





Indignity, indifference, indignation: tackling hate speech online

Report of the conference "Tackling hate speech: Living together online" Budapest, 27-28 November 2012

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http://hub.coe.int/hate-speech-conference

#speaknohate

1. Introduction

This brief report¹ is not a full account of who said what and when in Budapest. Based on the contributions by speakers, contemporaneous reports and Council of Europe and other standards, it distils key issues addressed and recommendations which emerge—with an eye to the youth campaign against hate speech online to be launched in 2013.

To organise a complex and somewhat diffuse topic, the golden thread of the report is universal human rights and it is organised around three sequential themes:

- Hate speech is fundamentally a problem of the **indignity** visited upon its victims.
- While promoted by the far right, a larger problem is mainstream **indifference** to it.
- Action to tackle hate speech depends on raising **indignation** against the phenomenon.

2. Indignity

Freedom of expression is recognised as a fundamental human right: in a landmark judgment, the European Court of Human Rights said it was 'one of the basic conditions for the progress of democratic societies and for the development of each individual'. The court thus concluded that it applied even to manifestations which 'offend, shock or disturb' the state or any section of the population.¹ Unlike the First Amendment to the US Constitution, however, Article 10 of the European Convention on Human Rights allows of constraint on freedom of expression—as long as this serves one of several defined legitimate aims, is prescribed by law and is necessary in a democratic society. Article 17 moreover denies protection to acts by any state, group or person that would destroy or excessively limit the rights of others which the convention sets out.² Allied to recognition of the 'margin of appreciation' allowed to member states where there is no European-wide consensus, the court has thus also ruled that expression was not illegitimately curtailed where this was deemed insulting or abusive to (in these cases) others' religious beliefs.³ This indicates not only that there is no transatlantic consensus on the delegitimation of 'hate speech' but also that there are differences between Council of Europe member states themselves. To add to this complexity, the recent Rabat Plan of Action on advocacy of hatred constituting incitement, arising from expert workshops across the world organised by the Office of the United Nations' High Commissioner for Human Rights, warned of the 'persecution of minorities under the guise of anti-incitement laws', focusing particularly on 'blasphemy' laws which threaten inter-religious dialogue and legitimate debate and criticism.⁴ This does not make transnational regulation of hate speech easy.

Nor does it provide a simple and compelling message for a youth campaign against hate speech online. But while the precise balance of freedom of expression and the rights of others can only be determined on a case-by-case basis⁵, hate speech can be given a very simple definition. The Committee of Ministers' recommendation of 1997 defined it as 'covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin'.⁶ Yet it is clear that all these expressions have a common source. The secretary general of the Council of Europe, **Thorbjørn Jagland**, opening the conference and speaking of the horror of Utøya a year earlier in his native Norway, said: 'There was a clear connection between words on the internet that were used by certain groups and this awful act.' It could only happen 'if the group of people being killed is not seen as human beings'. Hate speech is thus, quite simply, an

¹ Disclaimer: This report has not been reviewed by the speakers prior to its publication and the views expressed here are only those of the author.

expression of 'group-focused enmity', as a recent survey named a phenomenon it found disturbingly widespread across Europe.⁷ Here a unique individual is stereotyped as an embodiment of a putative group—which one and whether she feels she belongs to it is actually irrelevant to the dehumanisation—to which an enemy image is then attached and so it is assumed egregious human indignity can then legitimately be visited upon them.⁸ A European Union Fundamental Rights Agency report presented at the conference showed hate crime to be an everyday reality across the EU.⁹ Jenö Kaltenbach, chair of the European Commission against Racism and Intolerance, said ECRI's monitoring of hate speech left it 'alarmed by the ever-increasing rise of use of the internet by racist groups'.

George Soros however insisted in treating manifestations of hate speech entirely as 'symptoms' in his conference contribution, which focused instead on how what he sees as the mismanagement of the crisis of globalised capitalism in Europe¹⁰ has engendered 'immense human suffering', whose 'innocent victims provide the breeding ground for all forms of hate speech'. In his view, the EU, 'conceived as an instrument of solidarity and co-operation', had been subject to a transformation with centre pitched against periphery, leading to a Europe in which hostile stereotypes predominate.

