

Statement at OSCE Human Dimension Implementation Meeting, Warsaw, October 6th 2009

Freedom of Expression: New challenges, new responses

On behalf of The International Civil Liberties Alliance

Session 12, October 6th 2009:

(This is the short version of the ICLA statement given in the OSCE plenary on October 5th, 2009, within in the 3-minute speakers limit in the session. An elaborated version follows below.)

Dear Colleagues,

Protecting freedom of expression and of the press is a primary objective of the OSCE. The International Civil Liberties Alliance appreciates the report from the Representative on Freedom of the Media, noting in particular that the problem of diluting the concept of 'hate speech' and applying laws overly broad in scope is being addressed.

Freedom of Expression has seen significant progress in the OSCE areas, not least east of Vienna, though severe problems still exist in Russia, Belarus, Turkey and elsewhere. Currently, attempts to curb freedom on the Internet is an issue of particular concern.

New challenges to freedom of expression emerge, not least from non-state actors. Under the guise of "religious sensitivity", these have advocated finding some 'compromise' between religion and our right to say, draw and print what we consider important.

These new challenges are frequently of an international nature, with non-state organisations taking the lead. Particular organisations of a fundamentalist religious outlook seek to block and ban expressions contrary to their world view or potentially damaging to their status. This is seen in a wide variety of events, from shutting down a performance of the opera [Idemeneo](#), the use of English libel laws to ban and destroy books like "[Funding Evil](#)" and "[Alms for Jihad](#)", not to mention the reactions to the Danish Muhammad cartoons and continuous pressure applied to artists.

Let it be clear: No religion and no clergy should be in need of protection from criticism and mockery. The Christian Church, for example, is doing fine in face of centuries of more or less free criticism. ICLA is of the firm conviction that no compromise on freedom of expression is desirable, nor even possible.

In order to protect freedom of expression and of the press, ICLA recommends:

- That all blasphemy and hate speech laws be repealed, that we use instead normal criminal law to deal with criminal offenses.
- That libel laws in England, Wales and elsewhere be amended to protect the offender in preference to the offended, or entirely repealed.
- That OSCE participant states reassert the right of their citizens to exercise their freedom of expression, that they act much more pro-actively to protect this freedom, in particular by effectively countering any attempt to stifle it.

Thank you.

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For questions or information, please contact: info@vigilantfreedom.com

Elaborated version of the above statement:

Dear Colleagues,

Protecting freedom of expression and of the press is a primary objective of the OSCE. The International Civil Liberties Alliance appreciates the report from the OSCE Representative on Freedom of the Media, which we find to be extensive in scope and detail. We note in particular that the problem of diluting the concept of 'hate speech' and applying laws overly broad in scope is being addressed.

Since the fall of the Berlin Wall, freedom of expression has seen dramatic progress in the OSCE areas, not least east of Vienna, but severe problems still exist in Russia, Belarus, Turkey and elsewhere, where various form of state intervention, or neglect to address obvious issues created by the administration, has a chilling effect on traditional as well as new media. Currently, attempts to curb freedom on the Internet is an issue of particular concern, with wholesale blocking of Internet sites like [WordPress](#) and [YouTube](#) being the most glaring examples.

New challenges to freedom of expression emerge, not least from non-state actors. Under the guise of "religious sensitivity", these have advocated finding some 'compromise' between religion and our right to say, draw and print what we consider important. While mobile phones and the Internet are bringing about a global sphere of communications, this should not lead to a situation where persons offended in one country seek to stifle freedom of expression in another. Nor does it look good that international organisations, formally seeking 'dialogue', seek to impose limitations of expression on various countries.

The issue of 'hate speech' legislation deserves particular attention. As the Representative has noted, these are frequently worded much too broadly and being applied with excessive zeal. This not only leads to convictions in very dubious cases, such as the one against [Jussi Halla-aho](#) in Finland, but is also the cause of confusion as to what a 'hate crime' truly is, eventually rendering the whole concept meaningless and prosecution of such cases futile. Thus we need to be much more clear about what we want to target.

The concept of a 'Message crime', where the crime against an individual is primarily meant to send a message of fear and intimidation to many others, offers a workable alternative. This is a more practical definition than that of 'hate' (which is legally problematic), and can usually be addressed through ordinary criminal law, rendering any attempts at restricting freedom of expression moot. A [case in point](#) is the conviction of an entire clan (of Pakistani origin), who plotted and executed the murder of their 18-year old daughter Ghazala Khan for the 'crime' of marrying a man of Afghani origin, an act deemed 'damaging to family honour'. While this was a case of actual violence, cases of inciting to violence (not merely issuing offending statements) can be handled in a similar fashion, voiding the need to restrict freedom of expression as such.

Many of the new challenges to freedom of expression are of an international nature, with non-state organisations taking the lead. Organisations of a fundamentalist religious outlook seek to block and ban expressions contrary to their world view or potentially damaging to their status.

This is seen in a wide variety of events, from shutting down a performance of the opera [Idemeneo](#), a performance abandoned because the ending featured decapitation of historical religious figures. This is seen in the use of English libel laws as tools of '[Lawfare](#)', in this case specifically '[Libel tourism](#)', to ban and destroy books like "[Funding Evil](#)" and "[Alms for Jihad](#)", the very latest case in the OSCE area pending at the Court of Toronto against Dr. Paul Williams for the 2006 publication of his book "[The Dunces of Doomsday](#)". The best known case is of course the reactions to the [Danish Muhammad cartoons](#) and [continuous pressure](#) still being applied to [artists](#).

Let it be clear: No religion and no clergy should be in need of protection from criticism and mockery. The Christian Church, for example, is doing fine in face of centuries of more or less free criticism. Though blasphemy is certainly not liked by the Church, it is very rare, if ever, that it resorts to legal means in order to punish the offenders. In a similar vein, the value of a rational mind and free inquiry into the nature of the world is not frowned upon by the Church, which historically has been able and willing to adopt to the impact from scientific progress.

ICLA is of the firm conviction that no compromise on freedom of expression is desirable, nor even possible. Any kind of compromise would be perceived as a victory for the enemies of freedom, leading not only to muting debate over the most controversial and important subjects, but also to future further demands to limit our right to speak the truth. Giving in to intimidation in this field, be it covert or open, would not in any likely scenario lead to a stable and peaceful state of affairs. Freedom of expression and of the press is a fundamental feature of a free society under the rule of law. We need our governments to defend this, not enter meaningless and exploitable compromises.

Thus, in order to protect freedom of expression and of the press, ICLA recommends:

- That all blasphemy and hate speech laws be repealed, that we use instead normal criminal law to deal with criminal offences.
- That libel laws in England, Wales, Canada and elsewhere be amended to protect the offender in preference to the offended, or entirely repealed.
- That OSCE participant states reassert the right of their citizens to exercise their freedom of expression, that they act much more pro-actively to protect this freedom, in particular by effectively countering any attempt to stifle it.

Freedom cannot be taken for granted, it needs to be won by each generation anew. OSCE, with its rich tradition in the field and great credibility, should be easily able to adopt to the new challenges and guide its participant countries on the proper path of action and responses to tackle them.