

What Geert Wilders's acquittal means

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Columnists, including the *Citizen's* David Warren ("Acquitted of political incorrectitudes," 25 June), are hailing the acquittal of Dutch politician Geert Wilders on hate-speech charges a major victory for freedom of expression in Europe and the West.

I'm not sure it's a victory at all. At best, it is a minor one. Thinking that it's a victory is dangerous, for that could lead to complacency. The freedom of expression movement cannot afford to be complacent.

Geert Wilders, the leader of the Dutch Freedom Party, a political party well-represented in the Dutch parliament, had been charged with inciting hatred toward a protected group, in this case, Muslims. The charges stemmed from Wilders's repeated attacks on Islam as a religion (or, in his terms, an ideology) of war and oppression, one incompatible with secularity, freedom, equality, and democracy. Wilders also called for an end to immigration to Holland and Europe from Muslim lands, for, he says, Muslim immigrants are responsible for eroding Dutch and European liberalism and prosperity.

Muslim immigrants are not directly responsible for this erosion, Wilders insists. Directly responsible are those politicians and activists who have tried to fashion Holland as a multicultural state and who acceded to demands for cultural autonomy made early on by the few Dutch Muslims who were then politically active. Yet, Wilders is clear: the task of restoring liberalism and prosperity to the Netherlands requires halting Muslim immigration and actively assimilating to Dutch values and ways those Muslims who are already citizens.

For these views, and for his vocal and brash advocacy of them, Wilders faced fines and jail time.

In the end, after two years of investigation and trial, Wilders was acquitted.

The jury of three judges determined that Islam is not a race or a national group and, thereby, enjoys no protection under hate-speech laws. They also determined that since multiculturalism and immigration are public issues, the state must tolerate a wide range of opinions on them, even opinions that are crude and hurtful.

The judges noted that Wilders had said nothing to indicate he thought Muslims innately illiberal or depraved. Indeed, Wilders recognizes that people who identify as Muslim might be strong liberal democrats. Such people are, he adds, apostates from Islam, though they don't recognize that they are.

Those who say the acquittal is a victory for freedom of expression praise the judges for the careful distinctions they made as well as for their understanding of the role unregulated debate plays in the political life of a democracy. The judges were right, they say, to distinguish

between an attack on a religion or ideology and an attack on the character of a people. The judges were right to note that Wilders was advocating positions in a public debate with regard to matters of public importance.

We have witnessed similar outcomes in Canada recently.

Stephen Boissoin, an Alberta pastor who doesn't like homosexuality and fears what gays and lesbians are doing to his community, had a panel judgement against him for discriminatory speech overturned by a court. Justice E. C. Wilson anticipated the reasoning of the Wilders judges, finding that Boissoin did not express hatred toward individual people and was participating in a debate on a matter of public interest.

Athanasios Hadjis, of the Canadian Human Rights Tribunal, refused to apply the discriminatory speech section of the Canadian Human Rights Act in a case involving Marc Lemire, finding the section an unconstitutional chill on discussion by virtue of its penalty provisions.

We are right to breathe sighs of relief at these decisions. Had any of them gone the other way, hate-speech laws would have been extended to frank, critical discussions of religions, sexuality, and public policy. Contrary decisions would certainly have been victories for those who fear and dislike freedom of expression.

But we must not call any of these decisions victories for freedom of expression, except in the minor sense that ground was not lost in them. They are not victories, for the laws and regulations under which the cases were heard remain in place. We should celebrate only after the laws are repealed.

People in the Netherlands and in Canada are still liable to be investigated merely for peacefully expressing their opinions and emotions. They can still be forced to respond to complaints and, even, prosecuted under the law. In Canada we continue to live under Section 13 of the Canadian Human Rights Act as well as Section 318 of the Criminal Code of Canada, the Public Incitement of Hatred statute. Moreover, no political party stands against Section 13, let alone Section 318, and only a few politicians have publicly spoken against it.

Expression, candour, and discussion will continue to be chilled so long as people can face complaints and charges for what they say. It's not fear of conviction that gets in the way of candid exchanges of opinions and emotions. Fear of complaints and prosecution is enough. We will have little to celebrate until politicians remove restrictions on speech or the courts strike them down.