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**COUNCIL**  
**(UNHRC)**  
**STUDY GUIDE**



**Agenda Item: Criminalization of  
Hate Speech**

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## **Glossary**

**Hate speech:** Any verbal or written act that targets a specific individual or group because of the target person/group's race, ethnicity, nationality, religion, gender, sexual orientation, or any other characteristic.

**Freedom of Speech:** A fundamental human right and the freedom to express one's thoughts, ideas, beliefs, opinions, and information without worrying about censorship, interference, or punishment by the government or other authorities. Freedom of Speech does not mean that Individuals are not protected from the consequences of their speech. Even when their speech is protected by the law, people may still experience criticism, public backlash, and social repercussions for expressing particular opinions.

**Media Regulation:** The process by which a range of specific, often legally binding, tools are applied to media systems and institutions to achieve established policy goals such as pluralism, diversity, competition, and freedom.

**Judicial Interpretation:** In determining the parameters of protected speech and what qualifies as hate speech that is illegal, courts have a crucial role in interpreting and applying hate speech laws.

**Education and Awareness Campaigns:** To promote tolerance and respect for diversity and to enhance public knowledge of hate speech, its effects, and its importance, governments, and groups have started educational campaigns.

**Defamation Laws:** Using defamation laws, people or organizations have been held responsible for making false and destructive remarks about other people, especially hate speech directed at particular communities.

**International Human Rights Instruments:** International agreements and conventions, such as the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR), have endeavored to safeguard freedom of expression while enforcing restrictions to stop discrimination and hate speech.

## **Introduction**

The Freedom of Speech is the backbone of a strong democracy, promoting open discourse, the exchange of ideas, and the growth of knowledge but, it's important to recognize that there are boundaries to this right, especially when it comes to speech that directly incites violence, poses a clear and present peril, or violates the rights of others. Hate speech frequently falls into this order due to its implicit to incite discrimination, hostility, and violence against particular groups. Hate speech has been exciting since mankind, but with the improvement and popularization of technology and the accelerated increase in population, the history-old problem has come to the surface and become a significant topic discussed around the globe.

The reason the issue has been discussed for a long duration comes from the search for a balance between preserving freedom of speech, while illegalizing hate speech in order to keep people safe from discriminatory and offensive statements. This issue has two views, the first one advocates that freedom of speech gives you the ability to express opinions without any filter but still prohibits discrimination or expressing hatred against any group or person; the second one advocates that getting backlash for the ideas that get expressed is standard but censorship and/or getting arrested because of the opinions that were expressed regardless of context is against freedom of speech.

## **The Definition of Hate Speech**

Hate speech is defined as any type of speech, conduct, writing, or expression that offends, threatens, or degrades individuals or groups grounded on traits similar as ethnicity, race, nation, religion, gender, handicap, or other factors. This act of detest speech constantly targets underprivileged or vulnerable communities with the intent of slighting, humiliating, or inciting abomination, demarcation, or violence against them. Hate speech can have numerous motifs, similar to;

- **Racism:** Hate speech that attacks people and communities grounded on their race is a pervasive and dangerous problem. Racist slurs, ethnic conceptions, and championing demarcation against particular ethnicities or ethnic groups are all exemplifications of hate speech.
- **Sexism:** Hate speech that is sexist targets specific people with prejudice and hostility because of their gender. Both men and women can be the targets of sexist hate speech that reinforces gender inequality, negative stereotypes, and misogyny or misandry.

- **Religious Discrimination:** Hate speech that targets people or associations because of their religious affiliations or beliefs is related to religious separation. Hate speech motivated by religious prejudice can take numerous forms, including insulting language, stereotyping, and encouraging antipathy or violence toward particular religious communities.
- **Xenophobia:** Hate speech that expresses hatred against people or groups that are considered different or foreign is called. Xenophobic hate speech can take diverse forms, including insulting language, stereotypes, and advocating hatred or prejudice towards persons from other countries or cultural backgrounds.

## Examples Regarding Hate Speech

### **TBB-Turkish Union in Berlin/Brandenburg v Germany**

Mr. Thilo Sarrazin, former Finance Senator of Berlin and member of the German Central Bank's Board of Directors, was interviewed by the German cultural weekly *Letzte International*. "Class instead of Mass: From the Capital City of Social Services to the Metropolis of the Elite" was the title of the paper. In this interview, Mr. Sarrazin addressed himself in a disparaging and discriminating manner about societal "lower classes" that are "not productive" and must "disappear over time" in order to construct a city of the "elite" in this interview.

