

Freedom of Speech: The Basis for Freedom of Religion

Purpose of Paper

This brief paper is to serve an on-going dialogue by identifying some of the trends and issues related to freedom of speech and religion. It will be a starting point for discussion at conferences organized by Advocates Europe and the European Evangelical Alliance during 2007. But the issues, trends and concerns raised are global and thus the paper can also serve other audiences.

Essential Freedom

Freedom of speech is foundational and essential for other freedoms and rights. Without it we have neither freedom of press, nor any rights to open political debate, no freedom to manifest religious beliefs, no freedom of expression in art and music, et cetera.

Global Issue & Ramifications

We need to further explore the concept of freedom of speech / expression to discover its ramifications for religious liberty. In a globalized world, where laws are increasingly internationalized, we need to better understand various trends, pitfalls and opportunities which may impact us all.

Cases around the Globe

Increasingly, world events point to the significance of this issue.

The Mohammed cartoons published in Denmark clearly show that it is a global issue. Throughout the world Muslims started riots, imams issued fatwas, and there were boycotts and international diplomatic hard talk - in Denmark and beyond. There were demands, explicit and implicit, that freedom of speech / press should be restricted.

The case of Pastor Åke Green in Sweden illustrates the point where freedom of speech and religion intersect. In July 2003 he stated in a sermon in his small church that engaging in homosexual conduct is sin according to the Bible. About a year later he was sentenced to one month in prison for expressing contempt against homosexuals. He was acquitted in the Supreme Court on Nov 9, 2005. His case proved to be of international importance and was closely followed by lawyers and legislators around the world.

Pastor Daniel Scot had to flee Pakistan because of its blasphemy law but ended up being charged of offending Muslims and Islam in democratic "Christian" Australia. His case has been in the Australian court system for over five years. Three Australian states have laws which, in the name of tolerance, do not tolerate criticism - even perceived criticism - of Islam.

Pakistan's blasphemy laws (295 – 298) severely limit freedom of speech and thus religion, making it a crime to even insinuate something about Islam that can be perceived as negative.

Pakistan was also the agent for the Islamic Conference-backed resolution that was passed by the UN Human Rights Council in March 2007 in Geneva. The resolution's basic message and purpose is to create a "criticism-free-zone" for Islam. It is worth noting that Islamic and other non-democratic countries voted for the resolution while democracies voted against.

“Lying at the heart of this resolution is an attempt by the Organization of Islamic Conference (OIC) to impose universal anti-blasphemy laws – an offence punishable by death in many countries - thereby stifling open discussion of religious beliefs. This is a troubling development, especially since countries across the globe are increasingly using anti-blasphemy laws to punish religious minorities for questioning the beliefs of the majority religion. Such laws are no longer confined to Islamic countries; they are now being called for in democratic societies. Individuals who came to the West to escape persecution are once again in danger.” (Tina Ramirez, Congressional Fellow for Rep. Trent Franks, USA)

Turkey’s infamous law 301 prohibits “insulting Turkishness”. Turkish Nobel laureate Orhan Pamuk has been charged, as well as Muslim converts. The latter are accused of offending “Turkishness” by leaving Islam.

Every year in the USA there is a debate and some legal debacle about the expression “Merry Christmas” and the public display of Christmas trees. Are they to be perceived as offensive to non-Christians?

Trends & Concerns

While we would strongly advocate for freedom of speech, we do recognize the need for limitations. Absolute freedom is anarchy; neither is absolute freedom of speech desirable. Freedoms and rights need to be defined and operate within a particular framework, which is related to both ethical and legal systems.

There are some common legal limitations to freedom of speech. You cannot instigate imminent violence nor convey state or military secrets and plead that you are exercising freedom of speech. There are also some limitations related to libel and slander against individuals.