While in principle there is no distinction between hate speech on- and offline, the internet makes hate speech go faster and further, **Frank La Rue**, UN special rapporteur on freedom of opinion and expression, pointed out. Globalisation, facilitated by the internet, makes possible 'action at a distance'¹¹ and the fact that the victim of hate speech is not in the same physical space as the perpetrator, who may moreover be anonymised, facilitates the dehumanisation of the former by the latter. This is compounded when far-right activists form an online 'echo chamber' on the internet, circulating notions like 'all Muslims are extremists', as **Carl Miller** of Demos warned: 'groupthink' is a well-established phenomenon in confirming collective attitudes and diffusing individual responsibility for the exercise of inhumanity—as post-war experiments by social psychologists seeking to explain Nazism graphically demonstrated.¹²

Within the online arena, the International Network Against Cyber Hate (INACH), whose goal is 'bringing the online in line with human rights', has been raising awareness about hate speech and claims to have succeeded in having 15,000 hateful pages, posts and comments removed from the net in the last decade. According to Ronald Eissens of INACH, hate speech has tended to gravitate towards social media. This actually might make transnational regulation a little easier. If hate speech is appearing on a myriad of web sites, monitoring-never mind regulation—is like picking up mercury with a fork, and the subtlety of many hate-speech advocates means that simple 'memes' to block it may prove a blunt instrument. But the big corporations which dominate the social media—Twitter, Facebook and YouTube—as well as Google can in principle capture and regulate much of the hate speech that appears on their pages, rather in the manner that the flow of so many financial transactions through London, Frankfurt and New York now makes a 'Tobin tax' much easier to implement. These corporations are however all based in California, with its strong 'free speech' radical tradition and Twitter has proved difficult to engage. But YouTube has partnered with the Anti-Defamation League to facilitate the reporting of posts which breach its community guidelines on hate speech, though it has tended to be overwhelmed by the sheer volume of hate-speech videos.¹³ And the Facebook head of policy for central and eastern Europe, Gabriella Cseh, was a full participant in the conference. Facebook has 'community standards', which affirm: 'Facebook does not permit hate speech, but distinguishes between serious and humorous speech.'¹⁴ Ms Cseh recognised this was the 'lowest common denominator' internationally—applying the 'controversial humour' tag to some pages was described by Snežana Samardžić-Marković, Director General of Democracy of the Council of Europe, as an inadequate response—and she said that if the company faced a global standard it would comply with it.

3. Indifference

If hate speech is about 'group-focused enmity', then the focus should be on the wider sea of taken for granted stereotypes, not just the far-right activists who swim in it.¹⁵ As **Benjamin Ward** of Human Rights Watch said, we need to get away from an association with 'shaved heads and long beards'—in its own way, a stereotype which allows the rest of society conveniently to project on to such 'extremists' attitudes which many to varying degrees implicitly share, and indeed which may even be reinforced by the activists' depredations. And if hate speech, and the violence which it incites, is fundamentally about treating the victim with indignity, then it casts a wide net in another sense. Other members of a victimised community will feel under threat that they could be the next to suffer, as a second FRA report on hate crime presented at the conference pointed out.¹⁶ And so **Henri Nickels** of the FRA contended: 'Hate crimes happen between "us" and "them" rather than just between "you" and "me".'

Although we are all morally implicated, such intolerance only requires the 'indifference' of the mainstream, of which Mr Jagland warned, to flourish. While in his welcoming comments to delegates, the Hungarian minister of human resources, **Zoltán Balog**, condemned an eve-of-conference call by a Jobbik MP for lists of Jews, including in Parliament and government, to be drawn up, the deputy Norwegian foreign minister, **Torgeir Larsen**, reminded participants at the conclusion that 70 years earlier to the day police had deported Jews from Norway according to just such lists. **Zeljko Jovanovic**, director of the Open Society Roma initiatives, told the conference that the 'indifference of the mainstream' was a bigger problem than the hostility of the far right and even some who voted for the parties of the left had anti-Roma prejudices. **Shannon Stephens** of the Council of Europe Advisory Council on Youth, initiator of the online youth campaign, said there was a need to address this 'silent passive majority'. And she said: 'We're trying not to be indifferent.'

