hurt the sentiments of Muslims worldwide, and wanted it removed. This, of course, is an implicit reference to the violent riots that took place in January/February 2006, a while after the original publication of the cartoons. Kurt Westergaard, who at the age of 74 states that he is too old to worry about getting killed, refused to give in to intimidation and the exhibition proceeded as planned.
http://www.oic-oci.org/topic_detail.asp?t_id=2650

More attempts to shut down 'offensive' art exhibitions are listed here:
<http://gatesofvienna.blogspot.com/2009/09/muslims-provoked-by-art.html>

Policy recommendations

The International Civil Liberties Alliance sees quite a lot of work ahead before our civil liberties are again sufficiently secured. Governments need to be significantly more assertive and effective to ensure the liberties we have long taken for granted. To that end, we recommend the following:

- Our civil liberties need to be defended using whatever resources are necessary. Lack of equipment or fear of hurting police personnel is not a sufficient reason to abandon the fundamental obligation of the police to protect demonstrators and the like.
- Libel law in Britain is urgently in need of revision, reversing the burden of proof so as to prevent misuse of these laws against authors and journalists, who should be free to conduct and publish investigative work without fear of frivolous and costly court cases.
- It should be made clear that truth is an absolute defence. No matter how offensive it may feel to some, speaking verifiable truth can never be made punishable.
- Lawmakers and courts must make it clear that criticism of religion does not constitute racism, and thus is not subject to punishment under any form of hate speech law. Further, defamation applies only to individuals, not to religions or ideologies.
- Dealing with conflict by banning expression of negative sentiment ('hate speech' laws) is legally problematic, in that such regulations constitute limitations to our fundamental liberties, and may serve to cover up conflicts rather than solve them. Such broad articles are subject to abuse, should authorities and courts come under pressure from various parties, as were similar laws in the Soviet Union. Due to the inherent dangers such laws constitute, ICLA recommends that it is in the interest of our freedom to abolish such laws entirely.

International Civil Liberties Alliance

Libel Laws in the United Kingdom and the United States

The U.S. is creating new laws to protect reporters' free expression. But it is pertinent that the British libel law, similar laws in British Commonwealth states, and other countries are amended to protect the free expression of local and foreign authors and journalists. Written by HRC.

English libel laws facilitate and libel tourism.

English libel laws dating back to 1849 allow foreigners to sue other foreigners in English courts a practice known as "libel tourism". In addition, England's plaintiff-friendly libel law is at loggerheads with American principles of free speech guaranteed by the First Amendment. Libel Tourism is used a weapon to silence foreign publishers and writers in print and on the internet.

Moreover, Britain's libel law silence free expression. In July 2008, the United Nations Human Rights Committee stated it was "concerned" that Britain's libel law had "served to discourage critical media reporting on matters of serious public interest". It does so by use of two absurd presumptions: that defamatory (i.e. critical) statements are always false, and that defamations always do significant damage. These two presumptions of "falsity and damage are both in terms illogical, but are in law irrefutable and further proof that English law disfavours free speech," said Mark Stephens, a London-based libel expert.

The case that led U.S. legislatures to pass laws to protect American writers and publishers from such lawsuit was Khalid bin Mahfouz – a Saudi billionaire lawsuit against Rachel Ehrenfeld, an American author, for statement she made in her book: *Funding Evil; How Terrorism is Financed – and How to Stop It*. The book was not published in the U.K. or even marketed there. But Mahfouz claim that 23 copies were sold in England on the internet and that was enough to give him jurisdiction to sue the New York based author. Ehrenfeld refused to acknowledge the British court. Instead, she demanded the free speech protections she thought she had in New York. She lost the case in London by default. In response, the New York legislature passed the Libel Terrorism Protection Act, in May 2008. The laws protect New Yorkers from libel tourists. Illinois and Florida passed similar laws and in California the governor is about to sign the anti-libel tourism law. The New Jersey legislature is also considering an anti-libel tourism law.

A bi-partisan Free Speech Protection Act 2009 is now pending in Congress. The law will ensure that U.S.-based journalists, researchers and publishers no longer need to fear the pernicious threat of foreign libel judgments, and will allow the deterrent of countersuits for damages. This law will allow American writers to freely investigate and report on matters of national and international significance.

The U.S. is creating new laws to protect reporters' free expression. But it is pertinent that the British libel law, similar laws in British Commonwealth states, and other countries are amended to protect the free expression of local and foreign authors and journalists.

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