



## OSCE HDIM September 2011

Warsaw

Contribution to working session 2:  
Freedom of thought, conscience, religion or belief

### **Blasphemy laws belong to history books**

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With the secularisation of Europe, the offense of blasphemy tends to disappear from national criminal laws. But there are still several countries, in the OSCE area and beyond, which violate freedom of expression and persecute religious minorities and non-believers with blasphemy laws in the name of religious freedom.

In Europe, in a 2008 report on the relationship between freedom of expression and freedom of religion, the European Commission for Democracy through Law (Council of Europe's advisory body on constitutional matters, better known as the Venice Commission) recommended that "the offence of blasphemy should be abolished (which is already the case in most European States) and should not be reintroduced".

At the international level, in a joint statement issued during the Durban Review Conference in Geneva in 2009, three United Nations Special Rapporteurs – respectively on freedom of religion or belief, on the right to freedom of opinion and expression and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance – underlined the difficulties of providing an objective definition of the term "defamation of religions" which make the whole concept "open to abuse". The pressure to ban these blasphemy laws has been increasing since 2008. After several years of resolutions on the defamation of religions, the United Nations finally adopted in March 2011 a new resolution on Combating Religious Intolerance which does not refer to defamation of religions anymore but advocates tolerance and education.

Freedom of religion must be protected but it is also important to guarantee an environment in which a critical discussion about religion can be held. There is no fundamental right not to be offended in one's religious feelings. Churches and religious groups should accept criticism, just as every group in society. Intellectual and cultural advance rely on the free exchange of ideas. Protecting any ideas from criticism does them no favour: it allows them to survive unchanged without being adapted and improved.

Defending freedom of expression does not mean that it is wise or legal for citizens to say everything they like in the public space. This freedom is limited by the interdiction of incitement to hatred and violence on the basis of their ethnic origin, their religion or their sexuality amongst other grounds. But beside freedom of expression, a much broader set of

policy measures is necessary to promote tolerance, like intercultural dialogue or education for tolerance and diversity. Legal responses, such as restrictions on freedom of expression alone, are indeed far from being sufficient to bring about real changes in mindsets, perceptions and discourse.

Some countries have abolished the offense of blasphemy. Others still have it in their domestic law but do not prosecute (e.g. Austria, Denmark, Italy and the Netherlands). In a few countries, blasphemy laws can lead to imprisonment, torture or death for people who dare to express disagreement with official religious discourses. In less dramatic cases (e.g. Ireland, Greece or Poland), blasphemy laws allowing fines and imprisonment may have a deterrent effect on journalists, academics, artists and other citizens which may amount to self-censorship. The situation is all the more problematic than the wording of such laws is vague and does not identify an objective threshold for religious people to get offended.

CAL therefore urges OSCE countries to remove blasphemy crime from their domestic laws.