The notion of hate speech is often manifested in graphic imagery, the blare of martial music, the rhythmic chant of slogans, the ritual display of arms—for which posted videos can provide an online vehicle. It thus addresses its potential supporters viscerally, including by appeals to a virulent masculinism. This implies that hate speech must be challenged in a manner not confined to rational argument: 'myth-busting', however important, is not enough. There is a need to appeal to passion, but in a contrasting, idealistic, way and with a different cadence. And there is a need to recognise that not all responses to hate speech are desirable: a recent online survey of the attitudes of young people in Europe to hate speech, prepared as evidence for the youth campaign, found that a common response was ... more hate speech.¹⁷

4. Indignation

Campaigning effectively against hate speech online entails raising the awareness and engagement of the indifferent so that they become *indignant* and willing to join with others in solidarity with the victimised. Mr Larsen said this was perhaps the most important issue facing Europe today, in a context of rising inequality where a sense of 'being in the same ship' was diminishing. He stressed the 'individual responsibility to stand up and confront'. **Nicole Currie** of the European Roma Rights Centre and participant in the training workshop Action and Campaigning Against Hate Speech Online held prior to the conference said that campaigning against hate speech online was about 'creating a debate at all levels of society on moral grounds'

and pursuing 'collective action', recognising that hate speech was 'an attack on us all'—as its provocative 'Hate Me' badging will assert.

States have a responsibility to protect individuals from harm, said Mr La Rue, and hate speech is a form of harm—indeed the hatred may be even more wounding, aiming as it does to humiliate the victim, than any physical hurt.¹⁸ The Council of Europe Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003),¹⁹ enjoins states-party to introduce national legislation outlawing the dissemination of hate speech online, albeit confined to racism and homophobia. Yet as the Director of Human Rights of the Council of Europe, Christos Giakoumopoulos, pointed out to the conference, only 20 member states have so far ratified the Additional Protocol. Member states can show a much stronger commitment by signing the Convention on Cybercrime and its Additional Protocol, and implementing national legislation criminalising hate speech online. The protocol addresses the hate-speech perpetrator, not the responsibilities of the internet provider, but Michael Whine of the Community Security Service said discussions within the framework of the Organisation for Security and Co-operation in Europe had shied away from preparing a convention to address the latter challenge, out of fear that it could be used by some states to 'crack down on dissent'. The alternative was to pursue regulation with the providers, he said—a point developed below.

A Dutch study of public attitudes to cultural diversity found that among those sampled the most socially conformist were the most prejudiced, yet by the same token their attitudes were significantly liberalised if they were given the prompt that a hypothetical political figure from the party they supported had spoken in favour of cultural pluralism.²⁰ Political leaders must be 'more responsible' about diversity, Mr Jagland intoned—with '10 per cent of Europeans not from Europe', if migrants were suddenly magicked away 'all European societies would immediately collapse'. Europeans had to 'embrace' this multicultural reality, he said, 'and therefore we need much more political leadership'. Mr Jovanovic similarly urged policy-makers and opinion-formers to stand up and for a coalition of governments to 'scale up' the effort against hate speech to date.

The young Oslo columnist **Louiza Louhibi**, herself Algerian-born, told the conference that media portrayal of immigrants needed to change, because it enhanced the 'recruitment base' of the perpetrators of hate. Within a context of respect for freedom of expression, media organisations should recognise their responsibilities, as the Council of Europe has recommended, not only not to convey hate speech but also to 'contribute to a culture of tolerance and dialogue'.²¹ In 2007 in Norway, when a new law on immigration was under consideration, two *Aftenposten* journalists reported on illegal immigration as an ordeal (rather than crime), with adults treated as slave labour and children enduring inhuman conditions; they also challenged claims that Somali refugees were unintegratable by reporting how several had become well integrated in a small Norwegian village, for which they received an Amnesty International award.²² Media organisations should be invited to include the youth campaign brand in their online presence during its lifetime, as well as covering it across their range of platforms. For instance, given its supportive editorial attitude,²³ Euronews could be approached with a view to running news items about the campaign at launch and around the continent.

