

HDIM 2012**Working Session 11: Specifically selected topic: Freedom of thought, conscience, religion or belief (continued)**

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Working session 11 focused on the development and implementation of legislation, regulations, practices and policies by States, and consultation with civil society, including religious or belief communities, in this process.

At the outset the introducer of the session noted that, although the fundamental freedom of thought, conscience, religion or belief can in some cases be restricted, there are certain very clear conditions those restrictions have to meet. The restrictions have to be prescribed by law, be in the public interest and necessary in a democratic society. He went on to elaborate in particular on the notion of "prescribed by law" that also is a defined concept meaning that any such laws have to be accessible to the public, enforceable in terms of foreseeing the consequences of such provisions, and compatible with human rights standards.

In the ensuing discussion a lot of attention was devoted to the legislation of the participating States on the registration of religious organizations, and fear was expressed that this legislation is sometimes not clear enough and can be used to obstruct the activities of religious communities. In particular it was pointed out that, due to the requirement of a minimal number of members of a community, smaller religious groups are not able to register their activities. Administrative barriers to registration from the authorities, such as short deadlines or long processes, as well as non-transparent procedures, were cited. Several NGOs expressed concern that, at the same time, failure to register may bring about fines or even prosecution and criminal penalties for those who continue to worship, even if in private.

Speakers noted that while the "world religions" tend to be more or less acknowledged by international and internal legal instruments, the so-called "new religions" often suffer from too broad application of legislation on countering extremism, such as "dangerous sect lists" allegedly used in some participating States. Also, in some participating States, the "new" religion communities face discrimination while trying to receive state support or acquire property or there is, despite declared secularism, preferential treatment of some specific religion by state authorities. Some religious communities have experienced state censorship of religious literature and/or obstacles to providing religious education and proselytizing.

A number of speakers addressed the issues of "Islamophobia." Concern was expressed over wide-spread demonisation of Islam and Muslims, while one speaker requested that the term itself, as well as the concept of "religious hatred" should be clarified, or avoided.

Some speakers drew attention to the lack of genuine alternative service in some participating States, while persons expressing conscientious objections to military service face criminal punishment for not fulfilling their obligations to the state.

One speaker regretted that religion is often used as a pretext to discriminate against women, children and sexual minorities.

It was also suggested that in addition to the rights of the believers, the rights of non-believers should get sufficient attention from the international community. The right to convert from one religion to another was also mentioned.

A number of speakers underlined that although the freedom of expression and the freedom of religion or belief may sometimes conflict, they are more often interlinked and one would not be possible without the other; curbing either of them would inevitably weaken also the other. It was claimed that religious hatred cannot be combated by restricting freedom of speech but rather by means of more, and more inclusive, discussion. Neither freedom of thought, conscience, religion or belief nor freedom of expression can be used to justify violence.

The majority of speakers noted the need to involve religious communities in the process of drawing up legislation and policies on freedom of religion and belief.

Several participating States used their right of reply to explain requirements and procedures concerning registration of religious communities and measures to combat extremism, and to respond to specific concerns expressed by NGOs in respect of them.

Finally, many speakers commended the work of the ODIHR and the Advisory Panel of Experts on Freedom of Religion or Belief and encouraged OSCE and its institutions to continue providing their expertise and assistance to participating States on the issue of protecting the freedom of thought, conscience, religion or belief.

Recommendations to the participating States:

- Broadly consult and include religious communities in drafting and implementing legislation on freedom of thought, conscience, religion or belief;
- Bring legislation on the registration of religious communities into conformity with constitutional provisions and international standards, such as Article 18 of the International Covenant on Civil and Political Rights;
- Implement their commitments with regard to freedom of thought, conscience, religion or belief;
- Work closely with OSCE institutions to benefit from their experience;
- Abolish the crime of blasphemy; not consider criticism of religious beliefs, religious organizations and religious practices or religious debate as a crime;
- Respect one's right to change their religion;
- Allow and respect the right to peacefully practice one's religion;

- Recognize secularism as a specific belief system that should not supersede other faith systems and that expression of religious belief in public should not be banned;
- Grant genuine alternative to military service and refrain from prosecution of conscientious objectors;
- Recognize the opportunities in education to preserve freedom of thought, conscience, religion or belief;
- Avoid using/provide clarification to ambiguous terms and concepts in documents and discussion;
- Clearly define the duties and responsibilities of state and church with regard to religious rights;
- Resolve the issues regarding the property of churches/religious communities;
- Use OSCE as platform for resolving issues of discrimination and intolerance;
- For incoming CiO to organize a high-level conference to discuss the issues of "Islamophobia."

Recommendations to the OSCE, its institutions and field operations:

- Facilitate dialogue between participating States, NGOs, churches and other religious communities;
- Provide independent experts to advise governments on promoting such dialogue;
- Carry out analysis on conformity of existing and intended legislation of participating States with their commitments and to summarise their practices;
- Remind and demand the implementation of the commitments on freedom of thought, conscience, religion or belief from participating States;
- Call upon media groups to respect the freedom of religion, raise awareness of the possible consequences of negative stereotyping;
- Provide expert opinion on the conformity of religious texts with international human rights standards;
- Address the issue of building premises of worship, as well as the right to provide cultural and religious education to religious community;
- Continue the work with the revised *Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief*.