

Christian Legal Centre

Session 1: Fundamental freedoms I (freedom of expression)

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Freedom of expression is a fundamental human right, and its importance to society was famously expanded upon in the case of *Handyside v. United Kingdom*, where the ECtHR stated that:

Freedom of expression constitutes one of the essential foundations of a [democratic] society, one of the basic conditions for its progress and for the development of every man...it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that **offend, shock or disturb** the State or any sector of the population. Such are the demands of pluralism, tolerance and broadmindedness, without which there is no "democratic society".

Crucially, freedom of expression must extend to information or ideas that "offend, shock or disturb". However, so-called "hate speech" laws that prohibit such speech are increasingly being passed in many OSCE member States. For example, under section 5 of the UK's Public Order Act, it can be a criminal offence to use words which are "insulting" to others. Thus, when opinions are publicly expressed on some of the most controversial topics of the day, such as sexual morality, or the merits of one religion over another, freedom of expression has been unduly restricted and citizens have not been free to disagree.

For example, in October 2001 an elderly street preacher, Mr. Hammond, was preaching in his local town centre. An angry crowd of around 40 people surrounded him and became violent towards him for displaying a sign which they saw as an insulting message. Mr. Hammond was pushed to the ground, dirt was thrown at him, and water was poured over his head. When two police officers arrived at the scene, Mr. Hammond—not the violent members of the crowd—was arrested and fined for displaying a sign that was considered insulting to homosexuals. The court ruled against Mr. Hammond and ordered him to pay a fine plus the costs of the case. No action was taken against the individuals who physically assaulted him. More recently, numerous other street preachers have also been arrested by the police for allegedly "insulting" others.

Such laws also appear to cover private conversations. For example, in March 2009, Christian hotel owners Ben and Sharon Vogelenzang were charged by police for a "religiously aggravated" offence under section 5 of the Public Order Act, following a religious debate with a Muslim guest. Following the heated but polite conversation, the Muslim lady complained to the police and the Christian couple suffered months of anxiety as they waited for the trial. In December 2009 the couple was found innocent after a judge said their accuser's evidence was not reliable. However, their hotel business has been left devastated by the prosecution.

Increasingly, therefore, it seems that citizens are becoming less free to disagree with one another on controversial yet important topics. In order to protect freedom of expression, the CLC strongly urges participating OSCE states to ensure that so-called "hate speech" laws—whilst laudable in their aim of preventing hatred and violence—do not unduly limit freedom of expression: including expression that shocks, offends or disturbs others.