

**SUPPLEMENTARY HUMAN DIMENSION MEETING
ON
FREEDOM OF RELIGION OR BELIEF**

**17-18 July 2003
HOFBURG, VIENNA**

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EXECUTIVE SUMMARY

The aim of this Supplementary Human Dimension Meeting on Freedom of Religion or Belief, held on the 17-18 July 2003 in the Hofburg, Vienna, was to examine and seek to develop best practices among participating States in accommodating freedom of religion or belief and its manifestations, as recognized in OSCE commitments and other international human rights standards.

The meeting also sought to examine and disseminate best practices in promoting tolerance of religion or belief, in particular the role of education and public awareness in combating intolerance in the long-term. The powerful role of the media concerning Freedom of religion or belief was also explored.

In the Opening Plenary moderated by Ambassador Justus de Visser, Chairman of the OSCE Permanent Council, on behalf of the Netherlands Chairmanship, introductory remarks were made by Ambassador Christian Strohal on behalf of the OSCE/ODIHR (see annex). The keynote speech was delivered by Prof. Abdelfatah Amor, UN Special Rapporteur on freedom of religion or belief.

Mr. Amor stated that, although much progress has been made in recent years in protecting the day-to-day practice of freedom of religion, promoting dialogue and less

conflicting concepts of different beliefs, and increased public sensitivity to different religion and beliefs, September 11, 2001, was a turning point after which some aspects of human rights and in particular freedom of religion or belief began to be challenged. In the name of countering terrorism, many national laws were changed, sometimes tending to forget that human rights have to be preserved. Minorities, especially Jews and Muslims have been victims of attacks and religious intolerance in many States, and so-called sects continue to be marginalized. He called for greater dialogue between, and co-existence of, religions. He stressed the importance of education as a means of increasing tolerance and called for greater follow-up to the Madrid document¹. He called for more attention to be given to resolutions of the Human Rights Commission.

The aim of Working Session One was to share ideas, opinions and best practices concerning what constitutes a permissible restriction to the right to manifest one's religion.

In his introductory speech, Professor Evans challenged some of the assumptions upon which our approach to manifestation of religion or belief is based and questioned the traditional distinction between the private and public elements of freedom of religion or belief.

He stated that recognition should not be seen as a precursor to the manifestation of religion but rather an integral part of facilitating manifestation and the purpose of state regulation of religion and belief should be to facilitate religious freedom, not to control it.

Professor Boyle stated that in the aftermath of the events of September 11, 2001, States have been obligated, *inter alia* by Security Council resolution 1373, to take steps to ensure the security of persons within their territories from terrorist acts. He opined that this has resulted in an increasing vulnerability for freedom of religion or belief.

He commented that there are no permissible restrictions on the right to religion or belief itself and reminded the participants that this right cannot be derogated from under any circumstances, not even in the interests of national security. However, there are a number of permissible restrictions on the right to manifest one's belief but the nature of restrictions on the right should be narrowly construed.

It was stressed at the session, including by the moderator, Andrew Drzemczewski, that although "national security" was not among the legitimate aims enumerated in the ICCPR or the ECHR, public safety and protection of public order are grounds for interference but only if they could be deemed necessary in a democratic society.

The discussion was mainly used by participating States to describe their own practice and legislation in regard to this issue. A number of NGOs and religious organizations gave examples of what they alleged to be illegitimate restrictions on their freedom of religion or belief by some participating States.

¹ Final Document of the International Consultative Conference on School Education in relation with Freedom of Religion and Belief, Tolerance and Non-discrimination, Madrid, 23-25 November 2001.

In his introductory speech to Working Session Two, Professor Öktem stated that it was not religious beliefs themselves that create intolerance. All major religions, Christianity, Islam and Buddhism, are based around the tenet of tolerance and love and ignorance of one's own religion is a basis of intolerance. Aggressive nationalism and discrimination find their roots in ignorance.

Archpriest Vladimir Fedorov called for the focus to be shifted from law and norms to education and training. Theoretical, theological, secular and humanitarian models are all part of the dynamics of a culture of tolerance. He proposed that the idea of tolerance and religious freedom be introduced to both religious and non-religious education and pointed out that education facilitates dialogue as it gives people the tools and the need to participate in dialogue. A culture of peace can be created from a culture of dialogue.

Professor Santiago Verdaguer Petschen, in his introductory speech, stated that new aspects of religion have appeared which promote tolerance and these should be enhanced, studied and used as examples of good. He called for greater solidarity and tolerance between religious communities, such as attendance at celebrations held by other religions. He commended the developing custom of asking for forgiveness from other religions for past actions. He called for international organisations and States to help in achieving a fundamental consensus on implementing humanitarian convictions and identifying common interests and concerns.

Finally, he also stressed the crucial role of the State in promoting tolerance through its education system.

Dr Frances D'Souza, in her introductory speech to Working Session Three, warned that we abandon liberties and freedoms at our peril; if we lose them now they will be hard to regain. She stated that while the media needs guidelines, this should not amount to censorship, stressing that we must be careful in forbidding or censoring speech. She distinguished between offensive and criminal speech, noting that extremism flourishes where censorship is imposed, but that the opposite is also true.

Several thematic issues emerged from the discussion in session three, as well as many concrete recommendations. The role of States in religion and media issues was examined as was the role of religious groups themselves. The necessity to avoid using the press to attack others and the responsibility especially of moderate groups to seek out the media. The role of the media as an educator and inculcator of values was also examined.

At the closing session, the moderator of the OSCE ODIHR Advisory Panel of Experts on Freedom of Religion or Belief, Rev. Ruediger Noll, outlined the panel's progress in the four years since its reestablishment, which was a result of the previous Supplementary Human Dimension Meeting on Freedom of Religion or Belief in 1999.

He outlined the restructuring underway but explained that its focus: co-operation with international organizations, NGOs and leaders of civil society in conflict prevention and dialogue, one of the comparative strengths of the OSCE, would continue, as would its monitoring and assistance of legislative issues in participating States. He

explained that education and training was an increasing area of activity and pointed to the training module for civil society being developed by the UN Office of the High Commissioner for Human Rights in conjunction with the ODIHR. He recalled that the events of September 11, 2001, should not lead us to infringe on freedom of religion or belief but to broaden it.

The need for increased co-operation between international organisations, states and civil society was emphasized and the development of synergies with OHCHR was commended. The establishment of a network of institutes on the subject of religious tolerance was also advocated. It was also recommended that the HDIM discuss the concrete implementation of the meeting's recommendations.

The ODIHR was encouraged to utilize its Advisory Panel, including in assessing violations and for review of any legislation which could create discrimination on the grounds of religion or belief. Participating States were called upon to react promptly and to take action to prevent and remedy violations of OSCE commitments on thought, conscience religion or belief in line with the rule of law. Increased dialogue between religious and human rights organisations and Government officials and local authorities was also called for.

In the meeting's final address, the Director of the ODIHR issued an invitation to all participants to come to the Human Dimension Implementation (HDIM) in Warsaw in October.

He encouraged the participants to continue the discussions at the HDIM during which there will be a review of OSCE commitments, including those on freedom of religion or belief, as well as a day devoted to the topics of the Prevention of Discrimination, Racism, Xenophobia, and Anti-Semitism, in anticipation of the Maastricht Ministerial Council in December 2003.

RECOMMENDATIONS

This report contains only concrete recommendations arising from the three Working Sessions. The recommendations were expressed by the delegations of the OSCE participating States and partners for co-operation; international organizations and NGOs.

It should be noted that the OSCE alone cannot implement all of these recommendations. The recommendations have no official status, are not based on consensus, and the inclusion of a recommendation in this report does not suggest that it reflects the views or policy of the OSCE. Nevertheless, the recommendations are a useful indicator for the OSCE in deciding priorities and possible new initiatives in promoting freedom of religion or belief.

Outcome of Working Session 1

Freedom of Religion or Belief and Permissible Limitations

Moderator: Mr. Andrew Drzemczewski, Head of Monitoring Unit, Council of Europe

Introducers: Prof. Kevin Boyle, Professor of Law and Director of the Human Rights Centre, University of Essex
Prof. Malcolm Evans, Professor of Public International Law, University of Bristol

The following recommendations were made in Working Session 1:

Recommendations to the OSCE participating States:

- Efforts to combat terrorism in the interests of national security should not violate fundamental human rights, and particularly the right to Freedom of religion or belief;
- Where a state does seek to limit manifestation of religion and belief – limitations should be restrictive and narrowly construed;
- The independence of the judiciary should not be compromised by government pressure to bring criminal proceedings on spurious charges against members of minority faiths;
- Participating States should encourage dialogue between state security services and religious groups, including minorities;
- Distinction should be made between thoughts/belief and action;
- Individual criminals should be punished and not entire religious communities to which they may belong;

- Regulation should be used to facilitate practise of religion and not to control or restrict it;
- Recalling international standards and OSCE commitments, the activities of religious organisations and their registration with the state must be seen as separate entities;
- Religion should never be used to justify the limitation of the human rights of others, including those of women;
- All religious groups should have the right to be recognized and registered;
- Governmental involvement in the legal existence of religious bodies should be neutral and minimal. Religious organisations should not be subjected to greater restrictions or penalties than secular organisations;
- Governments must be neutral as to all religious groups and never engage in the blacklisting of any religious groups, and neither the State nor its officials should attempt to classify religious groups through the use of pejorative terms such ‘sects’ or ‘cults’;
- The right to worship without any interference or harassment should be ensured to all members of religious and belief groups, and not only to state approved religions;
- Proposed religious registration should be submitted to an independent board of experts to ensure that it comports with OSCE and other international human rights standards;
- Participating States should engage in dialogue with civil society groups regarding legislation concerning religious and belief groups;

Recommendations to the OSCE, its institutions and field operations:

- Co-operation between the OSCE ODIHR’s Advisory Panel of experts and the Council of Europe’s Committee of Ministers and other monitoring procedure was commended and should be continued and increased;
- The OSCE should monitor restrictions on freedom of religion or belief in the national legislation of participating States to ensure that they are in keeping with OSCE commitments and international human rights law;
- The OSCE should not only focus on restrictions placed upon the freedom to manifest one's religion or belief by the state. They should also focus on the discrimination against members of religious and belief groups by non-State actors;
- The OSCE should clearly state that it is impermissible and arbitrary for governments to confer benefits on groups it classifies as 'religions' whilst denying benefits and enacting oppressive measures against groups it classifies as sects.

- The OSCE should acknowledge that there is no single and ideal model of establishing and regulating the legal personality of churches and religious communities in the OSCE area given the diversity of the legal systems of participating States;
- The OSCE should acknowledge that the registration of churches for the purpose of gaining legal personality is not discriminatory as long as it, in and by itself, does not preclude the existence and activity of a church and as such does not limit the freedom of religion or belief;

Recommendations to other inter-governmental and non-governmental organizations:

- Activities of religious groups must keep within the limits of legality.
- Inter Governmental Organizations (IGOs) should co-ordinate more closely on the issue of freedom of religion or belief to promote compliance with international standards in practice.

