

Committee: The Special Conference on the rise of populism

Issue: Measures to counter hate speech

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INTRODUCTION

Hate speech is a complex term, often and closely associated with xenophobia and sexism, that has gained prominence in recent years. Hate speech is important to the world, visibly and significantly impacting both targeted individuals' private life, and society. Today's global societies are full with occurrences of expression of hate speech, most of which are targeted towards foreign people that now live in new societies, the majority of them being Muslim. Due to the recent refugee crisis and various recent terrorist attacks, societies have grown more and more hateful towards Muslims. This has led to the emergence of a big wave of xenophobia and islamophobia, and a subsequent rise of hate speech. This rise has only been further fueled by multiple far-right leaders and populist politicians, as a means of attracting votes. Thus, hate speech is a phenomenon often inextricably linked to extremism and populism, with far reaching implications, marking it an issue of significant importance in our world. In this Study Guide we will analyze forms of hate speech and you will find the aspects on which you have to focus on in the Key Terms and Possible Solutions sections. Moreover, you will find sections focused on legal aspects of the topic, social media platforms and hate speech, as well as the involvement of prominent international organizations, such as the UN.

DEFINITION OF KEY TERMS

Hate Speech

Hate speech is speech, which attacks individuals or groups based on a specific attribute, such as race, religion, ethnic origin, disability, gender and sexual orientation. Legally, it can take on the form of a speech, gesture, conduct, writing or display that incites violence or prejudicial action against a protected group or individual.

Xenophobia

Xenophobia is dislike, fear and prejudice against strangers or foreigners or of anything that is strange or foreign

Sexism

Sexism can be defined by two means: as prejudice or discrimination based on sex, especially discrimination towards the female gender or as behavior, conditions and attitudes that foster stereotypes of social roles based on sex

Homophobia

Homophobia can be described as the irrational fear of, aversion to, or discrimination against homosexuality as a whole or people who identify as homosexuals.

Racism

Racism is the belief that race is the primary determinant of human traits, capacities and intelligence and that racial differences produce a feeling of false superiority of a particular race

Islamophobia

Islamophobia is the dislike or prejudice against Islam or Muslims and their societies, especially as a political force

BACKGROUND INFORMATION

Right to freedom of opinion and expression

In order to identify and understand hate speech, it is important to first understand the importance of the common human rights to freedom of expression and equality. Freedom of expression and opinion is a fundamental human right, with international law requiring States to guarantee all people the freedom to seek, receive or transmit information or ideas and wishes of any kind through their preferred means. Thus, its scope is broad, allowing for the expression of opinions that can be offensive comparatively, with the state reserving the right to restrict or confine it under exceptional circumstances. More specifically, international human rights law guarantees equality and non-discrimination for all people and based on such principles it opposes hate speech, occasionally through restrictions on the right to freedom of expression. Prohibitions and responses to hate speech can also be justified on the basis of protecting national security and public order or morals.

Hate speech that must be prohibited

According to international law, states must prohibit the most serious forms of hate speech, such as “Direct and public incitement to genocide” and Any advocacy of discriminatory hatred that constitutes incitement to discrimination or violence”. These bans are adapted to prevent the exceptional and irreversible damage the speaker intends and is capable of stimulating.¹

Hate speech on social media platforms

Social media are full of hate speech. Most major social media companies like Facebook, and Twitter have their individual policies regarding the nature of the hate clauses allowed on their sites. These policies are often less protective of the freedom of expression, yielding social media companies unprecedented power and control.

International Legal Recognition

The International Covenant on Civil and Political Rights (ICCPR) states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law". The Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibits all forms of racism, thus including hate speech. On the 3rd of May 2011, the United Nations Human Rights Committee published draft General Comment No. 34 on the ICCPR, which expanded on the opinion that many forms of "hate speech" do not meet the level of seriousness that has been set out in Article 20. Concerning the debate about freedom of speech on the Internet, conferences concerning such sites have been sponsored by the United Nations High Commissioner for Refugees (UNHCR). The United Nations (UN) has taken further actions, however we will elaborate on that in subsequent sessions.