Ms Louhibi also urged individuals to report hate-speech groups to Facebook and for Facebook to address its group settings to tackle the problem. **Nick Higham** of the BBC, describing its approach to inappropriate online comment, said it detected some problematic material through memes and it responded to some individual complaints. **Journalists' organisations have long experience in developing codes of ethics or conduct, which could provide the basis for a more**

robust code of ethics for social media. The National Union of Journalists in the UK, for example, has a simple, one-page code which upholds freedom of expression and public information, is committed to the correction of harmful inaccuracies, differentiates fact from opinion and rejects material likely to lead to hatred towards a range of sometimes stigmatised groups. ²⁴ If this was drafted for the 'one-to-many' world of the conventional media, **Giacomo Mazzone** of the European Broadcasting Union said the EBU was developing such a code for the 'many-to-many' world of social networks. INACH has circulated a short Internet Common Values Charter.²⁵ Ms Cseh spoke of Facebook's difficulty in coping with differing national stances and **Benjamin Thull** of the *Landesanstalt für Kommunikation Baden-Württemberg* stressed the importance of 'common rules'. A common European perspective on social-media self regulation addressing hate speech, promoted by the Council of Europe, would be a powerful standard-setter for the providers.

A recurring theme of the conference, especially in recognition of the practical and freedom-ofexpressions limits to censoring hate speech on the internet, was the importance of education in the competences needed to use the internet in a manner compatible with human rights. Mr Miller wrapped into the phrase 'epistemological failure' the prevalence on the internet of conspiracy theories and misinformation. Hence individuals needed to be 'equipped with those skills, those habits, those heuristics' to address critically the 'truth claims' that confronted them. Ms Louhibi said this should be embedded in the school curriculum. **Modular educational materials on critical engagement with the internet, particularly with a view to addressing hate speech online should be developed.**

Going on to the front foot, the wider goal is to promote 'counter-speech', to which Mr Eissens referred. Mr La Rue said the aim was an internet which functioned like a 'public square' in which individuals could 'socialise and relate'. In 2007, a recommendation by the Committee of Ministers said that the internet 'constitutes a new pervasive social and public space which should have an ethical dimension, which should foster justice, dignity and respect for the human being and which should be based on respect for human rights and fundamental freedoms, democracy and the rule of law'.²⁶ Ms Stephens said the focus of the youth campaign would be on 'equipping young people and youth organisations' to act against hate speech—not on legislating against it but on supporting human rights. Ms Currie said it would create 'an alternative narrative' around diversity online, through education, research, training, media engagement, seeking political recognition and so on.

There is a value in recognising the power of victims of hate speech to campaign effectively against it. These 'victims' should be thought of as 'survivors', said Mr Jovanovic. Ms Louhibi is one; her Norwegian compatriot (of Afghan-Pakistani parentage), the former pop star turned feminist activist Deeyah is another. Both their cases show that the assumption of unquestionable religious authority can be the foundation of hate speech—as well as members of minority religions being victims of it—and how masculinity and the control of women's behaviour can be at the heart. They also show how personal stories, passionately told, are needed as well as rational argument to tackle hate speech. **The youth campaign is considering an online platform as a vehicle to do so.**

The campaign will be an important initiative over 2013-14 but attitudes take a long time to change, there are always new cohorts of young people coming through and there are other initiatives taking place—indeed Mr Eissens said the problem was too many unco-ordinated initiatives. Ms Currie said that this called for 'serious, long-term investment' in the future, not just a brief campaign. After the youth campaign proper is over, the Council of Europe should play a sustained role as co-ordinator of the wider campaigning effort against hate speech

online. Its success or otherwise will depend on **adequate evidence**. As ECRI has recommended, member states should establish, if they have not already done so, effective consultative bodies to monitor the situation domestically and support campaigning initiatives.²⁷ In the context of the forthcoming European youth campaign, however, Ms Stephens stressed that this had been an initiative by young people which had brought governments on board. There will be national campaign committees, she said. And it will be the NGOs, the activists, the individual young people who will, in the end, carry the day.