Outcome of Working Session II

Promoting Tolerance and Freedom of Religion or Belief

Moderator: Professor Krassimir Kanev, Chairperson of the Bulgarian Helsinki Committee, Associate Professor, University of Plodiv

Introducers: Archpriest Vladimir Fedorov, Director of the Orthodox Research Institute for Mission Studies and Ecumenism in Russia
 Professor Santiago Verdager Petschen, Professor of International Relations, Complutense University Madrid
 Professor Niyazi Öktem, Bilgi University, Istanbul

The following recommendations were made in Working Session II:

Recommendations to the OSCE participating States:

- The promotion of tolerance is an obligation of participating States and they should not discriminate between individual members or groups, as policies that favour certain religious groups tend to penalize other religious groups;
- States should facilitate inter-church dialogue within a framework for promoting tolerance and create an environment which will allow for exchange and dialogue between all communities of religion or belief;
- Governments should be active in identifying intolerance and investigating and punishing misdeeds of individuals, groups and government officials;

- The Ministerial Council Declaration in Porto in 2002 on tolerance and non-discrimination must be a reference point for current work and must be implemented;
- States should guarantee the full enjoyment of religious freedom to all religious communities;
- The State should maintain a constant dialogue with religious communities and they should be consulted on matters that affect them;
- In order to promote tolerance, active work must be carried out by States at the local and community level in co-operation with the local communities;
- The idea of tolerance and religious freedom should be introduced to both religious and non-religious education;
- All OSCE participating States should honour all international obligations on raising tolerance.
- States should include the protection of religion in their anti-discrimination legislation.

Recommendations to the OSCE, its institutions and field operations:

- The OSCE should promote inter-faith dialogue as a central pillar for promoting respect and tolerance at the international, regional and local levels;
- The OSCE should enhance and support positive initiatives and models already existing within religions and between Governments and religious communities;
- The OSCE should support programmes promoting tolerance and freedom of religion or belief;
- OSCE should facilitate discussion of various models of secular and religious education in OSCE participating States;

Recommendations to other inter-governmental and non-governmental organizations:

- Religious education should focus on broader historical education as enshrined in international norms;
- Inter- and intra-religious dialogue as well as dialogue between the states and religious communities should be promoted. Education should be prioritized and promoted by political and religious leaders where conflicts can and may occur.

Outcome of Working Session III
The Role of the Media Concerning Freedom of Religion or Belief

Moderator: Dr Jeremy Gunn, Emory University

Introducer: Dr Frances D'Souza, CMG Member of the UK Foreign and Commonwealth Office Free Speech Panel, Governor of the Westminster Foundation for Democracy, formerly the Executive Director of Article 19.

The following recommendations were made in Working Session III:

Recommendations to the OSCE participating States:

- Participating States should allow private media to function, as private media can play an important role in promoting tolerance and investigating abuses of human rights
- State funding for the media should encourage diversity;
- Reasonable restrictions should exist on freedom of expression; international human rights instruments are there for a purpose and should be used as a framework;
- Participating States are reminded of the upcoming World Summit on Information in Society next year and, along with the OSCE, should contribute to the discussion at this summit and in particular to make recommendations regarding ways in which they can balance extreme views on the internet in the future;
- Participating States should encourage the media to adequately represent the views of the moderate majority of religions and should work to facilitate an inter-religious dialogue in the media.
- National and local governments should encourage mainstream groups to assert their position in the media and in particular encourage mainstream Muslim groups to build capacity to work in the media;
- Participating States are urged to facilitate an exchange of information relating to any existing national voluntary guidelines for the media and seek assistance from relevant international organizations and NGOs in developing these;
- Participating States should ensure that legal mechanisms which provide for equality of all religions should include equal access to the media

Recommendations to the OSCE, its institutions and field operations:

- The OSCE should help participating States to develop a set of rules and recommendations for journalists on the topic of freedom of religion or belief and provide technical assistance in providing or training trainers;
- The OSCE and the participating States should document best practices to provide examples for media professionals and others. Attention must be paid equally to poor practices as noted by the United Nations Special Rapporteur on freedom of religion or belief;
- The OSCE, other relevant organisations and participating States should provide simple briefing documents for journalists *inter alia* clarifying permissible restrictions and other issues not well understood by media professionals;
- OSCE/ODIHR should work to strengthen links with relevant organisations in particular by circulating a report of this meeting and perhaps by attaching an inquiry about their own monitoring procedures;
- OSCE/ODIHR should encourage relevant organisations to participate in the monitoring of violations of freedom of religion or belief using a rights-based approach.

ANNEX 1:



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AGENDA

DAY 1

17 JULY 2003

15.00 - 16.00

OPENING SESSION:

Moderator: Ambassador Justus de Visser, Chairman
of the OSCE Permanent Council

Introductory remarks: Ambassador Christian Strohal,
Director of OSCE/ODIHR

Key-note speech Prof. Abdelfatah Amor, UN Special
Rapporteur on freedom of religion or
belief

16.00 - 18.00

SESSION 1: FREEDOM OF RELIGION OR BELIEF AND
PERMISSIBLE LIMITATIONS

Moderator: Andrew Drzemczewski, Head of the
Monitoring Department of the
Directorate of Strategic Planning,
Council of Europe

Introducers: Prof. Kevin Boyle, Professor of Law and
Director of the Human Rights Centre,
University of Essex

Prof. Malcolm Evans, Professor of
Public International Law, University of
Bristol

18.00

CLOSE OF DAY ONE

18.30

RECEPTION OFFERED BY CHAIRMANSHIP

DAY 2

18 JULY 2003

09.00 – 12.00

SESSION 2: PROMOTING TOLERANCE AND FREEDOM OF RELIGION OR BELIEF

Moderator: Professor Krassimir Kanev, Chairperson of the Bulgarian Helsinki Committee, Associate Professor, University of Plovdiv

Introducers: Archpriest Vladimir Fedorov, Director of the Orthodox Research Institute for Mission Studies and Ecumenism in Russia

Professor Santiago Verdaguer Petschen, Professor of International Relations, Complutense University Madrid

Professor Niyazi Öktem, Bilgi University, Istanbul

12.00 – 14.00

LUNCH

14.00 – 16.00

SESSION 3: THE ROLE OF THE MEDIA CONCERNING FREEDOM OF RELIGION OR BELIEF

Moderator: Dr T. Jeremy Gunn, Emory University,

Introducers: Dr Frances D'Souza, CMG, Member of UK Foreign and Commonwealth Office Free Speech Panel, Governor of the Westminster Foundation for Democracy, formerly Executive director of Article 19

16.00 – 16:30 BREAK

16:30 – 17:30 CLOSING SESSION:

Moderator: Ambassador Justus de Visser, Chairman of the OSCE Permanent Council Chairmanship

Reports by the Working Session Moderators

Closing Remarks by Rev. Ruediger Noll, Moderator of
the OSCE/ODIHR Advisory Panel on Freedom of
Religion or Belief

Comments from the floor

17:30 CLOSE OF MEETING

ANNEX 2:



SUPPLEMENTARY HUMAN DIMENSION MEETING ON FREEDOM OF RELIGION OR BELIEF

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ANNOTATED AGENDA

OVERVIEW

Freedom of thought, conscience, religion or belief has been recognized in many of the concluding documents adopted by CSCE/OSCE-meetings. Therein participating States agreed on the need to protect freedom of religion or belief, including the right to manifest one's religion or belief. However adherents of religions or beliefs, especially minority groups, sometimes complain about the fact that they are restricted in their manifestations of the freedom of religion or belief. Such restrictions may be due to State legislation and policies, or they can stem from intolerance based on other, often majority, religions or beliefs. Promoting freedom of religion or belief cannot therefore confine itself to scrutinizing laws and regulations, but entails also tolerance, mutual understanding and inter-religious dialogue. The media has a powerful role, both positive and negative, in either exacerbating or ameliorating tensions flowing from intolerance and prejudice.

The meeting will focus on three areas:

- Freedom of Religion or Belief and Permissible Limitations;
- Promoting Tolerance and Freedom of Religion or Belief;
- The Role of the Media concerning Freedom of Religion or Belief.

Recommendations may be addressed to the OSCE participating States, OSCE institutions including the Office for Democratic Institutions and Human Rights, its Advisory Panel on Freedom of Religion or Belief, and OSCE field operations.

WORKING SESSION 1

The Copenhagen Document of 1990, mirroring Article 18 of the ICCPR, reaffirms the right to freedom of thought, conscience, and religion. The exercise of these rights may be subjected only to such restrictions as are prescribed by law, and are consistent with international standards.

The 1989 OSCE Vienna Concluding Document set out in some detail a range of activities which are to be considered manifestations of religion or belief yet their practice still remains problematic in many OSCE participating States

Participating States recognize that the exercise of rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with their obligations under international law and with their international obligations.

However, such restrictions should not be misused to discriminate against any religion or belief. If restrictions are of a discriminatory nature, they are in contradiction with international obligations and commitments.

Possible discussion topics of this session could be:

- What is the position of minority religions or beliefs in the OSCE-participating States? Do adherents of such religions or beliefs face problems in manifesting their religion or belief? Are any such problems due to restrictions imposed by State regulations or due to intolerance based on (other) religions or beliefs?
- What are permissible limitations on religion or belief under international law and OSCE commitments? What are proper limitations based on ‘national security’? How can States avoid excessive intrusions limiting religion or belief while maintaining security?
- What are best practices among participating States in accommodating manifestations recognized in OSCE and UN Commitments?

WORKING SESSION 2

Participating States also have a role to play in promoting tolerance as recognized in the Vienna Concluding Document of 1989.

Most people would like to be thought of as tolerant, but few would like to be merely tolerated due to its condescending connotation. An attitude of tolerance comes from the individual rather than the state, but the community or the state is responsible for an atmosphere of tolerance, that is, for ensuring that no one is victimized by intolerance. When minority religions or beliefs cannot freely exercise their right to manifest their religions or beliefs, the State has to offer due protection.

For many people their religions and beliefs are not strictly private and intimate matters. Their deeply held beliefs are an integral part of their entire lives, which affect their participation in public life including their views on socio-political issues such as education, health, integration of minorities and immigrants, terrorism and human rights. Conflicting views in these matters, based on religion or belief, may lead to tensions in society. Participating States must address the demands of those who feel discriminated against while ensuring the right of everyone to manifest his/her religion or belief.

Tolerance and non-discrimination in formal schooling is of particular importance in combating intolerance in the long-term. However, education for tolerance goes far beyond education in the schools and includes general education of the public.

Participating States of the OSCE, with the assistance of its institutions where appropriate, must develop a consistent long-term state policy based on a deep understanding of the requirements of post-modern societies, facing challenges of globalization on one hand, and on the other, seeking cohesion while fully respecting the benefits of unique ethnic or religious identities. There is also a need for deeper understanding of the role that religious pluralism plays in supporting and enriching democratic values and human rights and in promoting social stability and the role that communities of religion or belief and NGOs play in achieving this.

Possible discussion topics of this session could be:

- How can tolerance in the field of freedom of religion or belief best be fostered?
- What are State practices to ensure that citizens are not victimized by intolerance? How does the State practice of registration, where a hierarchy of religious groups is established, ensure societal tolerance?
- What are State practices to foster attitude of tolerance in individual citizens?
- What educational policies can be recommended to further awareness of faiths and rights and tolerance?
- Which inter-faith and inter-cultural dialogue and development of civic tolerance-building programmes have worked?
- What is the role of law in promoting religious freedom?

WORKING SESSION 3

Special attention should be given to the powerful role of the media in promoting tolerance and mutual understanding. At the recommendation of the ODIHR/OSCE Advisory Panel on Freedom of Religion or Belief, this working session will explore the role of the media in covering religion in all its complexity. This includes both the positive role of the media in promoting tolerance among various religions and beliefs and its negative role in reinforcing stereotypes, prejudices and intolerance.

Concerns about hate speech, and the appropriate response while protecting free speech, have been discussed since the International Convention on the Elimination of All Forms of Racial Discrimination was adopted in 1965. These issues have become increasingly pertinent and apparent since the tragic events of September 11, 2001.