The right and freedom to express one’s views and opinions in writing, speech, and art inevitably means that others may differ or even take offense. But that is the nature of freedom of speech. One cannot guarantee that no-one will ever be offended by a message, political, religious, or otherwise. One may say that Mohammed is the last prophet, another may disagree. Some will assert that Jesus is God and others may find that stupid or even offensive. Some may argue for homosexual marriages and others for limited abortion rights. But all these things are foundational for a functional democracy, which is based on individuals’ right to express and convey various and differing opinions.

Freedom of speech puts the emphasis on the speaker and what is said; the right to say basically anything, even things that are not true (for instance, that the earth is flat).

A worrying trend is the shift toward the *hearer* and to *what is being heard* or how things are perceived, including the possibility that an individual or group may feel hurt or offended by what has been expressed. This is a move from the objective (what was expressed) to the subjective (how was it received, perceived). This is contrary to fundamental Rule of Law principles.

One can see this tendency in both media and in legislation in many parts of the world, often relating to Muslims and those engaging in homosexual conduct.

The prosecutor in the Pastor Åke Green case assumed that “homosexuals may have been offended” by the sermon, had they heard it. There was no instigation to violence in the sermon, and no witnesses were ever brought in to testify about harm as a result of Green’s sermon. The emphasis was placed on *potential* hearers and how they subjectively may have perceived it; and, therefore, if it should be deemed offensive.

Green’s acquittal in the Swedish Supreme Court made reference to the European Convention on Human Rights (ECHR) where it says that individuals have the right to express views that may be found offensive by others – individuals, groups, or even the state. According to Swedish law (criminal code 16:8), Pastor Green was guilty. However, the ECHR is incorporated into Swedish law, and took precedence.

This and other cases (see above) and public debates illustrate a shift from freedom of speech to “freedom of hearing”; from the speaker to the hearer; from what was said to how was it perceived; from instigating violence to “I was offended”; from objective to subjective criteria and laws.

Another concern with this development is the loss of predictability, yet another Rule of Law principle. Laws, and consequences when breaking them, should be predictable. Example: for driving 60 km/hr on a road where the speed limit is 50, there are objective parameters: a fine is levied. The law can be understood, and any citizen can act accordingly. But how can I know if someone may be offended by something I say?

In the example of the Danish cartoons, the newspaper Jyllandsposten exercised freedom of speech / press and published drawings of Mohammed. The response was riots, death threats, killing, boycotts and violence with implicit and explicit demands of “freedom of hearing / seeing”. Jyllandsposten operated within the legal and democratic framework– that is indisputable. Whether the publication was wise and appropriate is another matter and should not be confused with their legal rights.

The Islamic Conference, consisting of 57 Muslim countries, proposed a resolution that was passed by the UN Human Rights Council in March 2007 in Geneva relating to the Mohammed cartoons. (Note: there is no consensus within Islam regarding making pictures. You can buy pictures in Iran of Mohammed, for example)

The resolution talks about vilification and defamation, but is quite different from libel and slander legislation in Rule of Law societies. There are several major flaws in the resolution. One is that it basically refers only to Islam and Muslims. Secondly, it makes freedom of speech content based. Thirdly, it is a major paradigm shift **from** individual freedoms and rights **to** protection of a group and their supposed “right” to not be offended. Fourthly, it presupposes that truth about religious issues can and should be established in courts of law. (cf. Inquisition)

“This resolution poses a dire threat to the rights of individuals – both Muslims and non-Muslims alike - to discover and live out their religious beliefs without fear of prosecution. It is imperative that the international community rise up to oppose the UN's endorsement of anti-blasphemy laws, and expose these resolutions for what they really are: legal justifications for undermining the freedoms of religion and expression, and institutionalized intolerance against religious minorities.” (Tina Ramirez, Congressional Fellow for Rep. Trent Franks, USA)

As we discuss blasphemy laws (Pakistan), defamation resolutions (UN), “religious tolerance acts” (Australia), we also need to review and question blasphemy laws in the UK and Norway as well as freedom of speech limitations in Germany (where it is illegal to deny the Holocaust) and in France (where one mustn’t deny Armenian genocide).