On October 23, 2009, the petitioner filed a criminal complaint against Mr. Sarrazin with the Office of Public Prosecutions "as the interest group of Turkish citizens and citizens with Turkish heritage of Berlin and Brandenburg." It argued, among other things, that Mr. Sarrazin's words constituted public incitement. National judicial procedures were ineffective. The petitioner contends that Germany violated, among other things, Article 4 of the ICERD by failing to give protection under its Criminal Code against Mr. Sarrazin's racially discriminatory and offensive words.

*Topic: Racial Discrimination against Muslims*

*Decision: Violation of Article 4 of the ICERD.*

### **Kirill Nepomnyashchiy v Russia**

On January 1, 2012, the author, a gay and lesbian activist, exhibited a banner that said, "Homosexuality is a healthy form of sexuality. This is something that both children and adults should be aware of!" The poster was posted near the Arkhangelsk regional children's Library's entrance. The goal of this activity was to encourage tolerance for the Russian Federation's gay and lesbian minority. He was fined

administratively for 'public actions intended to promote homosexuality among adolescents.' The Human Rights Committee found a violation of Article 19 of the International Covenant on Civil and Political Rights.

The Committee did not believe that shielding minors from the 'promotion of homosexuality' was legitimate, but rather that it constituted sexual orientation discrimination. It ruled that the law's phrasing, which included phrases like “promoting homosexual propaganda,” was very ambiguous and hence illegal.

*Topic: Hatred against LGBTQ people*

*Decision: Violation of ICCPR Article 19*

### **Robert Faurisson v France**

The author, an academic, questioned the use of gas for decimation at Nazi attention camps. Faurisson was condemned for disputing crimes against humanity.

The author was a literature professor who worked at Sorbonne University and the University of Lyon. He was questioning if the extermination gas camps at Auschwitz and other Nazi concentration camps were real or a hoax. In 1990, the Gayssot Act was passed by the French legislature, which criminalized denying crimes against humanity as outlined in the 1945 London Charter. The author expressed his concerns about the new law's threat to freedom of research and expression in an interview with a French magazine. In the interview, he showed his position that the homicidal gas chambers in Nazi concentration camps were nonexistent. After the interview was published, the author and magazine's editor were fined and found guilty of defying crimes against humanity.

The committee agreed that the comments that were made by the author showed anti-Semitic feelings and his speech being restricted served to protect Jews from such feelings. In this light, it found no breach of Article 19 of the International Covenant on Civil and Political Rights.

*Topic: Genocide Denial*

*Decision: No violation of ICCPR Article 19*

### **History**

Hate speech has been around ever since the start of mankind, but the first examples of criminalization by law were seen after World War II in Germany. To prevent the resurgence of Nazism, the German Government criminalized Volksverhetzung (“incitement of popular hatred”). Hate speech based on sexual orientation or gender identity is also prohibited in Germany. Most of the other European

countries and WWII combatant countries followed this change by adding criminalizing hate speech in their criminal code and/or constitutions.

The establishment of the UN brought rights protecting the freedom of speech with human rights laws from the United Nations Human Rights Committee (UNHRC). The Universal Declaration of Human Rights (UDHR), drafted by the United Nations General Assembly in 1948, is one of the most fundamental documents. Article 19 of the Universal Declaration of Human Rights states, “Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.” Even though there are fundamental laws providing freedom of expression, several international regulations expand on the UDHR and impose constraints and restrictions, particularly in terms of individual safety and protection. The Committee on the Elimination of Racial Discrimination (CERD) was the first to address hate speech and the need for laws banning provocative language. The CERD targets hate speech through the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD) and oversees state parties' compliance.

Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) allows for restrictions on the human right to free expression when such a restriction is granted by law for the protection of a legitimate interest and required to protect that interest.

The ICCPR criminalizes national, religious, or racial hatred that incites violence, discrimination, or hostility in Article 20(2).

The European Union (EU) enacted the Framework Decision on Combating Racism and Xenophobia on November 28, 2008. It was a big step forward in combating racism, xenophobia, and hate crimes among EU member states. By compelling member states to align their legislation and prosecute particular actions, the court's decisions attempted to provide a consistent approach to combating hate speech and hate crimes within the EU. This framework explained critical matters such as the definition of the offenses, penalties given, jurisdiction, limitations, and reporting obligations. This framework adopted in Europe set member states the minimum standards, which meant that states could make changes to make this stricter and/or make differences regarding the state's legal system and cultural contexts.