There is a need for more research on the role media can have in reinforcing pre-existing attitudes and dispositions, acting as an agent of change of such attitudes, and

understanding the circumstances under which well-intended anti-prejudice efforts do not actually make things worse for vilified groups.

The participants could examine how responsible journalism can be encouraged and how media coverage can promote tolerance and understanding, without excessive intrusion by the state into the domain of freedom of the media and with the continued protection of free speech.

Possible discussion topics of this session could be:

- How should States protect Free Speech while combating hate speech?
- Portrayal of religious and belief groups;
- Effects of the media on attitudes towards religious and belief groups;
- Responsibility and fair representation;
- Access to the media by communities of religion or belief.

ANNEX 3:

Opening Session:

- Introductory remarks by Ambassador Christian Strohal, Director of the OSCE Office for Democratic Institutions and Human Rights

Thirty years ago in July 1973 the Conference on Security and Co-operation in Europe opened in Helsinki. In the Helsinki Final Act which emerged from the Conference, commitments on freedom of thought, conscience, religion or belief were first enshrined in the OSCE's catalogue of norms, making them among the most long-standing OSCE human dimension commitments. This early attention to freedom of religion on the part of the then-CSCE was an acknowledgement of how central this right is in a democracy and how destabilizing its denial can be.

These initial commitments have been repeatedly reaffirmed and were expanded substantially in subsequent OSCE documents, most notably here in Vienna in 1989, with the Vienna Concluding Document.

The intervening years have seen many developments in this area in the OSCE region. A large growth in religious activity and increase in missionary activities followed the collapse of communism in Eastern Europe. In the West too the intervening years have witnessed considerable numbers of people seeking a new a spiritual dimension to their lives, sometimes in traditional religious activity, frequently in non-traditional beliefs.

Some states have deemed it necessary to legislate in response to the perceived threat posed by activities of certain groups. States laws and practices was the subject of Seminar organized by the Netherlands and the Romanian Chairmanship in 2001. It is fitting that today, under the Netherlands' Chairmanship, we can build on that seminar and go beyond scrutinizing laws and regulations, to look at how tolerance, mutual understanding and inter-religious dialogue can be fostered in our societies and at the powerful role of the media in this regard, both positive and negative.

On September 11, 2001, the world was presented with the spectre of violence committed purportedly in the name of religion on a scale unknown for centuries in the OSCE region. Participating States and Institutions of the OSCE reacted with determination to this new security threat - determination to combat and counter terrorism but to do so within the confines of their international obligations. In October 2002 in Baku the ODIHR, together with the Government of Azerbaijan organized a conference which examined the role of religion and belief in the fight against terrorism.

Within the framework of the Bucharest Plan of Action for Combating Terrorism and the subsequent Porto Charter and with the guidance of its Advisory Panel, the ODIHR increased its activities related to freedom of religion or belief in 2002 and 2003. These activities have included legislative reviews, meetings between governments, religious leaders and NGOs, as well as the development of websites on legislative issues and education for tolerance which can be viewed by delegates in the foyer.

In 1999 with the support of the Norwegian Chairmanship a newly restructured Advisory Panel of Experts on Freedom of Religion or Belief was established to foster

the implementation of participating States commitments in this area. In the four years since the last Supplementary Human Dimension Meeting, the Panel has carried out the recommendations made to it in that meeting, often, it must be said, with scant human and financial resources. It is fitting that the Panel is currently discussing how to reform itself in preparation for the new challenges which it will be set by this meeting.

I would like to thank all its members, some of whom I am glad to note are here today, for their contribution to the ODIHR's work in this important area.

In many of the concluding documents adopted by CSCE/OSCE-meetings, participating States agreed on the need to protect freedom of religion or belief, including the right to manifest one's religion or belief. Yet adherents of religions or beliefs from all over the OSCE region, especially minority groups, frequently complain about the fact that they are restricted in their manifestations of the freedom of religion or belief. Such restrictions may be due to State legislation and policies, or they can stem from intolerance based on other, often majority, religions or beliefs.

For many people their religions and beliefs are not strictly private and intimate matters. Their deeply held beliefs are an integral part of their entire lives, which affect their participation in public life including their views on socio-political issues such as education, health, integration of minorities and immigrants, terrorism and human rights. Conflicting views in these matters, based on religion or belief, may lead to tensions in society.

Yet this cannot be used as an excuse to limit this freedom and to hinder religious communities in carrying out legitimate manifestations of their beliefs.

Forty years ago this summer a Baptist preacher addressed an assembled crowd in the capitol. His name was Martin Luther King and his message would reverberate around the world – that of equality and human rights, for all without distinction.

He and his followers were told by some that he should not insist on those rights, that this insistence was destabilizing, that he should be patient and wait.

In hindsight we see that it was the denial of these rights that was destabilizing. And the implementation of those previously flouted legal guarantees has brought stability and prosperity to Martin Luther King's home State of Georgia.

And so it is with freedom of religion or belief. The European Court of Human Rights has stressed that internal tension and/or dissent within a religious community, as in any other form of community, "is one of the unavoidable consequences of pluralism. The role of the authorities in such circumstances is not to remove the causes of tension by eliminating pluralism". Echoing the Vienna Concluding Document of 1989 the Court stressed the duty of states "to ensure that the competing groups tolerate each other".

According to the European Court of Human Rights, "freedom of thought conscience and religion is one of the foundations of a 'democratic society' It is in its religious dimension, one of the most vital elements that go to make up believers and their

conception of life, but it is also a precious asset for atheists, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it....”

Of course this attitude is not limited to Council of Europe; freedom of religion or belief is similarly enshrined in the ICCPR and OSCE commitments, and thus of relevance to the OSCE region as a whole.

Excellencies, distinguished guests, with this in mind, we should examine what we can do to protect and foster this fundamental freedom so dearly cherished, and so necessary for stability in our region.

As I have said at the UN Human Rights Commission earlier this year: Whatever we do has to be measured against what we achieve. I therefore would urge this meeting to develop concrete recommendations for concrete action.

ANNEX 4:

Introductions to Working Sessions

Working Session 1: Freedom of Religion or Belief and Permissible Limitations

Introductory Speech by Professor Malcolm Evans, Professor of Public International Law, University Of Bristol, UK

The manifestation of religion or belief lies at the heart of the international protection of the freedom of religion or belief. The architecture of international human rights obligations reflects this: whilst all individuals are entitled to the freedom of thought, conscience or religion, it is the manifestation of religion or belief that appears to be the focus of international commitments. This is partly because a ‘manifestation’ has traditionally been seen as something that occurs in the public sphere and so is more *vulnerable* to intrusion and restriction. It is also because it is also recognized that the manifestation of religion or belief may *require* restriction, and so the state is permitted to trench upon the public aspects of religious life in the narrow range of circumstances provided for in the principal legal and political commitments, though the so-called clawback clauses, with which we are all familiar.

In the limited time that is available to me today, I should like to challenge some of the assumptions upon which our approach to the protection of the manifestation of religion or belief is based, and the justification for doing so lies, I think, in the trends that are dominating current developments in this field.

The principal human rights commitments set out a variety of forms that a manifestation may take - teaching, worship, practice and observance - and this has led to much discussion concerning whether particular forms of activity can be classified as ‘protected activities’. This in turn has led to debates concerning the ‘lists’ of examples of such activities that have been generated and their degree of specificity, the 1981 UN Declaration being a case in point. In all these instances, the ultimate aim of the exercise is to facilitate the task of deciding whether an individual is to be protected if he or she acts, or is prevented from acting, in a particular fashion. Yet in many countries, and for many believers, this is already too refined a discussion since this very framework tends to assume the practical reality of the more fundamental right, which is to have a religious or belief-driven identity within the

community and to have this recognized as such by the state. This, of course, is a subject that the OSCE has already addressed, in a Seminar held in the Hague just over two years ago. That seminar looked in detail at issues surrounding recognition and registration of religious and belief communities and I would commend its conclusions to you today. The point to be stressed, however, is that it is very easy for a state to guarantee the most elaborate freedoms to followers of religions whilst taking so restrictive an approach to what is to 'count' as a religion as to make the exercise worthless for many - or most. If the pattern of religion or belief to which you adhere is not accepted as being a form of religion or belief worthy of protection, then the extent of the freedom of manifestation is an irrelevance, and its very existence a potential distraction.

However, I think it is a mistake to see the question of 'recognition' as being a mere 'threshold' matter which, if crossed, permits the exercise of the freedom of manifestation. As I said at the outset, we tend to see 'manifestations' as focussing on individuals exercising their rights in the public arena. But this divide between the public and private spheres of belief is breaking down. First, it is breaking down because there is an increasing realization that it is nearly meaningless to say that a person may adhere to a religion or hold a belief but that they not be able to conduct themselves in a fashion that reflects those views. Even limitations legitimate in human rights terms in reality intrude into the very private 'forum internum' of belief: can you really say that a person enjoys an unfettered freedom of thought, conscience or religion if they are prevented or prohibited from acting in accordance with those beliefs? The restriction may occur in the 'public sphere' but its effect are likely to be felt in the private.

Second, it is breaking down because of the increased realization that religion and belief are not 'irrational add-ons' to the human condition which the rational state does best to marginalize, but are often core components of the make-up and sense of identity of individuals and the composition of societies of which they form a part. The enhanced recognition of the significance - and the legitimacy - of religion and belief for the conduct of public life has pulled the regulation of religious life back towards the centre of political debate: the role of the state is increasingly seen as being one of overseeing the ordering of the religious life of the community. This new opportunity

brings with it new responsibilities, chief of which is the need to exercise its supervisory functions in an impartial and even-handed fashion.

This inevitably produces tensions, chief of which is the tension between the obligation on the State, on the one hand, not to interfere with the enjoyment of the freedom of religion and belief and, on the other, to organize and regulate and this is reflected in the Recommendation adopted by the Parliamentary Assembly of the Council of Europe in 2002 entitled 'Religion and Change in Central and Eastern Europe', the Report accompanying which observes that 'Europe today finds itself facing a wholly new problem - that of striking the right balance between protecting freedom of belief and preserving the religious identity of communities and societies', and acknowledges that the rights of communities are less well protected than those of individuals. The tension between these approaches was already apparent in Article 16 of the OSCE Vienna Concluding Document which, when setting out the commitments of OSCE States regarding the freedom of religion, moves seamlessly between issues concerning the exercise of freedoms by individuals and by groups of believers.

Yet it seems to me that this is fast becoming the preferred approach to the problem. Rather than focus upon whether a given type of action is to be recognized as a 'manifestation' and the degree of protection to be accorded to it in the light of other competing factors, it is preferable to adopt a more holistic approach that, in effect, sees the manifestation of religion or belief as being realized by the very existence of religious and belief communities and their participation in the life of the broader community of the state as a whole. Of course, the freedom to worship, teach, practice, and all other recognized forms of manifestation continue to be recognized and protected. And of course, the state retains the capacity to penalize and prohibit forms of behaviour considered to be incompatible with the rights of freedoms of others. But if the concept of the 'manifestation' of religion or belief is to retain its relevance in a world in which the role of religion and belief is increasingly moving from the individual to the public domain, then a broader and more purposive interpretation seems to be not only desirable but essential.

Manifestation, then, requires that states create space for religious and belief communities to operate as such. It is no longer sufficient for a state to say that

adherents are not prevented from worshipping, from teaching or from practising. The price of regulation is facilitation. And any system of regulation that fails to facilitate participation is sure to fall foul of human rights and OSCE commitments.