Legal Action & Pursuit

Hate laws can be categorized in two groups: the ones aimed at public order and the ones aimed at the protection of human dignity. Those designed to protect public order require a higher boundary to be violated, so they are not specifically enforced frequently. The ones meant to protect human dignity don't require such a high threshold as the public order ones to be violated, thus the regulations in Canada, Denmark, France, Germany and the Netherlands are frequently enforced. Although the enforcement of laws regarding Hate speech in the United States of America (USA) can cause backlash regarding to the

¹ Hate speech that must be prohibited quotations:
<https://www.article19.org/data/files/medialibrary/38231/'Hate-Speech'-Explained---A-Toolkit-%282015-Edition%29.pdf>

constitutional rights to freedom of speech, therefore court rulings often have to be reexamined in order to ensure that the constitution is being upheld in the ruling and that the rights of the person being prosecuted aren't violated in the process. In some countries a victim of hate speech can seek justice under civil law, criminal law or in some cases both.

Countries with hate speech laws

The Nations that have hate speech laws are the following:

- Australia
- Belgium
- Brazil
- Canada
- Chile
- Croatia
- Denmark
- Finland
- France
- Germany
- Iceland
- India
- Indonesia
- Ireland
- Japan
- Jordan
- Netherlands
- New Zealand
- Norway
- Poland
- Russia
- Serbia

- Singapore
- South Africa
- Sweden
- Switzerland
- United Kingdom
- United States

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

United States of America (USA)

The protection of the rights of the citizen, including freedom of speech, was not registered in the original United States Constitution of 1789, but was added two years later with the bill, which was implemented as several amendments to the original Constitution. The first amendment, ratified on the 15th of December, 1791, states:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Certain terms of expression were examined by framers and designated by the United States Supreme Court (SCOTUS). The U.S. states began passing hate speech laws for the first time in the 1940's.

In 1969, the Supreme Court upheld the speech of a Ku Klux Klan member and set up the "imminent danger" test to determine in what situations speech can be limited. The court ruled in the Brandenburg against Ohio case that: “The constitutional guarantees of free speech and free press do not permit a state to forbid or proscribe advocacy of the use of force, or of law violation except where such advocacy is directed to inciting imminent lawless action and is likely to incite or produce such action.” This has been barely modified from its inception in 1969 and the law is still upheld in the United States. In 2011, the Supreme Court issued its decision concerning the Synder against Phelps case, which concerned the right of the Westboro Baptist Church to protest with signs that were judged as offensive by numerous Americans. The issue that arose was whether the First Amendment protects the expressions given in the points. In an 8 to 1 ruling, the court sided with Fred Phelps, head of the Westboro

Baptist Church, thus confirming the historically strong protection of freedom of speech as long as it does not promote impending violence.

Concerning hate speech in the political background of the United States, their current President Donald J. Trump is a man perceived as prone to hate speech. In numerous speeches of his during the run for the presidential election Mr. Trump has targeted many minority groups to gain the approval of his supporters and cause agitation amongst the crowd, often coming close or actually delivering hate speech. Other than that the President-elect has also taken to social media platforms to express his views which include hatred towards various groups of people. For example, in his 1100th day speech in Harrisburg, P.a Mr. Trump attacked the media, which according to him is composed of “incompetent, dishonest people” and to attack congressional Democrats, highlighting the fact that “they don’t mind drugs pouring in”. But most of all he focused on the dehumanization of migrants and refugees as criminals, infiltrators and terrorists. This exactly is a precise example of hate speech and Mr. Trump used it to gain popularity amongst American voter, with hatred-fuelled crimes increasing alarmingly in recent months.

