



Working session 2: Tolerance and non-discrimination II

*As delivered by Paul Coleman
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My recommendation is that participating OSCE States must find a fair balance between the different competing rights that have been created by non-discrimination laws, so that citizens are not unfairly penalized and punished for upholding their deeply held religious beliefs in the workplace or in other areas of public life.

The reason for this recommendation is because “Tolerance is a two-way street.”

This was the ruling of the Court in the US case of *Ward v. Wilbanks*, where a Christian student had been expelled from her university counselling course because of her beliefs. Julea Ward was assigned a potential client seeking assistance regarding a sexual relationship that was contrary to her religious convictions. She recognized the potential conscience issue with the client and informed her supervisor. The University then told her that she could only stay in the counseling program if she agreed to undergo a “remediation” program that would help her “see the error of her ways” and change her “belief system”.

The university considered Ward’s position to be “intolerant” and therefore took disciplinary action against her. However, the court ruled that the university was itself being intolerant. It held that tolerance must be a two-way street “otherwise, the rule mandates orthodoxy, not anti-discrimination.”

I think this is the correct approach to non-discrimination laws and it is the approach the courts should adopt in Europe.

Unfortunately in Europe the introduction of non-discrimination laws has consistently resulted in the withdrawal of tolerance for those who hold a differing view on issues such as sexual ethics and the definition of marriage.

Last year the current Mayor of London, Boris Johnson, summed up this position perfectly. After banning bus advertisements deemed to be “homophobic” he proudly proclaimed: “London is one of the most tolerant cities in the world and is intolerant of intolerance.”

Such unashamed intolerance for anyone who voices disagreement with the prevailing orthodoxy of the day is clearly concerning. It also demonstrates that nondiscrimination laws, if used incorrectly, can encroach upon religious freedom as well as other basic human rights including as freedom of speech and freedom of assembly.

Participating OSCE states must therefore ensure that they do not use non-discrimination legislation to limit these fundamental freedoms. Intolerance can never be justified on the basis that State actors believe certain religious beliefs are themselves intolerant.