Where does this leave us? Far from contemporary reality, that is sure. There is no doubt that the legal regulation of religious and belief communities in many parts of the world, and the OSCE region, is directed at the control of religious life, not facilitating religious freedom. Yet it seems to me that all the trends in this field are pointing in the other direction. The manifestation of religion is not a freestanding question. It is intimately bound up in the recognition of the existence of religious and belief communities. Recognition is not a condition that has to be fulfilled before manifestation may occur. It is an integral part of the process of facilitating the manifestation of religion or belief which lies at the heart of the OSCE Commitments

I was asked to speak of the problems faced by adherents of minority beliefs in manifesting their religion or belief. I think we know what they are. Ignorance, hostility, suspicion and fear all play their part (sometimes with justification, too). But rather than dwell on this, I have tried to point towards a way forward, a way that seeks to convert the debate about 'manifestations' from being a part of the battleground between religious communities and the state into a part of the requirement of tolerant accommodation. Within the broader title of this session as a whole - freedom of religion or belief and permissible limitations, it suggests that it is quite wrong to look to the concept of a 'manifestation' as a means of restricting the enjoyment of those freedoms.

Introductory Speech by Professor Kevin Boyle, Professor of Law and Director of the Human Rights Centre, University of Essex

This session is asked to examine the permissible limitations on freedom of religion and belief under international law and OSCE commitments. The focus suggested for discussion, for understandable reasons, is the question of “national security” as a limitation on these freedoms.

The often quoted axiom of interpretation of the European Court of Human Rights in respect of the right to freedom of expression, that “freedom is the rule its limitation the exception”, should be the approach to the implementation of the right to freedom of religion or belief. But that is not yet the experience in practice of religious communities in all OSCE participating States.

The principle means, as the European Court said in a case from Britain (The Sunday Times Case) which involved the claim of a justified restriction on publication of information by a newspaper, that freedom of expression is not a right that is to be balanced equally with the permissible restrictions. It is rather a right that is subject to a limited number of restrictions that must be narrowly construed and convincingly justified to the Court. The Court starts with a strong presumption in favour of the freedom. The onus is on the Government to justify why it is legitimate to restrict it. This “freedom logic” on the need of human beings to speak their minds and receive information without interference, has made much more headway over the modern era of international commitments to promote and protect human rights than have religious freedoms.

That said the European Court of Human Rights and other international and national judicial authorities are less likely to uphold a robust approach to speech where the State invokes “security” as the justification for restriction. What is new today is that security, where invoked, does not only mean ‘national security’. After the 11 September attacks and their aftermath, (including the duty on States imposed by Security Council to counter terrorism in Security Council Resolution 1373), the concept embraces in practice a fusion of national and international security. In this new environment the security duties of the State, and State responsibility for vigilance over threats especially from terrorist acts, have resulted in a heightened vulnerability of freedom of expression in all its aspects. The vulnerability of the complex of rights and freedoms that constitute freedom of religion and belief is as serious if not more serious, because States and the international community appear to be less committed to these freedoms.

Permissible limitations

The permissible limitations are well known and established in international law. It is worth emphasising that point. The scope of the rights and freedoms enshrined in Article 18 of the UDHR and the ICCPR, as interpreted by the Human Rights Committee in General Comment No 22 and specified in the 1981 Declaration are well settled. There is maturity about the global standards buttressed by regional jurisprudence in Europe. The commitments made over decades of the OSCE process, in particular the 1989 Vienna Concluding Document and the Copenhagen Document of 1990 are similarly settled. The OSCE commitments involved voluntary acceptance of positive obligations by participating States to “take effective measures to prevent and eliminate discrimination against individuals or communities on the ground of

religion or belief [and to] foster a climate of mutual respect between believers of different communities.”(Vienna Concluding Document 16.1). These obligations are continuing State commitments and their implementation is indispensable to positive change.

Problems in national practice in OSCE states, where they exist, and the Council of Europe’s ECRI and the NGO Forum 18’s web sites, as well as the UN Special Rapporteur’s reports, demonstrate that they do exist, result from the failure or active refusal of States, or peoples, or communities to fully accept these standards. The point of this Supplementary Meeting should be to acknowledge these distressing realities. It should also work on the response to this challenge. The process of achieving acceptance of existing commitments to values principle and rules requires dialogue and education more than the law. Governments and peoples, including religious communities, must come to accept that to discriminate against others of different religions or beliefs is wrong. The difficulties that arise from recognising and ultimately embracing the diversity of religion or belief within one’s country must be acknowledged.

Democracy and freedom of religion

The even greater challenge of accepting that freedom of religion or belief means that the people are open to change religious commitment and that new faiths originating from within or outside the country should have freedom within the law to communicate their beliefs to those willing to know and adopt them, must be respected. The inescapable OSCE values in this context are pluralism and democracy. However the approach to democracy which underlies the important but neglected judgment of the European Court of Human Rights in the *Refah Partisi v. Turkey case* (31 July 2001) requires attention. The Court in upholding the constitutional suppression of an Islamic party in government appears to uphold also the legitimacy of restrictions on the Islamic religion and the right of Moslems to work for a non – secular state and society. Has secularism become a human rights principle? Could governments justify restrictions on freedom of religion beyond the grounds recognized in international law and OSCE commitments by invoking the reasoning in this judgment?

Principles and provisions governing resort to limitation

The international legal principles and rules which should govern States resort to limitation of the freedom to manifest religion or belief might be convenient to set out here.

Freedom to manifest under ICCPR Article 18 is formally defined as the

“freedom either individually or in community with others, and in public or private, to manifest his religion or belief, in worship, observance, practice and teaching”.

Article 18 (3) ICCPR (repeated in the OSCE Copenhagen Document) sets out the legal provisions on limitations of manifestation:

“Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order health, or morals or the fundamental rights and freedoms of others”

We will return to the fact that national security, as a ground for restriction is not among the grounds permitted under Article 18. But first it should be noted to be legitimate permissible limitations requires to be “prescribed by law”. That incorporates the values and standards of the rule of law into the assessment of any limitation. It means for example any purported regulation or application of a regulation related to registration of religions, must be based on pre-existing law that is predictable and accessible to those to whom it is applied. It means further that a decision affecting religious freedom or belief should either be undertaken by a judicially independent agency or be capable of being challenged before an independent court. Restrictions must be necessary also for the public purpose claimed. In the context of the Covenant and OSCE standards this is equally a question of values. The limitation must be one that can be justified in terms of the values of a democratic society and be proportionate to the goal sought to be achieved.

The Human Rights Committee in its General Comment 22 offering guidance for States on the scope of Article 18 have considered in some detail the specific grounds of limitation set out in Article 18. Here are the main points. Restrictions should be narrowly drawn and should only be for the purposes permitted. Thus Article 18 may not be restricted on grounds of national security. The freedom from coercion to have or adopt a religion or belief or the liberty of parents and guardians to ensure religious and moral education cannot be restricted. Restrictions must not be imposed for discriminatory purposes or in a discriminatory manner. States should approach the interpretation of permissible limitations from the position of the need to protect the rights under the Covenant as a whole and in particular the right to equality and non-discrimination.

The General Comment also reminds States that they are under an obligation (Article 20) to enact laws that prohibit manifestations of religions or beliefs that may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

National Security and the Protection of Freedom of Religion or Belief.

Article 18 of the ICCPR is a right from which there can be no derogation in time of public emergency and it cannot be limited at any time by reference to national security considerations. However the absence of the ground of national security should not be read to mean that concern with security is an illegitimate consideration in the guarantee of Article 18 freedoms. The grounds or limitation include public safety (in the French version ‘sécurité’ not ‘sureté’), order, and the fundamental rights and freedoms of others.

When added to by Article 20, there is scope for restriction of manifestation or religion or belief, that is necessary for security including the security of others. The recent conviction in Britain of the Jamaican born Sheik Abdullah –El Faisal, for soliciting murder and incitement to racial hatred through his preaching and in recordings offered to the public, is an example.

The dilemma is that invocation of claims of security can be easily abused. There have been strong and important statements of policy and advice from international and regional bodies including the OSCE and the Council of Europe on implementing necessary counter terrorism measures without departing from international human rights obligations and the rule of law. Equally however there has

been much evidence of the ignoring of human rights standards and the rule of law by States in responding to terrorist acts or threats.

State authorities have the duty to protect victims and potential victims of terrorism, to apprehend and punish the perpetrators of terrorist acts and to take measures to frustrate or prevent further attacks. However, in their policies to counter terrorism States should act within the rule of law. Without a commitment to the rule of law at international and national level, what is terrorism and what is anti-terrorism is in the eye of the beholder. The sense of optimism that the clarity of human rights principle on the normative level engenders must be tempered by the long experience of neglect of these principles by States in international and national armed conflict. The aftermath of 11 September has brought home once again, the limited capacity of human rights protection systems, national and international, to deter violations and ensure that States uphold the rule of law.

Safeguards on limiting manifestation

How can States avoid excessive intrusions limiting religion or belief while maintaining security? The answer must be by standing up for the core values of human rights, the rule of law and democracy. The reactions of each of the European regional bodies -OSCE Council of Europe and the European Union to 11 September have precisely emphasised that the purpose of security measures is to protect human rights and freedoms not to abuse them. Security measures against terrorist acts must be pursued within the constraints of the rule of law both at national level and international level and human rights must be safeguarded in combating all forms of terrorism.

International human rights need not be sacrificed in the search for security. Indeed they are part of the answer to global security. We do need security but it is long term security or human security- security with a human face. It means not simply looking at security of the state but from a human perspective. This approach is favoured by the OSCE. Military security is clearly important but as UNDP and others have shown, threats to human security also come from underdevelopment, poverty, hunger disease as well as discrimination political repression, and environmental stress. Such factors can lead to internal instability refugee crises as well as ethnic and religious conflict that destabilize societies and regions thereby threatening international security.

Working Session 2: Promoting Tolerance and Freedom of Religion or Belief

Introductory Speech by Professor Niyazi Öktem, Bilgi University, Istanbul

I am most pleased to be able to address this important gathering. I believe the main theme of this session, namely promoting tolerance within the context of freedom of religion or belief is a most topical one. The full text of my remarks will be distributed separately and here I will try to highlight some important points.

Let me start with some basic notions.

According to Mahatma (Great Spirit)GANDI, the concept of “tolerance” predicts hierarchy, even humiliation between my attitude or belief *vis à vis* others. “My belief or thought is better than yours, but I am obliged to live with you, so I have to tolerate you”. In 1930, when he was in prison, in a letter to one of his disciples, he was saying: “I don’t like the word tolerance, but I cannot find a better one; this word requires the inferiority of a belief or thought *vis à vis* other one. But I cannot find another word”.¹

We must find a word or a concept reflecting the attitude of a human being who says: “Your approach is good, but I am not familiar with it. It could be much better than mine, but forgive my ignorance, I have another belief or thought.”

Yet, this new word, this new concept or new mentality does not exist. “Our philosophy, our thought, our belief is superior to yours. I can tolerate you only because I don’t want to create trouble, I want peace”. This approach is wrong.

If there is not a better word, to seek peace is already an important aim of our age, where intolerance is unfortunately reigning worldwide.

Let us try to analyse the meaning of this “imperfect” word: tolerance.

To begin with a short etymological excursion, the word “tolerance” has its origin in the Latin word *tolerantia*, which means “acquiescence, acceptance”. According to the “Oxford Dictionary”, tolerance is the willingness or ability to permit without protest or interference a person or a thing”. In the English language, there is another word: toleration. For some “toleration” is used in the context of religion and political principles, whereas tolerance mostly refers to a moral virtue.