France

The leader of the far-right Front National (FN) Marine Le Pen, yet another far-right politician, has also been prone to target Islam and Muslims during her campaign for the presidential race. Immigration and fear of radicalization served as the main topics of Ms. Le Pen’s campaign with strong focus on terrorist attacks that have taken place in France the last two years. In the speech that launched her presidential campaign she said that prayers in the street, mosques and the veil that are traditionally worn by Muslim women were threats to the culture and values of France and that “no French person, no ²Republican and no women attached to their dignity could accept it”. She has claimed that mass immigration is the cause of globalization that has left the French people feeling dispossessed of their own country and gave permission to Islamic Fundamentalism, an enemy of France when it comes to their ideologies, to settle on its territory. Expanding on Islamic Fundamentalism, she has stated that it is attacking them at their own home and then went on to compare Islamists settling down in France to wild wolves in a henhouse and claimed that Islamic fundamentalism was “planting itself in some neighborhoods and vulnerable minds”.

² Information about France and hate speech:
<http://www.independent.co.uk/news/world/europe/marine-le-pen-front-national-speech-campaign-launch-islamic-fundamentalism-french-elections-a7564051.html>

Russian Federation

In April reports came, that gay men were being abducted from their homes and taken to torture camps in Chechnya. Russian activists reported that gay men are fleeing brutal persecutions in Chechnya, where police forces are holding more than 100 people and even torturing some of them in an anti-gay crackdown. When asked, a government spokesman called the reports lies and stated that homosexuals “simply don’t exist in the republic”. Russia, just like Chechnya is a homophobic nation with very restricted gay rights. The Russian President, Vladimir Putin backed an inquiry about the situation in Chechnya and said that he would personally ask the prosecutor general and the interior minister to check the reports. However later on he referred to the reports as “rumors, you could say, about what is happening in our North Caucasus with people of non-traditional orientation. Even though homosexuality was decriminalized in 1993, homophobia and hate speech against gay people³ are still very high, and as of 2013 the Russian parliament passed a law imposing heavy fines⁴ for providing information about homosexuality to people under 18. Hate speech against homosexuals in Russia is something very common and happens publicly constantly, as even politicians express their disgusted and harsh opinion on national television and Russian citizens shame and criticize all homosexuals.

China

In China hate speech directed towards Muslims and Islam is starting to take over the social media and is slowly expanding in real life as well. Angry anti-Muslim middle-class homeowners opposed planned mosque in their region by burying the head of a pig in the ground at the future mosque and circled the planned building site while holding banners. At the same time an anti-Muslim sentiment is spreading online into communities all across China, reviving religious and ethnic tensions that had erupted in bloodshed in the past. Interest groups have been actively promoting Islamophobia in interior regions with the goal to create a nationwide environment that justifies anti-terrorism campaigns. Multiple interviews with residents and an examination of social media have shown that a few online complaints by people from the area have evolved into a campaign to spread campaign. Numerous blogs have surfaced on the

³Information about Russian Federation and hate speech:
https://en.wikipedia.org/wiki/Homophobic_propaganda#Russia

⁴ Information about China and hate speech:
<http://www.independent.co.uk/news/world/asia/islamophobia-china-rise-online-hate-speech-anti-muslim-islam-nangang-communist-party-government-a7676031.html>

internet, especially on the Chinese social platform Weibo, that have a remotely large amount of followers and whose contents promote islamophobia and hatred against local Muslims and disapprove religious extremism. This situation is also posing a dilemma for the currently ruling Communist Party, since it has allowed Islamophobia to spread online for years serving as a part of its campaign to justify security crackdowns in the country. Thus islamophobia and hate speech have taken over China's social media and are slowly taking over the country as well.

The Council of Europe (CoE)

The CoE has worked assiduously on the matter of hate speech. Additionally, whilst not providing nations with a commonly accepted definition for "hate speech", the European Court of Human Rights offers conditions, under which decisions can be met about whether instances of hate speech may or may not be protected by the right to freedom of speech. Within the European Commission, country reports and many policy recommendations are often produced, such as ones against anti-Semitism and intolerance against Muslims, since it is a very up to date issue in Europe with the ongoing refugee crisis.

