

TO: The Organization for the Security and Co-operation in Europe Human Dimensions Meeting of September 28 to October 9, 2009
FROM: Roger Kiska, Alliance Defense Fund
DATE: October 06, 2009

STATEMENT ON FREEDOM OF EXPRESSION

The Alliance Defense Fund, in connection with today's discussion on freedom of expression, would once again like to reassert the following two recommendations: (a) **"Hate speech" laws must exempt religion-based expression and ideas.** (b) **Laws that prohibit discrimination of persons on the basis of religion should specifically exempt all religion-based organizations, ministries, and activities.**

The European Court of Human Rights has interpreted freedom of expression to protect not only the information or ideas that are favorably received or regarded as inoffensive or as a matter of indifference, but also those that offend, shock or disturb; such are the demands of pluralism, tolerance and broad-mindedness without which there is no democratic society. A freedom which protects only ideas that are accepted by all is not a freedom. International law does not guarantee nor has it promulgated a right "not to be offended." To this extent, intergovernmental organizations like the OSCE cannot seek to create new law. Instead they must shape their policy to conform to and to inform existing black letter law. And the black letter law dictates that the recent proliferation of "hate speech" laws where incitement and imminence of an objective threat are not prerequisite elements are in direct contradiction to the protection of freedom of speech.

Furthermore, freedom of religion is emptied of its value without freedom of expression. Freedom of religion is characterized by the fact that it is the only fundamental right which recognizes the transcendent. It is a freedom which deals with ultimate concern; the intimate and personal relationship of man with His God. At its heart, freedom of religion requires, and the law protects, the right to express one's faith and in principle, the right to try to convince one's neighbor of its truth.

"Hate speech" laws have a chilling effect on religious freedom when they are defined to mean that any appeal to truth, whether it be moral or spiritual, is punishable by law. OSCE participating States have a duty to remain neutral with regard to value judgments about the content of religious speech. Whereas a Participating State may legislate to promote conditions where competing worldviews live peaceably together; they may not legislate to guarantee that these same worldviews cannot have voices in the public square if they differ in content. Nor can governments dictate that people of faith may not publically speak what they deem to be moral



truths. The end product of this promotion of radical relativism is the incubation of an environment ripe for fundamentalism. For on the fringe of relativism lies a very attractive fringe of fundamentalism in a society where people will go to extremes to find what they deem to be Truth.

The principle of tolerance and non-discrimination was developed as a shield but is now all too often being used as a sword to defeat the fundamental freedoms of religion and expression. Tolerance is slowly becoming totalitarianism. The freedom to express moral ideas based in sacred texts, as Ake Green did in his Biblically based sermon on homosexual behavior, is being met with prison sentences. The belief in moral truths based in religious teaching, as was expounded by Rocco Buttiglione during his European Commission confirmation hearings, is being met by governments with professional ostracism.

We must never forget the lessons of 1989. It was the marriage of the fundamental freedoms of religion, expression and assembly in this very country which led to the creation of Solidarnosc. Without the legal preconditions to allow for open expression of moral and religious belief, Solidarnosc would have failed. And so we must, as our host country has taught us, embrace these freedoms rather than stifle them.

Freedom of expression can be offensive. Publically, Sir Elton John recently called Christians *en masse* hateful lemmings because of the morality Christianity teaches. This was said, and rightfully so, without punishment. Reciprocity demands that people of faith be allowed equal opportunity to express their viewpoints. Human rights after all, are for the majority as much as they are for the minority.

In conclusion, we must recall that freedom of expression makes up one of the vital elements of democracy. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.