Tolerance or toleration might also carry ambiguous connotations. For example in the French language the expression “*maison de tolerance* – house of tolerance” is used for a completely different thing.

Anyway, the word “tolerance” or “toleration” means almost the same in many languages. Philosophers tell us that “toleration consists of allowing the free expression of opinions, beliefs and behaviour, in as much as they concern the individual conscience”.²

Here we will not discuss etymological problems. Our aim is to create a better atmosphere to understand one another, especially in being believers of different religions.

Being believers of the different religions, we should confess that religions, especially monotheistic religions do not like “tolerance” that much. All religions, at the risk of their own decline, prefer protecting the faithful against any deviation of the faith they uphold: Heresies, schisms, heterodoxy and the like must be condemned.

However, due to the influences of the philosophers of the Enlightenment Age, such as Spinoza, Bayle, Voltaire and Locke and modern philosophers, churches and institutions of different religions have somewhat changed their attitude towards other religions and beliefs.

For centuries it was the institutions that were intolerant, but I believe not the essence of religions. Politicians and arms merchants used holy religious principles for their own interests. They provoked sincere believers and religious rulers to conflict and to war in order to establish and to maintain their political and economic powers.

How can the essence of religions recommend intolerance? Judaism in the Old Testament prescribes unification under the will of God. Christianity is the religion of love. Jesus Christ sacrificed himself for humanity. “There is no compulsion in religion,” says the holy book of the Muslims. Buddha preaches only love and tolerance.

However, fanatic adherents of religions hold the belief that there is no mercy for others. The expression “chosen people” in the Old Testament for a fanatic Jew means that the place of other people is hell, salvation is a privilege only for the Jews. On the other hand, for a liberal Jew, all believers are chosen people. For a fanatic Christian, the members of other religions are anti-christ’s children. They should be exterminated with holy wars, like the Crusades. But for a liberal rationalist Christian, Jesus Christ, who was the incarnation, invited everyone regardless of their belief to the kingdom of the Lord. Jihad is the word for self-defence in the Koran. But, for a fanatic Muslim, according to this expression believers should kill all non-Muslims. He does not know the deeper meaning of the word jihad, which means making war against our desires and our ambitions.

If believers make an effort to learn and to understand the deeper meaning of their faith, tolerance can find its proper place in social and political life. Such people would not be an easy prey for arms merchants and politicians.

Ignorance is one of the main obstacles for tolerance. People don’t know their own religion and a fortiori other’s religions. Thus believers of other religions, even other denominations, become enemies.

In that respect, the role of the laws and the state is very important to open the door of enlightenment. The ideology of the state should rise on the principles of freedom of thought and freedom of belief. State should give the opportunity to the other beliefs and ideologies to teach and diffuse their principles. Thus we can have the opportunity to learn other truths. There is not one truth in our world. With these new truths others

can come closer to us and we can save ourselves from prejudices. We can understand the other and thus we can tolerate them.

Ignorance humiliates other beliefs and other thoughts. Ignorance brings aggressive nationalism and chauvinism. They are also the main obstacles for tolerance. To live in a society, being member of a nation is necessary for human beings, because without social solidarity, individual life cannot survive. We have to live in a family, in a society, in a city, in a country. But to sublime our nation is not a realistic approach. Every nation is great, every nation has played important roles in history, every nation contributed a new element to the civilization and culture of this globe. No one is superior to the other. If we believe in some kind of superiority, we deny the will of God and the meaning of the creation. God created all of us as his children. There is not an unequal position among the children of the Holy Father.

Historians observe the fury of intolerance, inquisitions, genocides, witch-hunts, and ethnic cleansing, which reoccured throughout centuries. The question of tolerance thus appears to them as an often belated examination of the incessant repetition of intolerance.

Ignorance also destroys tolerance. In our age, intolerance also exists worldwide. Even in Europe, we can see many examples of intolerance. With the manipulation of arms merchants and politicians, ignorant people of this continent and our planet condemn their neighbour as being an enemy. Their neighbour's religion is a heresy, their neighbour's blood is dirty and nasty. Religious and nationalist prejudices due to ignorance regrettably still exist in our world.

We should explain these ignorant people that there are not big differences between the religions and we are all the children of the same God.

Judaism, Christianity and Islam are all within prophet Abraham's belief system. Islam recognizes all prophets of the Old Testament. The place of Jesus Christ is very prominent in the Koran. Koran accepts that Jesus Christ was born without a father and that Saint Mary was immaculated. The Koran says that Jesus Christ is the verb, the word of God. The Koran mentions Apostles. An ordinary Christian does not know this. Not only an ordinary Christian, but also an ignorant ordinary Muslim does not try to understand the meaning of these important points mentioned in the Koran. Thus, they become enemies and they kill each other, with their ignorance and their cruelties.

As I mentioned earlier, the other main element of intolerance is aggressive nationalism, racism and racialism. However, historically and antropologically there is no pure race in the world in general. Our globe and especially the Mediterranean Basin is a melting pot.

Let me give you the example of Turks and Greeks. The culture is almost same between the west and east shores of the Aegean Sea. There are many common words in both languages. Classical Ottoman art and religious music have the same scale with the Byzantine music. You can hear similar melodies and religious songs in a Greek Orthodox church and in a mosque on both sides of the Aegean Sea. Rembetiko is a popular Greek music which came from Anatolia. The Christian and the Muslim peoples of both shores of the Aegean Sea have expressed their feelings, their loves,

their sadness, their melancholy with similar music, sometimes even in the same language.

Legal and administrative system of the Byzantium Empire also influenced the Ottoman Empire. Ottoman architecture was a continuation of the Byzantium cathedrals with their domes. This style does not exist in Central Asia or in Iran and the Arab countries.

However, ignorant people of the street, some fanatic religious leaders and some politicians don't want to understand the cultural and the ethnical amalgam of the peoples living on both shores of the Aegean Sea. They destroy tolerance and mutual understanding through ignorance. And people become adversaries.

On the other hand, I believe secularism and democracy are very important principles in creating tolerance between different religious groups living in a country. Among Muslim states very few have secular constitutions. My country, Turkey, was the first secular state where overwhelming part of the population is Muslim. Secularism is one of the most important principles of the Turkish Republic.

Regretfully, some claim that the general principles of the Muslim religion are not compatible with western values and philosophy. Not only Muslim fundamentalists but also some intellectuals seem to believe that the ideals of democracy, pluralism, tolerance as well as the concept of secularism are inimical to the Islamic dogma. I believe that rational and humanist interpretations of every religion are perfectly consistent with the idea of democracy and secularism. Only rational and humanist interpretations of religions can create tolerance. In that regard, the social and the intellectual fabric of Turkey is suitable to sustain a liberal and humanist Islam.

First of all, the ethnical and the cultural amalgam, the melting pot in Turkey is a perfect ground to flourish a liberal interpretation of Islam. People from different cultures, having different ethnic origins, have to learn to live together and have to be conscious to create a new civilization in an atmosphere of tolerance.

Secondly, Anatolian Islam through the Sufi orders always preached a humanistic, even a pantheist approach. Turks who came from Central Asia have also brought some elements of Hinduism, Brahmanism and Buddhism. The Turkish tribes used to belong to the naturalistic, pantheistic and animistic interpretations of the Divinity. They also became Mazdaist, Manicheist and Nestorian Christians according to the prevailing religion of the areas to which they migrated. Different heterodox sects appeared during the islamisation of Anatolia under the influences of previous religions and sects. The main streams of that heterodoxy were Alevism and Bektachism. Even today 20% of the population of Anatolia consider themselves as Alevi or Bektachi.³ Sufi heterodoxies influenced also Sunnite theology in Anatolia to a great extent. During the islamisation of Anatolia the majority of the people were heterodox. So, with the influence of the heterodox tendencies, Sunnite Islam in Anatolia became liberal and rationalist. The Sunnite sect Hanefism, that today's Turkish Muslims belong to, is also liberal and has very progressivist and humanist approaches.

Thirdly, Turkey had adopted in its legal system, even before the proclamation of the Republic, the philosophy of the French bourgeoisie revolution. The philosophy of natural law and the ideology of the bourgeoisie takes its roots from rationalism, humanism, liberty, fraternity and equality. On these principles, Mustafa Kemal Atatürk and his friends, with the support of the Turkish people raised the pillars of modern Turkey.

As a result, having a rich heritage of multi-dimensional, multi-colored and multi-cultural elements in its social tissue on one hand and living the early experience of westernization in its political process on the other, Turkey is a democratic and secular state. As such, with its historical and cultural background, Turkey should be a land of tolerance. I am saying “should be”, because I know we also have some serious problems of intolerance. Fanatism also exists in my country.

In conclusion, I think inter-religious dialogue can be an important field of work to create tolerance between the believers of different religions and sects. Many inter-religious conferences and meetings are currently being organized by different religious institutions and also by NGO's. These activities are very useful, but they should also be held at higher levels. I believe that we should also adopt a strategy worldwide to struggle against ignorance. We should bring together the children of different religions and sects in order to teach them that they believe in same God, the same ethical principles and show them that chauvinism and racism could destroy their universe.

¹ JANAHBEGLOO, Ramin: Dans le sillage de Gandhi, in Le Courrier de l'UNESCO, juin 1992, p. 18.

² HASNOOULC: Tolerance, in Les Notions philosophiques, Dictionnaire II, Paris 1990 PUF.

³ SHANKLAND, David: Islam and Society in Turkey, p. 139.

Introductory Speech by Vladimir Ferdorov, Director of the Orthodox Research Institute for Mission Studies and Ecumenism in Russia

В нашей аудитории нет необходимости говорить о важности образования, о приоритетной его роли в создании культуры мира и толерантности. Достаточно сослаться на Декларацию принципов толерантности ООН, принятую 16 ноября 1995 г.: «4.1 Воспитание является наиболее эффективным средством предупреждения нетерпимости. ... 4.2 Воспитание в духе терпимости следует рассматривать в качестве безотлагательного императива; ... 4.3 ... Оно должно способствовать формированию у молодежи навыков независимого мышления, критического осмысления и выработки суждений, основанных на моральных ценностях. 4.4 ... Это означает необходимость уделить особое внимание вопросам повышения уровня педагогической подготовки, учебных планов, содержания учебников и занятий, совершенствования других учебных материалов, включая новые образовательные технологии...». Здесь имеется в виду единый процесс образования и воспитания. В английском тексте стоит слово education, которое обозначает как воспитание, так и образование. Строго говоря, идеальная модель образования такая, которая способствует воспитанию.

Если мы признаем, что воспитание толерантности – это созидание культуры мира, а не просто провозглашение заповедей и норм, то должны понимать воспитание толерантности как воспитание личности, формирование интеллектуальных и личностных качеств, позволяющих обсуждать общие проблемы на разных языках, позволяющих вступать в мировоззренческий, межконфессиональный, этнокультурный, культурно-исторический диалог.

Толерантность – это, прежде всего, способность слышать и понимать. У ребенка и подростка необходимо формировать потребность в диалоге и способность вести его. Такие человеческие качества, как миролюбие, великодушие, отзывчивость, стремление понять другого, непохожего на тебя, готовность воспринять его боль острее, чем свою собственную, - можно и нужно воспитывать. Если диалог существует в семье, в школе, в СМИ, то есть надежда, что из культуры диалога вырастет культура мира. И в то же самое время можно через изучение мировой культуры, диалога культур, диалога цивилизаций прийти к необходимости диалога, к осознанию единственно возможной на сегодняшний день модели выживания человечества, основанной на толерантности. Поэтому ключевым понятием и основным методом образования и воспитания в новом тысячелетии должен быть диалог. Строго говоря – это древняя форма обучения, она эффективна в любом предмете, при обучении любым навыкам. Однако диалог как принцип культуры только к концу XX века становится центральной ее темой.

