



35th Session of the Human Rights Council
General Debate, Item 8

Mr. President,

ADF International would like to draw attention to the work of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye, and notes his reports, particularly on his country visit to Japan.

We appreciate the Special Rapporteur's commendation of the fact that Japan has refrained from criminalising or prohibiting so-called "hate speech," opting instead to discourage undesirable speech through educational and public statements. Article 19(2) of the International Covenant on Civil and Political Rights protects the right of everyone to freedom of expression, and Article 19(3) provides that this right is subject to certain limits and restrictions only as long as they are provided for by law and are necessary with respect to the rights or reputations of others or for the protection of national security, public order, or public health or morals.

In his book *Censored: How European "Hate Speech" Laws are Threatening Freedom of Speech*, ADF International Deputy Director Paul Coleman writes that "freedom of speech is rightly considered to be one of the hallmarks of a healthy and robust democratic society ... [and] the countries in which freedom of speech is most heavily restricted are often oppressive, authoritarian regimes."¹ ADF International is therefore disappointed by the number of purportedly "free countries," including a number of European Union states, that have been enthusiastically recommending the tightening of hate speech laws and that have passed such laws themselves. Especially problematic is the reality that there is no formal or universally shared definition of what constitutes "hate speech," an issue that has been acknowledged and conceded by both the European Court of Human Rights and UNESCO.²

ADF International recognises the need to regulate forms of communication that can credibly and reasonably be said to constitute incitement to violence, whether against an individual or a group. So-called "hate speech" laws, however, are vaguely worded and largely subjective, do not necessarily require falsehood, rarely require a victim, often only protect certain people, are arbitrarily enforced, and are often criminal rather than civil in nature.³ Ostensibly designed to protect specific "vulnerable classes," these laws can be used to silence legitimate speech involving no incitement to violence, in violation of the right protected under Article 19 of the UDHR and ICCPR, not to mention Article 10 of the European Convention on Human Rights. Without freedom of speech, there cannot be genuine discussion amongst citizens, and without discussion, there is no democracy.

Thank you, Mr. President.

1 Coleman, P (2016). *Censored: How European "Hate Speech" Laws are Threatening Freedom of Speech, 2nd Edition*, Kairos Publishing, Vienna, 1.

2 Coleman, 2016, 5-6.

3 Coleman, 2016, 8-10.