So where are we going? Is there a trend toward “a right to NOT be offended” (Muslims & homosexuals) and thus *limited* rights for others to express different opinions? “Freedom of /from hearing” kills freedom of speech. The ramifications are huge, a threat not only to religious liberty but to democracy itself - and thus, to everyone.

Our Response

Freedom of speech and religious liberty is for everyone; Muslims, atheists, Christians, conservatives, communists, homosexuals, and others. Freedom of speech and religion accommodates the right to publicly compare religions and allows for various religious beliefs and expressions. (cf. UN Human Rights article 18). These are rights *of* individuals, as well as rights *for* individuals to congregate around a belief system. A Rule of Law society should neither dictate religion nor be an arbiter of religious beliefs.

The purpose of defending Pastor Åke Green was NOT to defend a particular Christian belief, or a particular Christian church. The primary issue was freedom of speech and thus religion. It is appropriate for the church to discuss the Bible and sexuality, the church and homosexuals, et cetera. But these should never be court matters; and courts must not become sermon review boards.

We need to distinguish between the church arena and court of law, and what issues belong where. We must also recognize the difference between what is a legal issue and what is an issue of etiquette, what is jurisprudence and what is theology. We may question Green’s sermon and theology and even the appropriateness of his message, but these are issues of church, theology and etiquette. His *right* to preach from the Bible, expressing his interpretation thereof, is a matter of jurisprudence - and of freedom of speech and religion.

Similarly one may be appalled by Jyllandsposten’s lack of insensitivity toward Muslims, and as Christians we may prefer to do our utmost to not offend people. But we also want to protect human dignity by defending human rights, including the right to express various opinions. It may be helpful to remember that the messages of many Biblical prophets – including Jesus’ message – were broadly perceived as offensive.

God is just and merciful. God loves justice and mercy! We mustn’t dichotomize these; it is not a case of either-or, but of both-and (or, as expressed in the motto of Advocates International, “Doing Justice with Compassion”).

One can observe four different ways in which Jesus related to various people and issues.

1. He lived along side others, a co-existence with religious fanatics, occupying forces, and subversive political groups. Even during the days of Jesus there was a multi-cultural society, and Jesus found ways of living peacefully side by side with those of different faiths and backgrounds. Likewise we should strive to live in peace with all people, even with those whose lifestyle we dislike, or whose religious beliefs we disagree with.

2. Jesus lived for others, always willing to help, heal, feed and comfort; even his enemies. Thus we can and should pray for Osama bin Laden, stand up against violence against homosexuals, fight discrimination of women, help Muslim immigrants, and so forth.
3. Jesus preached and made exclusive claims: “I am the only way to God”. In modern terms, he exercised a right to express his views, and tried to convey truths and convince others of his message. This is democracy; this is freedom of speech and religion. In many parts of the Western world there is a tendency toward excluding Christians from the public arena, from the public debate. Further, some Christians feel ashamed and hold back their views and withdraw from the public arena. We mustn't – Jesus didn't.
4. Jesus also dared to confront and challenge rulers. He hated injustice and spoke out against it; especially if it was done in the name of religion. We must never shy away from our prophetic responsibility to identify and fight injustice and cruelty, even if it is done in the name of Islam. We cannot tolerate suicide bombers, or the oppression of women, persecution of Christians, and abuse of children.

As Christians we have a Biblical mandate and God given responsibility to fight for justice and to show mercy. As Europe faces challenges from Islam and from secularists, we are to engage on various levels and fronts: public debate, legislation, evangelism, social concern and community development. This includes fighting for freedom of speech which is the basis for freedom of religion. A lack thereof leads to discrimination, harassment and persecution, to oppression and attacks on human dignity which are clearly contrary to the will of God. Thus we need to closely follow and participate in policy debates and legislation regarding freedom of speech.

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President, Swedish Evangelical Alliance
Spokesperson on Religious Freedom for the World Evangelical Alliance

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