Воспитание толерантности может быть эффективным, если она будет осознана как ценность всей системы общественных отношений, как неотъемлемый элемент духовной культуры личности и общества в целом. В этой системе общественных отношений и в структуре духовной культуры общества принципиально важным является вопрос о толерантности как ценности для религиозного сознания. Существует стереотип понимания религиозной

культуры как нетолерантной, а религиозного патриотизма как фактора конфликтов, приводивших к религиозным войнам.

Безусловно, преследование еретиков и клерикальная политика не были воспитанием толерантности. Однако понимание толерантности согласно Декларации ООН как добродетели служения миру присуще христианскому сознанию. По апостолу Павлу «Христос – мир наш» (Еф. 2, 14). К сожалению, господствующее представление о толерантности как о компромиссе и индифферентности способствовало проникновению в некоторые важные церковные документы негативного отношения к понятию толерантности.²

Сегодня одна из важнейших задач - обратить внимание общества на воспитание толерантности в религиозной культуре. До сих пор, увы, конфликты, имеющие совсем другие причины, воспринимаются как религиозные, а иногда и намеренно подаются как религиозные. Для того, чтобы воспитать верующих и неверующих в духе мира и толерантности, в уважении принципа свободы совести, необходима особая программа, особая стратегия религиозного образования в обществе. Общество нуждается в знакомстве с религией, причем в знакомстве с цельной и богатой религиозной культурой, в которой открываются глубочайшие ресурсы миролюбия, любви, уважения личности, толерантности.

Сегодня в России многие понятия, связанные с религиозной культурой, воспринимаются неадекватно не только массовым сознанием, в средствах массовой информации, но и среди специалистов-гуманитаров. Это объясняется огромным многолетним разрывом систем государственного образования и религиозного просвещения в России в XX веке. Так, в частности, такие понятия, как свобода совести, толерантность, либерализм, религиозный плюрализм, экуменизм, христианский гуманизм понимаются по-разному в светской и в церковной среде. И даже внутри каждой из этих суб-культур они понимаются тоже по-разному.

В светских демократических кругах принято считать, что поскольку Православная Церковь многие столетия была государственной, православному сознанию чужды понятия толерантности и свободы совести. Однако принципиально важно сознавать, что свобода совести была провозглашена ценностью именно в христианстве. Апологеты II века обращались к языческим императорам с обличением политики принуждения совершать языческие религиозные обряды и объясняли, что богам должно быть неприемлемо неискреннее жертвоприношение. Только свободное исповедание веры может дать надежду быть услышанным.

Что касается правовых категорий, то они не только не чужды церковному сознанию, но более того, церковные правила - каноны, которые через Византию – Восточно-Римскую империю Православная Церковь унаследовала как плод

² Основные принципы отношения Русской Православной Церкви к инославию «2.10. ...Неприемлема сама установка на толерантность к разномыслию в вере. Но при этом нельзя смешивать единство веры и формы его выражения.» Basic Principles of the Attitude of the Russian Orthodox Church Toward the other Christian Confessions: «Even a position of tolerance towards differences in faith is unacceptable».

культуры римского права, позволяют ей сохранять устройство и порядок церковной жизни. Именно в строгом, формальном и порой буквалистском отношении к канонам кроется причина столь часто сегодня встречающейся фундаменталистской установки. Однако в церковной византийской культуре всегда существовали два принципа – акривии (akrībeia) и икономии (oikonomia). Строгий и формальный, буквалистский подход – следование принципу акривии, а компромисс, толкования правил в пользу послабления, исходя из общих целей, исходя из идеи Божественного плана спасения – другой принцип, который называется икономией. И сегодня имеет смысл сохранять эти два подхода как в церковной, так и в светской практике. Так, например, в светской среде фундаменталистский характер отношения к юридическим нормам также встречается. Такой подход порождает, например, конфликт светского и церковного понимания закона о свободе совести. В частности, строгое следование букве закона, призванного гарантировать демократическую ситуацию в стране, позволяет откровенно антидемократическим религиозным группам получить поддержку государства, ориентирующегося на демократические ценности.³

Понятие толерантности, как термин для церковной, так и для светской среды довольно новое, но как идея оно не новое в христианской культуре и, в частности, в Российской Православии. К сожалению, очень часто под толерантностью понимается равнодушие и безразличие к вопросам веры, предполагается, что это и безразличие к вопросам справедливости, к вопросам нравственности. Аналогичный феномен неверного понимания, а потому и неверного словоупотребления наблюдается и в отношении таких понятий как либерализм, гуманизм, права человека, демократия и др.

Все это свидетельствует о том, что общество постоянно нуждается в просвещении, но в просвещении, в котором религиозный элемент существенный. Речь не идет о религиозной проповеди, или об обучении религии, но о серьезном знакомстве с религией, являющейся фундаментом многих культур.

Сегодня очевидно, что никакие нормы сами по себе (законы, правила, инструкции) не изменят сознания общества. Хорошие законы необходимы, но необходима вся полнота правовой культуры. Необходимы квалифицированные специалисты, могущие грамотно трактовать эти законы и справедливо судить о соответствии и несоответствии поведения сформулированным нормам. Необходима грамотная общественность, которая могла бы контролировать судебный процесс. Необходим соответствующий аппарат принуждения. Необходимо, чтобы эти законы работали и правильно истолковывались. В противном случае следование букве закона, правовой фундаментализм может увести от цели, от построения демократического гражданского общества. Очевидно, что наше будущее – это культура толерантности, культура мира.

³ Об этом мне уже приходилось говорить в связи с критикой закона о свободе совести в России, принятого в 1997 г. V. Feodorov. Religious Freedom in Russia Today// Ecumenical Review//Oct., 1998.

Если мы не сможем взрастить такую культуру, будущее наше может стать трагичным.

Ценности культуры мира и толерантности характеризуются не столько понятиями, имеющими строгие формулировки, сколько понятиями, интуитивно принимаемыми и понимаемыми всеми примерно одинаково: мир, доверие, благожелательность, любовь и др. Они не могут существовать без сопутствующих им и также не имеющих строгих определений понятий, таких как вкус и такт. Все они в комплексе составляют принципиально важную систему ценностей, которая должна быть положена в основу системы образования и воспитания.

Еще несколько лет назад в России слово «толерантность» практически не появлялось на страницах газет и журналов, довольно редко всплывало оно и в гуманитарных дискуссиях. Сегодня же это одно из самых популярных понятий в социально-политических дискуссиях⁴.

Русский перевод слова толерантность – терпимость. Оно не адекватно определению этого понятия, которое дает Декларация принципов толерантности ООН, принятая 16 ноября 1995 г.: «1.1 Толерантность означает уважение, принятие и правильное понимание богатого многообразия культур нашего мира, наших форм самовыражения и способов проявлений человеческой индивидуальности. Ей способствуют знания, открытость, общение и свобода мысли, совести и убеждений. Толерантность — это гармония в многообразии. Это не только моральный долг, но и политическая и правовая потребность. Толерантность — это добродетель, которая делает возможным достижение мира и способствует замене культуры войны культурой мира». Здесь толерантность определяется, через результат, которому она должна способствовать – мир.

Имеет смысл использовать именно этот термин, поскольку как специальный термин в медицине он имеет и другой дополнительный смысл - устойчивость, допустимое отклонение. Поэтому следует понимать толерантность как социальную норму, определяющую устойчивость к конфликтам в полиэтническом межкультурном обществе.⁵

Декларация ООН очень просто и ясно поясняет, что: «1.2. Толерантность — это не уступка, снисхождение или потворство... Толерантность — это прежде всего активное отношение, формируемое на основе признания универсальных прав и основных свобод человека. 1.4 Проявление толерантности, которое созвучно уважению прав человека, не означает терпимого отношения к социальной несправедливости, отказа от своих или уступки чужим убеждениям».

С 2001 г. в России успешно развивается ФЕДЕРАЛЬНАЯ ЦЕЛЕВАЯ ПРОГРАММА "ФОРМИРОВАНИЕ УСТАНОВОК ТОЛЕРАНТНОГО СОЗНАНИЯ И ПРОФИЛАКТИКА ЭКСТРЕМИЗМА В РОССИЙСКОМ

⁴ на 20% больше появлений в русскоязычном интернете, чем слова «справедливость»

⁵ Так понимает толерантность проф. Асмолов, автор и руководитель российской государственной программы «толерантность».

ОБЩЕСТВЕ".⁶ Целью программы является формирование и внедрение в социальную практику норм толерантного поведения, определяющих устойчивость поведения в обществе отдельных личностей и социальных групп в различных ситуациях социальной напряженности как основы гражданского согласия в демократическом государстве.

Эта программа предусматривает разработку и реализацию комплекса мер и мероприятий в области формирования у граждан толерантного поведения, противодействия экстремизму и снижения социально-психологической напряженности в обществе; разработку и внедрение методов и механизмов мониторинга, диагностики и прогнозирования социально-политической ситуации в стране, оценки рисков и последствий деструктивных процессов в обществе; разработку и реализацию системы мер, стимулирующих толерантное поведение, противодействия экстремизму во всех его проявлениях, в том числе: разработку системы учебных программ для всех ступеней и форм образования; разработка эффективных социокультурных технологий распространения норм толерантного поведения и противодействия различным видам экстремизма, этнофобии и ксенофобии; разработку методической и нормативной базы в области профилактики экстремизма, внедрения в социальную практику норм толерантного поведения; реализацию комплекса мер по налаживанию и повышению эффективности межэтнического и межконфессионального диалогов. Программа распланирована до 2005 г. и разбита на три этапа.

Оценивая эту государственную программу очень высоко, хочется дополнить ее программой религиозного и богословского воспитания. Роль религиозных институтов и всей системы религиозного воспитания и образования исключительно важна. Дело не только в том, что в демократическом обществе верующие имеют право получать соответствующее образование, но и в том, что общество нуждается в таком религиозном образовании, которое предотвращает экстремизм и фундаментализм. Под фундаментализмом я здесь имею в виду, в частности, стремление принудительно насадить благочестие. Пока таких программ нет, и некоторые попытки можно встретить в светском религиозноведческом образовании.

Однако в христианском богословском образовании уже давно существуют предметы и темы, в которые уместно включить модели воспитания толерантности. Речь идет, прежде всего, об экуменической проблематике. Воспитание будущих пастырей как в православной Церкви, так и в других христианских Церквях в духе толерантности – единственная надежда на то, что в религиозных общинах будет царить атмосфера доверия и терпимости. К сожалению, за 15 лет либерализации в Восточной и Центральной Европе, то есть в пост-коммунистическом пространстве экуменическая ситуация не только не улучшилась в регионе, но она стала значительно напряженней. В ряде церквей экуменический аспект образования и экуменическое сотрудничество значительно ослабли и во многих духовных школах интерес к экуменизму не только угас, но, более того, встречается его осуждение и отторжение. Поэтому мне как сотруднику Всемирного Совета Церквей, отвечающему за координацию экуменического богословского образования в Центральной и Восточной

⁶ Ее автор и руководитель проф. Асмолов

Европе, приоритетным направлением в развитии богословского образования представляется создание соответствующих экуменических программ с акцентом на воспитании толерантности и уважении принципа свободы совести. Ряд проектов в этом направлении развивает Межцерковное Партнерство «Апостольский город – Невская перспектива» в Санкт-Петербурге.