United Nations

There is little debate internationally that restrictions on hate speech can be justified. Article 20 is one of the 30 Articles of The Universal Declaration of Human Rights, and is key in this discussion, as it states that "everyone has the right to freedom of peaceful assembly and association" and "no one may be compelled to belong to an association". However, it has proved to be highly controversial and has been criticized as being overly restrictive of free speech or as not going far enough in the categories of hatred it covers. The United Nations Human Rights Committee (UNHRC) has stated that there is no contradiction between the obligation to adopt domestic legislation under Article 20 and the right to freedom of expression. At the same time, the UNHRC stressed out the fact that "restrictions on expression which may fall within the scope of article 20 must also be permissible under article 19, paragraph 3, which lays down requirements for determining whether restrictions on expression are permissible." In other words, that laws adopted pursuant to Article 20 have to meet the three-part test just like all restrictions on the freedom of expression. The three part test is as follows:

1. Be provided by law; any law or regulation must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly;
2. Pursue a legitimate aim, exclusively: respect of the rights or reputations of others; or the protection of national security or of public order, or of public health or morals;

3. Be necessary in a democratic society, requiring the State to demonstrate in a specific and individualised manner the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.

In a 2011 joint declaration, the United Nations (UN), the Organization for Security and Co-operation in Europe (OSCE) and the Organization of American States (OAS) Special Mandates on the right to freedom of expression set out specific conditions that would have to be observed by hate speech laws.

- “No one should be penalized for statements which are true”, e.g. if someone says that an African American person is of African descent, it is no offensive.
- “No one should be penalized for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence”, e.g. if someone says that a person of color has indigenous descent and does not mean any harm, it is not offensive.
- “The right of journalists to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance”
- “No one should be subject to prior censorship”, e.g. if a person has never targeted anyone with hate speech before, they should not be censored.
- “Any imposition of sanctions by courts should be in strict conformity with the principle of proportionality⁵.”, e.g. the concept of proportionality is used as criterion of fairness and justice in statutory interpretation processes, as a logical method intended to assist in discerning the correct balance between the restriction imposed by a corrective measure and the severity of the nature of the prohibited act and thus all decisions should be taken following this principle.

TIMELINE OF EVENTS

Date	Description of Event
1942	Beauharnis vs. Illinois case
1969	Ku Klux Klan case
2011	Synder vs. Phelps case

⁵ Principle of proportionality: [https://en.m.wikipedia.org/wiki/Proportionality_\(law\)](https://en.m.wikipedia.org/wiki/Proportionality_(law))

Here you will find a timeline of President Trump’s hate speech during his presidential campaign and the years before he became President of the United States of America.

Date	Description of Event
September 17, 2015	Speech at a campaign town hall in New Hampshire targeting Muslims
December 6, 2015	Criticism of mosques and Muslims on CBS News
December 7, 2015	Trump’s campaign issued a statement calling for a complete shutdown of Muslims entering the United States
December 13, 2015	Trump described Islam as a sickness on Fox News
February 3, 2016	Trump criticized Obama for visiting a mosque
March 22, 2016	Soon after three suicide bombings in Brussels Mr. Trump said “We’re having problems with the Muslims, and we’re having problems with Muslims coming into our country.”
July 21, 2016	In accepting the Republican Party’s presidential nomination Trump focused heavily on brutal Islamic terrorism