The advancement of technology has had a significant impact on the dynamics of hate speech, shifting from actual demonstrations against other races, nations, and genders to the spread of anonymous and unregulated statements on social media platforms. While the early anonymity and freedom on these platforms allowed for unrestrained ideas, it also resulted in a rise in inappropriate remarks like racism and sexism, which made users uncomfortable and afraid. As a result, social media corporations took

action by enacting regulations to limit hate speech without compromising the right to free expression. Facebook, Google, Microsoft, and Twitter signed an agreement with the European Union to assess “[the] majority of valid notifications for removal of illegal hate speech” posted on their sites within 24 hours. Despite these steps, the worldwide regulatory environment is still unequal, with some nations still lacking laws specifically addressing online expression.

## **The Thin Line Between Hate Speech and Freedom of Speech**

Freedom of Speech has many layers since every country has a different approach to it, therefore taking one document as a basis of how UN member states view the Freedom of Speech will be the fairest way of examining the problem. The International Covenant on Civil and Political Rights (ICCPR) is a document including many topics such as individuals' civil and political rights, the right to life, freedom of religion, freedom of speech, freedom of assembly, the right to vote, and the right to a fair trial, accepted by the UN in 1966 and stated taking effect in 1976.

Like all other rights, the right to free speech has some restrictions. Determining the line between adequate speech and speech that endangers the rights and well-being of others is tough. Hate speech is a high illustration of the pivotal point at which freedom of speech is sandbagged because it contains offensive, discriminative, and harmful content channeled at particular racial, ethnical, religious, or other protected groups. When deciding whether governments should step in when a citizen's expression of hate speech violates the rights and safety of others, the root of the issue becomes clear. On the one hand, upholding the free speech principle might bear that people have the right to express their opinions, regardless of how obnoxious they might be. On the other hand, allowing hate speech to spread could produce a hostile atmosphere, hamper societal harmony, jeopardize the well-being of nonage groups, and continue demarcation. Governments struggle with the delicate task of upholding the abecedarian principles of freedom and republic while maintaining social cohesion and securing citizens from detriment. The choice to criminalize hate speech necessitates striking a balance between upholding the popular ideals of open expression and dissent and furnishing strong protection for nonage rights.

The criminalization of hate speech encapsulates society's intricate interplay of freedom and restriction. While free speech is fundamental for solid democracies, it still has limitations. The duty of governments is to find a delicate balance between protecting individuals' freedom and preserving the citizens' welfare from the harmful effects of hate speech. Finally, a thoroughly thought and balanced

approach is crucial to creating a harmonious society in which the requirements of freedom and tolerance can exist without interfering with each other.

## **Challenges Raised by Hate Speech**

**Discrimination and Prejudice:** Hate speech reinforces conceptions and prejudices against specific groups grounded on their color, race, religion, gender, sexual exposure, or other traits. This can affect prejudice and bias in numerous areas of life, including employment, casing, and education.

**Violence and Hate Crimes:** Hate speech can incite prejudice against particular groups, adding the liability of hate crimes and violent acts against persons grounded on their identification.

**Psychological and Emotional Impact:** People who are the targets of hate speech constantly witness dread, solicitude, and cerebral discomfort. An existent's tone-regard and general well-being can suffer long-term emotional injury if they're exposed to disparaging language on a regular basis.

**Social Division and Polarization:** Hate speech assembles a society more hostile and divided, contributing to its polarization. It prevents cooperation and growth between diverse cultures by impeding constructive communication and understanding.