Официальная позиция Православной Церкви – неустанное стремление к единству, активное участие в диалогах, одобрение межцерковного сотрудничества⁷. Поэтому в правильно организованном религиозном образовании и в специальных программах знакомства с религией в светских учебных заведениях имеется важный ресурс воспитания толерантности.

Сегодня в России идет дискуссия о религиозном образовании в России, но, к сожалению, она пошла по неверному руслу. Раздаются обвинения в нетолерантности тех, кто предлагает новый курс «Основы православной культуры». Критика этого курса и конкретного учебника привела к тому, что знакомство с религией предлагается вообще свести к факультативному, а не обязательному. А это не будет способствовать воспитанию уважения к поликультурному и полирелигиозному миру.

Однако сегодня существуют такие подходы к религиозному образованию, которые не только позволяют предотвращать межконфессиональные конфликты, но ставят своей целью воспитание толерантности и знакомят с принципами религиозного плюрализма. В обществе, которое рассталось с тоталитарной атеистической идеологией необходимо дать возможность воспитывать людей в пространстве религиозной культуры, свободной от идеологического диктата. Очень важно сегодня познакомиться с положительным опытом программы «Религиозное образование без индоктринации», опытом межконфессионального сотрудничества в деле религиозного образования, который, в частности, имеет место в Санкт-Петербурге и обретает все больше сторонников, составивших Ассоциацию преподавателей религии и богословия в Восточной Европе.

⁷ См. «Основные принципы отношения РПЦ к инославию», документ Архиерейского собора 2000 г.

- Introductory Speech by Professor Santiago Verdaguer Petschen, Professor of International Relations, Complutense University Madrid

I-. El desarrollo de la tolerancia: constataciones y propuestas.

Después de haber tratado anteriormente en este *Encuentro de la Dimensión Humana* sobre cuestiones de la tolerancia en general, nos proponemos ahora examinarla desde el punto de vista del credo. Comenzaremos con la siguiente pregunta: ¿Cómo puede impulsarse mejor la tolerancia en el campo de la libertad de religión o de creencia? ¿Por qué resultan en muchos casos tan difíciles de aplicar unos valores tan benéficos como los establecidos en los documentos que tenemos en nuestras manos?

A) Constataciones.

1. Los grandes condicionamientos (1).

Una parte de la respuesta, aunque no toda, evidentemente, está en los profundos condicionamientos que impulsan a actuar de una forma contraria a tales valores. Son unos condicionamientos principalmente de carácter socio-económico, por las diferencias abismales que existen entre unos pueblos y otros. Éste es un desgraciado trasfondo que las Organizaciones Internacionales, los Estados, y todos los que tratan de estas cuestiones, siempre deben tener presente.

Las religiones, por afinidad e íntima cercanía a las personas y a los grupos en los que están insertas, se vinculan con frecuencia a estos condicionamientos. A veces operan como un factor de identidad que concienta, organiza y moviliza las sociedades que padecen tan negativas circunstancias.

Por la dificultad de este tema, lenta cuestión de fondo, no propongo que entremos en él, salvo que haya otros que lo mencionen. Sólo he pretendido evocarlo para no olvidarlo.

2. En estos últimos años han aparecido nuevas facetas religiosas favorables a la tolerancia. Deben ser potenciadas y difundidas.

El hecho religioso es una realidad tan patente y tan explícita que no puede ser dejado de lado a la hora de hablar de paz en la sociedad internacional. Desde mi concepción de católico, que valora las grandes potencialidades de la oferta cristiana, hasta mi experiencia como profesor de *Fuerzas religiosas y sociedad internacional*, pienso que todas las religiones proclaman en profundidad el amor al prójimo como algo esencial y que de dicha realidad puede extraerse un extraordinario elemento de paz para la Humanidad del que resulta imposible prescindir.

En algunas religiones se han constatado últimamente unas actitudes que parece muy necesario potenciar por el valioso fruto que pueden originar. Son las siguientes:

a) El reconocimiento de los valores que se encuentran en las demás religiones. Me refiero a un caso particular: la religión católica persiguió y despreció cruelísimamente a los judíos. Ahora, sin embargo, la visión católica acepta que Dios selló con el pueblo judío una Alianza que nunca ha sido revocada (2). Y se reconoce la integridad esencial del judaísmo en el proyecto divino de la Humanidad. Ojalá el catolicismo actual pueda encontrar una fórmula adecuada para la relación con la Ortodoxia. Por ese camino se debe llegar a la costumbre entre las religiones de valorarse unas a otras. El aspecto más empírico del diálogo interreligioso puede ayudar a ello.

b) La realización de actos de acompañamiento a las celebraciones de otras religiones. Es digna de mención, como novedosamente revolucionaria, la petición del máximo dirigente de los católicos a celebrar un día de ayuno el día 14 de diciembre del 2001 uniéndose a los musulmanes que concluían en dicha fecha la celebración del Ramadán. Ejemplo de acto de valioso solidaridad por su carácter de acción patente para operar como modelo. Por ese camino se debe llegar a la costumbre entre las religiones, de acompañarse unas a otras.

c) La práctica no hace mucho introducida de que las religiones pidan perdón por los actos cometidos en la historia y en la actualidad. Por ese camino se debe llegar a la costumbre de las religiones de pedir perdón.

B. Propuesta.

Hay que impulsar más las nuevas facetas religiosas favorables a la tolerancia.

Las Organizaciones Internacionales y los Estados deben recoger estas posiciones abiertas de las religiones y, desde su respeto a las creencias, mostrar simpatía hacia ellas como elemento imprescindible de paz social y de construcción del pluralismo (3). Las Organizaciones Internacionales y los Estados deben ayudar a que se logre, entre las religiones, en palabras de Hans Küng el “nuevo consenso fundamental sobre las convicciones humanitarias integradoras” (4).

II -. Las Políticas educativas y su apoyo en los valores que brotan de las mismas religiones.

En nuestros documentos hablamos de una escuela de muy alto nivel humano. Pero, ¿cómo va a establecer una sociedad una escuela en el más alto respeto por el principio de no discriminación si dicha sociedad es discriminada o discrimina? Entre la escuela y el medio en donde ella se encuentra existe una relación dialéctica. Relación en cuyo nexos se encuentra la familia. La situación de la sociedad condiciona en gran parte la de la escuela y viceversa.

Las tres actitudes valiosas antes mencionadas deben ser llevadas, de una forma o de otra, a la escuela.

A propósito del párrafo 3 del artículo 13 del Pacto Internacional sobre los Derechos Económicos, Sociales y Culturales, el Comité sobre los Derechos Económicos, Sociales y Culturales deja claro que esta obligación permite “instrucción en temas tales como la historia general de la religión y de la ética si se da de una forma imparcial y objetiva, respetando las libertades de opinión, conciencia y expresión”.

Puede resultar de interés estar atento a la nueva experiencia española de que los escolares de bachillerato que no deseen estudiar la religión católica tengan una asignatura de estudio de todas las religiones al igual que se hace con la literatura y el arte. Consecuencia de ello es que el maestro debe guardar una estricta neutralidad.

Hay que decir, sin embargo, que dicha estricta neutralidad no impide al maestro, en la escuela, tomar una opción por los valores y apoyarse para resaltarlos en el hecho de que broten del interior de las mismas religiones. Es mucho más efectivo para fomentar la tolerancia explicar la característica de una religión a partir de la valoración que encuentre en las demás religiones. O provocar la aceptación de determinadas celebraciones cuando éstas han sido compartidas. O también más pedagógico censurar los hechos históricos de una comunidad religiosa a partir de la petición de perdón realizada posteriormente por la misma comunidad religiosa que ocasionó el hecho.

Es cierto que la no discriminación no puede ser realizada progresivamente sino que debe ser garantizada de forma inmediata. Pero lo que se dice de un acto sometido disciplinariamente a un inequívoco principio jurídico no puede decirse de la mentalidad, de la eliminación de prejuicios, de la profundización humana, de la elaboración de la amistad, aspectos a los que se refiere el art. 7 del Pacto Internacional sobre la Eliminación de Toda Forma de Discriminación Racial. Son éstos procesos humanos que sólo pueden ser contruidos con una metodología pedagógica adecuada y que en la escuela puede resultar mejor exponerlo desde la perspectiva de la religión. Detrás de ello debe estar obviamente el papel y el tacto del maestro. Es una forma apta que ayudará al Estado a promover el ambiente de tolerancia, labor que se ha obligado a llevar a cabo.

NOTAS

(1) En el documento de la Asamblea General de las Naciones Unidas de 3 de mayo del 2001 titulado *Reports, Studies and other documentation for the preparatory committee and the world conference*, hay un Documento anejo titulado *Racial discrimination, religious intolerance and education*, preparado por el Sr. Abdelfattah Amor en el que se mencionan numerosos elementos que influyen en la educación tales como “the family taken both in the broad and in the narrow senses, schools, the media, religion, politicians, trade unions and the environment in general thus take part in one way or another in the process of education”. Las situaciones socio-económicas y políticas son un importantísimo factor de dicho influjo.

(2) Palabras de Juan Pablo II en la Sinagoga de Maguncia,

(3) Bien lo hace la UNESCO en su Declaración sobre el Papel de la Religión en la Promoción de una Cultura de Paz de 18 de diciembre de 1994. Así lo podemos ver en la política de la UNESCO con sus programas en favor del diálogo intercultural e interreligioso.

(4) KÜNG, Hans. *Proyecto de una Ética mundial*. Ed. Trotta. Madrid, 1998. p. 36.

I.- The development of tolerance: verifications and proposals.

In this *Meeting of Human Dimension*, we have been discussing about general questions of tolerance, and now, we are going to consider it from the perspective of religion or belief.

We will start with the next question: How can we promote tolerance in the field of freedom of religion or belief? If the values enshrined in the documents we use are so beneficial, why are they sometimes so difficult to implement?

A).- Verifications.

1.- The most important conditioning factors⁸

Part of the answer lies in the deep conditioning factors that drive people to act against these values. These conditioning factors have usually a socio-economic character, rooted in the enormous differences between different people. This sad background should be borne in mind by International Organizations, States, and any other actor trying to answer this question.

The different religions are incarnated in people who suffer these factors. Sometimes, the different religions act as an identity factor that raises people's consciousness, organises and mobilises societies suffering these sad circumstances.

Since this subject goes beyond the scope of today's debate, I do not pretend to analyse it in depth, unless somebody wishes to do so, but I thought important mentioning it lest we should forget it.

2.- During the last years, new religious phenomena favourable for tolerance have appeared. They must be promoted and spread.

Religion is a reality so powerful and explicit that should never be dismissed or taken for granted when talking about peace and the international arena. Beginning with my own personal experience as catholic, which means appreciating the value of every Christian denomination, and ending with my experience as teacher of "*Religious forces and international society*", I think that every Religion proclaims in its essence a deep love of other people, and from this reality we can draw an extraordinary element of peace for mankind that we can never take for granted.

Some religions have developed recently some attitudes that we should do our utmost to foster, since they are could potentially bear good fruit. We can list among them:

⁸ The United Nations General Assembly document from 3th may 2001 called *Reports, Studies and other documentation for the preparatory committee and the world conference*, includes an attachment called *Racial discrimination, religious intolerance and education*, by Mr. Abdelfattah Amor, and mentions many elements of influence on education, like "the family taken both in the broad and in the narrow senses, schools, the media, religion, politicians, trade unions and the environment in general thus take part in one way or another in the process of education". The socio-economic and political circumstances are also an important part of this influence.

a).- The appreciation of other religions' values.