UN INVOLVEMENT: RELEVANT RESOLUTIONS, TREATIES AND EVENTS

#SpreadNoHate: Hate Speech Against Migrants and Refugees in the Media Symposium

The European Union (EU) and the United Nations Alliance of Civilizations (UNAOC) organized jointly a one-day symposium on Hate Speech against Migrants and Refugees in the Media last year on January 26 in Brussels. The symposium was organized within the framework of the UNAOC #SpreadNoHate initiative against the rising rhetoric of hate speech and incitement against migrants and refugees across Europe and elsewhere. Of course the

media has a big role in this context, as it is one of the sources people seek information from and thus it helps the shaping of perception about migrants and refugees amongst the people, That is not to say ,however, that opinions expressed cant be characterized by discrimination, exclusion and incitement to hatred and violence. Thus in 2015, the United Nations Alliance of Civilizations (UNAOC) launched the #SpreadNoHate project, a platform engaging global media in a dialogue on the topic of hate speech and the sharing of best practices to combat it. The most recent and fourth event of the campaign was co-organized by the UNAOC and the European Union (EU), which took place in January 2017. It focused on the New York Declaration for Refugees and Migrants of 19 September 2016 and on its commitment to fight off racial violence, hate speech and hate crimes. Amongst the topics that were discussed at the Brussels symposium, were the role of the Internet in combating hate speech, the mechanisms and triggers of hate speech against refugees and migrants and the role of the media in the rise of populism. Other than a series of global symposia, the UNAOC hate speech initiative also consists of a social media campaign (#SpreadNoHate) that has so far reached millions of people online globally. The UNAOC and the EU issued a full report with recommendations and solutions for preventing negative narratives against refugees and migrants, and mitigating the impact of hate speech. Said report is meant to serve as a foundation for subsequent UNAOC initiatives in the area of media and migration.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

As we analyzed earlier, previous attempts at solving this issue include the founding of the European Commission against Racism and Intolerance by the Council of Europe, which is responsible for producing country reports and providing policy recommendations. Then we have the #SpreadNoHate which was founded by the UNAOC and then collaborated with the CoE for one of its events, which mostly focuses on the role that social media have on spreading hate speech and hatred against migrants and refugees. At the end of the last event ,a report was put together including the results from various panel discussions and interactive sessions. Other than that there have been no other significant attempts to solve the issue on a global level, as each country has its own hate speech laws and thus all modifications and efforts remain on a national level.

POSSIBLE SOLUTIONS

As mentioned above, no internationally recognized definition of hate speech exists, so in order to tackle the issue you should first define it and then start solving it on an international level. In doing so, it is important that other countries are taken into

consideration. More specifically, it is highly recommended that individual countries look into their relevant legislation, single out its best features and constructively merge these with other countries' legislation towards the development of a stronger legal framework internationally.

Additionally, focus can be placed on the following complementary areas of action:

1. The creation of an enabling environment in all States that will ensure the right to freedom of expression and at the same time protect the right to equality and non-discrimination for all.
2. Other stakeholders such as, civil society, the media and private businesses should take voluntary initiatives to tackle the main causes of intolerance and prejudice, to challenge and contest hate speech.

Moreover, it is important to call for a range of positive non-legal measures internationally, in order to tackle discrimination, prejudice, and respond to hate speech. Within this context, the commitment of public officials to respect human rights, and the commitment to promote dialogue and foster participation from and to all aspects of society are pivotal and can be ensured through the creation of international public information and education campaigns and NGOs. Such campaign should focus on legitimate information, dispelling misconceptions and myths about certain groups, and provide the correct tools to individuals to identify and challenge manifestations of intolerance in their every-day interactions. Public information and education campaigns should also be integrated into primary, secondary and tertiary education. Additionally, focus should be placed on developing concrete anti-bullying policies, providing mental support services for victims of bullying due to hate speech, and ensuring diversity in school grounds and school materials.

Another aspect you should focus on is social media and question of optimal censorship over posted content internationally. Within this context, it is important to take into account the private nature of the social media related companies, engines and platforms and consider web hosting companies, Internet service providers (ISPs), and consider whether and how an interplay between states and such actors internationally should take place. Last but not least, another major source of hate speech nowadays is politicians, they criticize and condemn minorities in their speeches and public appearances.

Before you start writing your resolution, remember that you have to do your own research and thoroughly read and understand your country's policy and then base your clauses on it, as it would be a shame for you to write a resolution against your country's policy. Good luck!

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