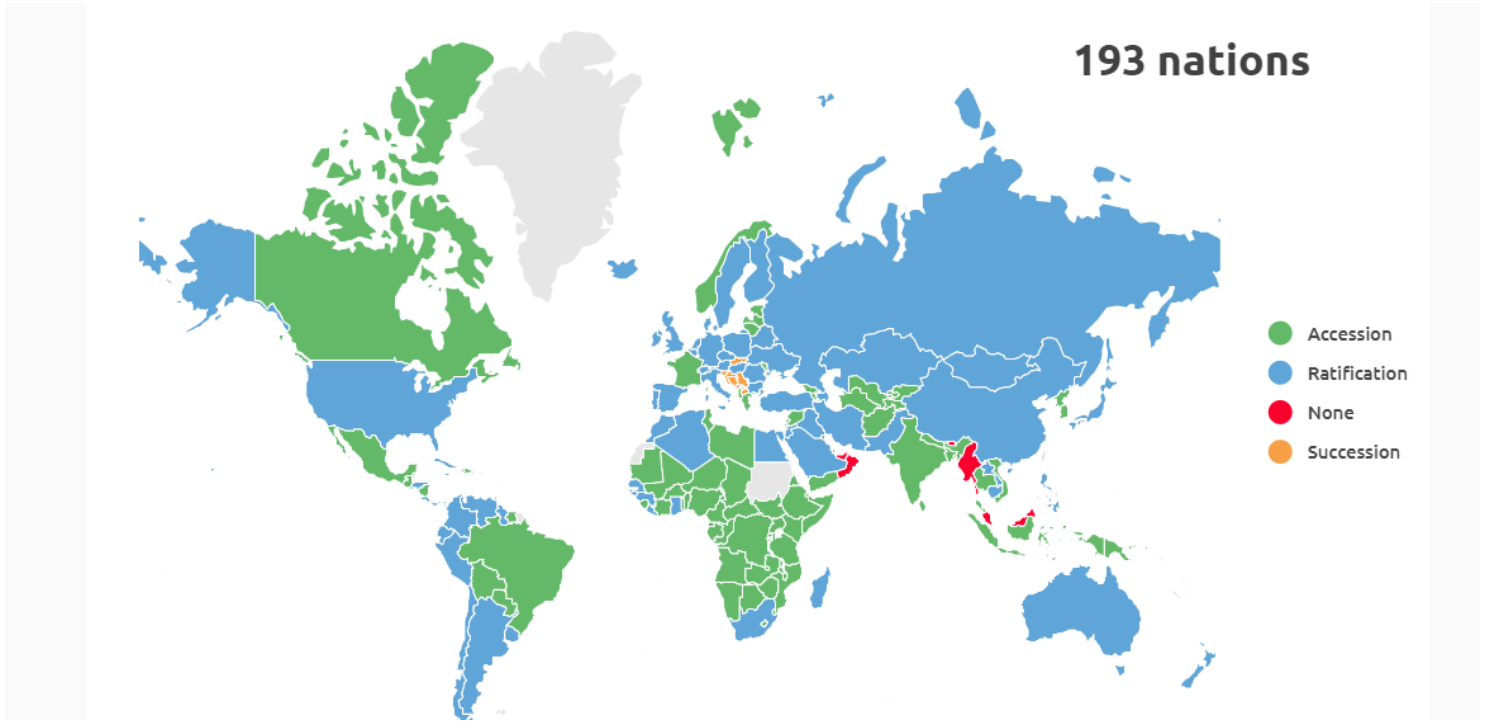
**Limiting Freedom and Expression:** Hate speech may cause individuals or groups that get discriminated against and pressured by the people living in the same region as them will cause them to keep their opinions to themselves and limit their freedom.

**Undermining Democracy:** Hate speech can potentially undermine the democratic process and erode public trust in institutions by spreading false information and swaying public opinion.

**Deterioration of Social Cohesion:** Hate speech undermines efforts to forge an inclusive and cohesive community by fostering tensions and conflicts between various groups.



**International Conflicts:** Extreme occurrences of hate speech can encourage war and humanitarian disasters by instigating violence between various communities.



The infographic above shows the countries' approaches to the International Covenant on Civil and Political Rights (ICCPR) which preserves freedom of speech while criminalizing hate speech to an extent.

## Stakeholders and Major Parties Involved

### International Organizations and Agreements

International organizations such as the UN and European Council are essential to ensure human rights and freedom of speech. These organizations gather many countries and create assignments that protect human rights and seek solutions for consequences of human rights such as freedom of speech.

- **OHCRC:** The Office of the United Nations High Commissioner for Human Rights, which was created by the General Assembly in 2006 works towards the protection of human rights by having sessions, creating resolutions, making agreements on remarkable problems regarding human rights all around the globe.
  
- **UDHR:** In 1948, the Universal Declaration of Human Rights was created by the Human Rights Commission and adopted by the General Assembly. After World War II the UN was founded to protect the world from another catastrophe as such, with a duty such that human rights were also a fundamental reason for the creation. It served a comprehensive and universal set of principles. It established individual rights such as dignity, liberty, equality, and the right to life, legality of human rights including freedom of movement and residence within each state, the right of property and the right to a nationality, freedom of thought, opinion, expression, religion and conscience, peaceful association of the individual, and receiving and imparting information and ideas through any media. Economic, social, and cultural rights are simply the right to an adequate standard of living.
  