Let me refer to a particular case: Christianity persecuted and despised for centuries the Jewish people. Luckily in our days the Catholic Church accepts that God sealed an alliance with the Jewish people that has not been revoked⁹. Furthermore, Judaism is recognized as a part of God's project for Humanity. I wish the Catholic Church could work out an appropriate formula to its relationship with its Orthodox counterpart. Similar examples in this vein could make customary the respect by every religion of each other's values. Inter-faith dialogue in its most pragmatic version could help to this end.

b).- Making positive complementary celebrations on the occasion of other religions' major celebrations.

It is praiseworthy that the Pope invited his folk to celebrate a day of feast on December 14th 2001 on the occasion of the last day of Ramadan. This is a valuable solidarity act that should serve as example to all religions so that this kind of positive attitude to other religions becomes natural.

c).- The recently introduced practise of some religious leaders apologizing for mistakes their churches made in the past. Pardoning should also become a more regular feature.

B).- Proposals.

The new religious practices that promote tolerance should be promoted.

The International Organisations and the States should acknowledge these new religious practices and, notwithstanding the independence between State and Religion, should welcome them as an essential element for greater social peace and pluralism¹⁰ The theologian Hans Küng considers that International Organizations and States should help to achieve "*the new fundamental consensus about integrating and humanitarian beliefs*"¹¹.

II.- Educational policies and their support to the values of religion

In our documents, we want our schools to showcase a high degree of respect for human values. However, is it possible for a society to establish schools with a great respect for the principle of non-discrimination if the society in which these schools work is prone to discrimination or suffers discrimination itself? There is a dialectical connection between the school and its environment. The family cannot

⁹ Pope John Paul II's speech at the Mainz synagogue.

¹⁰ UNESCO does so in its Declaration on the Role of Religion in the Promotion of a Culture of Peace of 18th December 1994. UNESCO policy supports programs on intercultural and inter-regional dialog.

¹¹ KÜNG, Hans. Project for an global ethics. Trotta. Madrid, 1998, p.36.

escape from the environment either. The specific circumstances of a given society have an impact in the school and vice versa.

The three above-mentioned valuable attitudes should also be part of daily realities at schools.

On the basis of article 13, paragraph 3 of the International Covenant on economic, social and cultural rights, the ECOSOC made clear that "teaching in subjects such as History of Religion and Ethics should be imparted in an objective and impartial way, respecting the freedom of opinion, religion or belief". IN this respect, the Spanish experience, where those pupils of secondary education who do not want to have catholic instruction can study Religion provides an example of good practice. Consequently, the teacher is expected to show the utmost neutrality.

However, this neutrality should does not prevent the teacher from supporting those values stemming from and being spoused by the different religions. In order to promote tolerance it is much more effective to explain the value of a given religion from the positive welcome it may receive in other religions. We can also trigger the acceptance of certain religious celebrations when these have been welcomed by other religions. And it is also easier to criticise the historical behaviour of a given religion is the leader of such a religion have already apologized for past misdeeds.

When striving to abolish discrimination we should try to achieve our final result immediately. However, mentalities cannot be changed simply by Law or through sanctions, since it takes a lot of time to overcome prejudices and foster fraternity as referred to by paragraph 7 of the International Convention on the elimination of every form of racial discrimination. These are human processes where we can only achieve progress through education and Religion can be a very good approach in this strategy, with the added momentum that the role and tact of the teacher can provide. This in turn is an enormous help to the work of the State within the overall society.

Thank you very much

Working Session 3: The Role of the Media concerning Freedom of Religion or Belief

Introductory Speech by Dr. Frances D'Souza, CMG, Member of UK Foreign and Commonwealth Office Free Speech Pane, Govenor of the Westminster Foundation for Democracy, formerly the Executive Director of Article 19, Executive Director, the Redress Trust

Introduction

We live in a very dangerous and uncertain world. This has always been true but the unpredictability of terrorist acts and the relative ease of access to weapons of mass destruction make it more so today.

Governments have a responsibility to protect their citizens. The question quickly becomes how far is it permissible to curtail individual freedoms for the greater good? More crudely put, how many lives should a state be willing to sacrifice for the sake of saving thousands? In a ticking bomb situation, is there any justification for what is euphemistically called 'physical pressure', in other words torture, if it results in saved lives?

These are truly terrible dilemmas and my major point of this afternoon is this:

We abandon the principles and practice of individual rights and liberties at our peril. If we allow the erosion of free speech, the cost will be very high indeed. Democracy and its institutions were achieved only after a long and hard battle, to regain lost liberties would be equally hard.

In today's world, within the multicultural societies we all inhabit and the avowed wish of some to commit acts of terrorism the focus is all too often on expressions of religious fundamentalism including the threat of violence against those considered to be unbelievers. The media bears the heavy responsibility of steering a course between reporting what is and relaying sometimes unpopular viewpoints and avoiding the charge of inciting religious violence.

Hate speech jurisprudence

So where should the line be drawn between permissible and non-permissible speech – and is it a hard and fast line or does it waver?

The context in which speech occurs is the older and convenient division between permissible hate speech and criminal speech. Context is still the deciding factor. Thus, the famous 'falsely crying fire in a crowded theatre' judgement in the US based on the obvious logic that the creation of panic was criminal in that context precisely because it would cause injury and harm. Shouting exactly the same phrase in the same tone in the street would not have the same effect and was/is thus allowable.

I have argued to the point of exhaustion to many different audiences all over the world, that this measure of context is the only appropriate one when dealing with hate speech, racist, religious, nationalist or ethnic.. Therefore, Rushdie in his work of fiction, *The Satanic Verses*, was justified in writing the words that earned him a death sentence. Equally, those individual Muslims who marched in protest carrying banners around their necks saying 'kill Rushdie' were also legal. They were expressing a deeply felt emotion in admittedly strong terms. – But they had not the means to do so and therefore there was not a clear and present danger that Rushdie would be killed. There is not and must not be a law to prohibit the expression of religious feelings of hurt or even rage in words. Such expression may well be the safety valve that allows multiethnic societies to exist.

In the words of one US Supreme Court judge in 1949, "*A function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.*"¹²

Certainly one can argue that such speech is deeply unpleasant and unwelcome. It might also help to create a culture of religious or racist intolerance. But a dividing line must, I repeat, must be found to allow offensive speech but to disallow criminal speech, that is speech which leads necessarily to criminal action.

Why is it so important to preserve this seemingly artificial distinction?

Because once you allow the law to criminalise speech that is merely offensive – you abandon the principles of freedom of expression and allow subjectivity to rule. What is offensive to me may not be so to you and vice versa.

Responsibilities of the media?

The real difficulty arises when words, emotions, are expressed in the media to a wide and unknown audience. Here the context is difficult to judge, leading to such practices as the 'watershed', a time before which programmes unsuitable for children are not carried on public broadcast systems. The paradox is that in a country without obvious censorship, there is usually a multiplicity of media outlets – each perhaps attempting to appeal to a different niche audience. The reader, the viewer the listener has a choice. He or she can accept what is said, turn away from it and/or tune in to different view points. Thus the rather extreme radio broadcasts of Russ Limbaugh in the US is acceptable precisely because no one is forced to listen, nor is anyone under the illusion that his view points are generally held.

However, the context is quite different in many other countries where the state owned media whether print or electronic speaks with authority and attempts to limit severely what information reaches the citizen. In this context where there is no choice, hate speech of whatever kind can quickly spill over into criminal action or violence. In the absence of free speech there are few if any checks and balances within a given society – nor are there the necessary forums to address political/religious/ethnic differences.

¹² *Terminiello v. Chicago*, 1337 US 1 4 (1949)

The only alternative it must appear to those who live in such societies is to turn to violence.

History gives us so many examples of the dangers of propaganda, which is only effective if there is censorship at the same time; Rwanda, Nazi Germany, the former Yugoslavia.

Points in conclusion

Hate speech is a symptom of something much deeper, a malaise within society based on many factors including economic imbalances, social exclusion etc. To suppress such speech cannot solve problems, it merely drives them underground. The logical answer to hate speech is more speech not less.

We in the UK have formed an informal group to monitor religious and racial hate speech in the foreign media, as an early warning indicator of possible future conflict. If a methodology can be developed, this might prove to be a valuable tool in conflict prevention. The last thing we want is for hate speech of whatever kind to be suppressed where the feelings that prompted it would fester and eventually erupt into conflict.

One also has to question whether laws in themselves make for a more gentle and humane society – and the empirical answer is no. This is particularly true when dealing with the crucial area of free speech. Laws however detailed and however sensitive to cultural issues can never provide the remedy for hurt occasioned by words. That hurt has to be eradicated by resolving the issues that caused hate speech and that, my fellow colleagues, necessarily involves enduring a degree of offence in the interests of civil liberties, human rights and democracy.

ANNEX 5:

Closing Session:

Closing remarks by Ambassador Justus de Visser, Chairman of the OSCE Permanent Council

First of all, I thank the moderators for their excellent work done, and in particular for their presentations this afternoon. It has been a major challenge to give all the participants the opportunity to bring across their messages, but the moderators have been very successful in this respect.

The ODIHR has been crucial in organising this meeting. The energy and full engagement of the ODIHR-team both before and during the meeting has been impressive and I want to express my sincere thanks for all the work done. Also more generally, ODIHR is playing a crucial role as clearing house and as the general engine behind the work of the OSCE in the field of the freedom of religion or belief. During this meeting general support was noted for this role of ODIHR. The discussions during this meeting showed that the promotion of tolerance in matters relating to religion or belief, and the protection of the freedom of religion or belief, will require continued, and, if possible, enhanced efforts by the ODIHR-staff. I wish ODIHR every success in this respect, and I am looking forward to a further exchange of information on progress made by ODIHR in these areas.

I further want to thank Reverend Ruediger Noll, and through him the Advisory Panel on Freedom of Religion or Belief. The Panel has done important work in the fields of technical assistance on legislation, and training and education and I am happy to note that the Panel stands ready to continue its work with vigour. I also noted with interest that it will expand its efforts to promote dialogue and prevent intolerance and conflicts with a religious or belief dimension. Moreover, the future work of the Panel in respect of the further development of the web-site, and of training modules, including methodologies of conflict prevention and non-violent conflict management reflect the ideas expressed during this meeting.

The rapporteurs have already provided us with detailed reports concerning the three sessions of this meeting and I shall not attempt to summarise these reports. I want to emphasise, however, that the themes of the sessions obviously reflected major concerns. During the first session, the recent limitations of the freedom of religion or belief based on security considerations have often been mentioned as a matter of concern. This is clearly a new development and I hope that the seminar which will take place in the Hague, on 18 September, concerning terrorism and human rights will provide further insight in the dilemmas surrounding this issue. During the second session, the promotion of tolerance through interfaith dialogue as well as through education and training was a theme that led to many examples of best practices. Also, the registration practices concerning religious and belief communities came out as an issue of concern to many delegations.

The third session could be seen as a logical sequel to the second session, concentrating on the role of the media in promoting tolerance. This is a relatively new theme, that can certainly be developed further and I think that there was agreement on the crucial role of the media in this respect.

Let me end by congratulating both the organisers and the participants with the outcome of this meeting. I look forward to the detailed report to be prepared by ODIHR which undoubtedly will contain many further recommendations that may prove to be most useful for the further work of the OSCE in this area. A first opportunity to discuss this report will be this fall at the Human Dimension Implementation Meeting in Warsaw, which will be held from 6 to 17 October, and especially on the 7th of October when Freedom of Religion or Belief is being discussed. The report will also be very valuable for the OSCE Parliamentary Assembly, which, as you know, will hold this year's Autumn Session from 9 to 12 October in Rome on issues related to freedom of religion.