



Working Session No 13
Specifically Selected Topic:
Combating Hate Crimes and Ensuring Effective
Protection and against Discrimination

OSCE / ODIHR
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Thank you madam moderator, ladies and gentlemen,

In his discussion of freedom, Dostoevsky argued that if a person isn't free to stab himself with a fork, he isn't free at all.

While it is not clear how far one can take Dostoevsky's freedom standard, regarding speech, it must be said that if a person isn't free to say something stupid or ill considered, does he or she have any free speech rights at all? If one can be arrested for "hate speech" for saying something known to be true, is there any sense in which one can say there is free speech at all? In this emerging narrative, "free speech" becomes a mockery.

While attending this OSCE forum today, we heard that:

- "Free speech has to be legitimate"
- "It has to restrict Constitutional rights"
- "Hate speech must especially be enforced against politicians"

This raises serious questions:

- Who decides what constitutes “legitimate” free speech” and if it is the state – directly or indirectly – how does one maintain the pretense that dissent is tolerated in fact?
- Constitutional rights have historically been defined as rights inherent in the person that exist before the state and ahead of the state. If Constitutional rights have to be “restricted,” then by whom, against who, and for what purpose? This novel constitutional standard has the effect of reducing the limits of dissent to what those with power would be willing to tolerate. This inverts the definition of tolerance – that which the powerful will tolerate – in fact, it becomes Orwellian. Don’t discussions concerning “restricting Constitutional rights” reflect facially neutral attempts to invert the very idea of rights into “privileges granted by the state”?
- When directing “hate speech” strategies at politicians, doesn’t this give those in power the unlimited power to silence dissent by undermining the democratic process and, in the process, disenfranchising those in the population who would then become alienated – especially if the attacks on them are based on little more than stigmatization based on stereotypes by, among other things, calling them “haters”?

In places like this OSCE forum, there seems to be an emerging tyranny of facially neutral narratives driven by ill-defined terms purposefully directed at the suppression of the very freedoms and liberties they say they promote.

The Center for Security Policy recommends that the OSCE and participating States rethink the “Hate Speech / Hate Crime” narratives they seek to adopt that have the effect of undermining the very rights the claim to promote. Thank you!