- **Council of Europe:** The Council of Europe is an international organization that currently consists of 46 member states which was founded to keep Europe safe from a war, after World War II in 1949. Human rights was one of the first topics that the Council tackled by creating the European Convention on Human Rights in 1950 and adopting it in 1953. The document established the European Court of Human Rights which takes any case of human rights violations such as hate speech, and ensures human rights with 11 articles which consisted of topics such as; respecting the rights, life, slavery and torture, liberty and security, fair trial privacy, conscience and religion, expression, association
  
- **IACHR:** The Inter-American Commission on Human Rights is an autonomous body within the Organization of American States (OAS) that is responsible for promoting and protecting human rights in the Americas. IACHR has a fundamental role in monitoring and addressing human rights problems in the member states of OAS. The Commission promotes and protects human rights by putting advertisements, organizing educational conferences, providing resources, monitoring human rights violations, and receiving and examining complaints from individuals and groups who believe their human rights have been violated by a member state.

## **Non-Governmental Organizations**

Freedom of Speech is a right that is provided by governments and international agreements but there are also NGOs that provide information by publishing reports and news on their websites and magazines which provide aid for people living in countries that do not have the right to free speech. Here are some of the organizations that are convenient and functional in protecting human rights and freedom of speech;

- **Freedom House:** Freedom House was founded in 1941 to help America in the fight against Nazi Germany and to raise awareness of the threat of fascist ideologies to American security and values. In the decades since it has become an organization working towards ensuring strong democracies and human rights. They have a network of advocates, protestors, journalists they support that lead the fight for the democratic changes in their countries. The organization has also been publishing reports for 50 years in nearly 200 countries and territories, including information about the threats to democracies and human rights and how these problems can be solved.
- **Huridocs:** Human Rights Information and Documentation System which stands for HURIDOCS is an organization that specializes in developing tools, methodologies, and technologies to support human rights documentation, advocacy, and information management and was founded in 1982. Their main objective is to increase the effectiveness of human rights protectors, activists, associations, and institutions by furnishing them with funds and technologies to document and communicate human rights violations, advocacy efforts, and research.
- **Media Defense:** Media Defense is a non-profit organization that has dedicated itself to defending and promoting free media and freedom of expression on a global scale. The organization was founded in 2008 and provides legal assistance, support, and resources to journalists, bloggers, independent media outlets, and other individuals or groups facing legal challenges due to their journalistic or expressive activities.
- **ACLU:** ACLU is an organization that has operated in the United States since 1920 to protect matters such as free speech, free press, the democratic process, and diversity of thought. The organization protects these matters by publishing reports and magazines to educate the public,

filing court cases for human rights and free speech, involving landmark speech cases virtually to reach the US Supreme Court since 1920, having legislative and state advocates in federal government agencies working with law and policymakers to ensure the necessary statutes exist to protect civil rights.

### **Social Media Companies**

At the current time social media companies such as Instagram, Facebook, Snapchat, Reddit, YouTube, X, etc. have community guidelines that define hate speech as content that directly attacks people based on attributes such as race, ethnicity, religion, gender, sexual orientation, and more and completely prohibits any kind of speech including of these matters.

### **UN Resolution about Criminalization of Hate Speech**

On the 14th of June 2023, recognizing that hate speech, racism, racial discrimination, xenophobia, intolerance, gender discrimination, and acts of extremism can contribute to conflict, the Security Council unanimously adopted a resolution that, among other things, urged Member States to publicly condemn violence, hate speech and extremism and encouraged them to prevent the spread of intolerant ideology and incitement to hatred. This document has been issued as [S/RES/2686\(2023\)](#).

### **Possible Solutions**

**Legal Framework and Legislation:** As mentioned before, there have been agreements made between countries tackling the topic “criminalization of hate speech” which serve as a minimum rule that should be followed to stop hate speech while protecting the freedom of speech. Other than these documents, each country has the ability to determine its own legal frameworks and legislations with the usage of criminal codes, and/or constitutional changes. These laws define hate speech, explain prohibited forms of expression, and outline the penalty for offenses. However, distinguishing between protected free speech and penalized hate speech can be difficult, and certain laws have been criticized for being

overly broad or imprecise. The internal laws are vital, but to solve this problem completely there should be changes in the documents determining the standard for the agreements to be adapted to the new generation and be accepted and implemented by every nation.

**Hate Speech Monitoring and Reporting:** Several countries have established procedures to monitor and report hate speech in the media. They encourage citizens to report hate speech so that it can be investigated and potentially prosecuted. Technology businesses and social media platforms can also help to monitor and remove hate speech from their platforms.

**Education and Awareness:** Some governments have spent money on educational campaigns and programs to educate people about the dangers of hate speech and to encourage tolerance and diversity. These efforts seek to prevent the spread of hate speech by addressing its core causes, such as prejudice and ignorance.

**Balancing Hate Speech and Free Speech:** Several nations have the difficult task of combining the right to free expression with the necessity to combat hate speech. Striking a balance between free expression and limiting harm from hate speech remains a complex but essential task.

### **Points to Cover:**

**1. What should be the balance between hate speech and freedom of speech?**

The balance of Hate Speech and Free speech should be debated and concluded. The borders of hate speech should be determined to such an extent that it does not break the freedom of speech.

**2. Will there be criminalization of hate speech?**

This question is the core of the committee and is the first question there to be answered. After the answer, there should be a document created that explains the topic of hate speech and puts laws to criminalize it or not can be accepted and implemented by every nation.

**3. How can the UN ensure the freedom of speech in every of its member states?**

To criminalize hate speech first, the freedom of speech must be ensured, which does not exist in every UN member state. This is a fundamental task and should be determined as early as possible in the committee.

Social media regulations are a must in the resolution paper. It is one of the places where hate speech can spread faster and approach more people. The criminalization of hate speech going on social media should be one of the questions to find an answer. Then will come the regulations and the supervision made by the UN on corporations and companies that own social media platforms.

**4. What campaigns and programs will member states organize to end the issue?**

To stop hate speech, criminalization will never be entirely enough; therefore, education and awareness campaigns are essential. These campaigns and education must be debated and specified.

**5. How can the UN make sure that every country that signed documents on the topic of Hate Speech applies it?**

There have been many attempts to solve the problem that caused many agreements and documents to be made, but only a few countries applied the agreements and documents, thus causing even more agreements to be made.

**Resources and Links for Further Reading:**

<https://www.heritage.org/civil-society/commentary/the-origins-hate-speech>

[https://futurefreespeech.com/global-handbook-on-hate-speech-laws/#post-1391-\\_Toc56591648](https://futurefreespeech.com/global-handbook-on-hate-speech-laws/#post-1391-_Toc56591648)

[https://futurefreespeech.com/global-handbook-on-hate-speech-laws/#post-1391-\\_Toc56591836](https://futurefreespeech.com/global-handbook-on-hate-speech-laws/#post-1391-_Toc56591836)

<https://brill.com/display/book/edcoll/9789004379633/BP000024.xml?language=en>

<https://infogram.com/global-hate-speech-law-1h0r6rpldnj8w2e>

[https://futurefreespeech.com/wp-content/uploads/2020/11/Report\\_Global-Handbook-on-Hate-Speech-Laws.pdf](https://futurefreespeech.com/wp-content/uploads/2020/11/Report_Global-Handbook-on-Hate-Speech-Laws.pdf)

<https://www.un.org/en/hate-speech>

<https://www.hoover.org/research/sordid-origin-hate-speech-laws>

[https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech?gclid=Cj0KCOjwib2mBhDWARIsAPZUn\\_k4B2IKpy4C1A8o1q8ldhm13ysyJou6eDCNANrhaFKyaUwxQpbf5sAaAuesEALw\\_wcB](https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech?gclid=Cj0KCOjwib2mBhDWARIsAPZUn_k4B2IKpy4C1A8o1q8ldhm13ysyJou6eDCNANrhaFKyaUwxQpbf5sAaAuesEALw_wcB)

<https://www.ala.org/advocacy/intfreedom/hate>

[https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-hate-speech-and-hate-crime\\_en](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-hate-speech-and-hate-crime_en)

<https://www.un.org/en/hate-speech/understanding-hate-speech/hate-speech-versus-freedom-of-speech#:~:text=%20Addressing%20hate%20speech%20does%20not,is%20prohibited%20under%20international%20law.>

<https://uwm.edu/free-speech-rights-responsibilities/faqs/what-is-hate-speech-and-is-it-protected-by-the-first-amendment/>

<https://futurefreespeech.com/category/hate-speech-cases-un/hate-speech-cases-by-theme/>