⁴ 'Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence': conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012', available at

www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat draft outcome.pdf (emphasis in original) ⁵ In this respect, the European Court of Human Rights was not only confronted with expressions motivated by racist and xenophobic bias towards minorities but also with homophobic speech (see recent case of Vejdeland and others v Sweden, no 1813/07, where the court stressed that discrimination based on sexual orientation is as serious as discrimination based on 'race, origin or colour') and with violent speech against women in a context of religious intolerance in particular (see the case of Mehmet Cevher İlhan c. Turquie, §42-43, available in French only).

⁶ Recommendation No R (97) 20 of the Committee of Ministers to member states on 'Hate Speech' (www.coe.int/t/dghl/standardsetting/hrpolicy/other committees/dh-lgbt docs/CM Rec(97)20 en.pdf)

Andreas Zick, Beatte Küpper and Andreas Hövermann (2011), Intolerance, Prejudice and Discrimination: A European Report (Berlin: Friedrich Ebert Stiftung)

⁸ European Union Agency for Fundamental Rights (2012), Making Hate Crime Visible in the European Union: Acknowledging Victims' Rights (Vienna: FRA)

⁹ European Union Agency for Fundamental Rights (2012), EU-MIDIS Data in Focus 6: Minorities as Victims of Crime (Vienna: FRA)

¹⁰ See his periodic columns for *Social Europe*, collected at <u>www.social-europe.eu/author/george-soros/</u>.

¹¹ Anthony Giddens (1994), Beyond Left and Right: The Future of Radical Politics (Cambridge: Polity Press). 4

¹² Xenia Chryssochoou (2004), Cultural Diversity: Its Social Psychology (Oxford: Blackwell Publishing)

¹³ László Földi (2012), 'Mapping study on campaigns against hate-speech online', in Gavan Titley, British Institute of Human Rights and László Földi, Starting Points for Combating Hate Speech Online (Strasbourg: Council of Europe, http://act4hre.coe.int/rus/News-Archive/Starting-points-for-Combating-Hate-Speech-Online), 89; British Institute of Human Rights, 'Mapping study on projects against hate speech online', in ibid, 55

¹⁴ See www.facebook.com/communitystandards.

¹⁵ Robin Wilson and Paul Hainsworth (2012), Far-right Parties and Discourse in Europe: A Challenge for our Times (Brussels: European Network Against Racism,

http://cms.horus.be/files/99935/MediaArchive/publications/20060 Publication Far right EN LR.pdf)

¹⁶ FRA, *Making Hate Crime Visible*, 22

¹⁷ See results at <u>http://act4hre.coe.int/eng/Studies-and-Research/Survey</u>.

¹⁸ FRA, *Making Hate Crime Visible*, op cit, 20

¹⁹ See http://conventions.coe.int/Treaty/en/Treaties/Html/189.htm.

²⁰ Paul M Sniderman and Louk Hagendoorn (2007), When Ways of Life Collide: Multiculturalism and its Discontents in the Netherlands (Princeton, NJ: Princeton University Press), 115-8

²¹ Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media

(https://wcd.coe.int/ViewDoc.jsp?id=1835645&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB 021&BackColorLogged=F5D383) ²² Aidan White (2008), *To Tell You the Truth: The Ethical Journalism Initiative* (Brussels: International

Federation of Journalists, http://ethicaljournalisminitiative.org/pdfs/EJI book en.pdf), v

²³ Wilson and Hainsworth, op cit, 17

²⁴ See www.nuj.org.uk/files/NUJ Code of Conduct.pdf.

²⁵ See http://s431611578.online.de/wp/.

¹ Handyside v the United Kingdom, judgment of 7 December 1976, series A, no 24, §49 (http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57499)

Council of Europe (nd [1950]), European Convention on Human Rights (Strasbourg: Council of Europe, www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/Convention_ENG.pdf)

Otto-Preminger Institut v Austria, judgment of 20 September 1994, series A, no 295-A

⁽http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57897); IA v Turkey, no 42571/98, judgment of 13 September 2005, reports 2005-VIII (http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-70113)

²⁶ Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet (https://wcd.coe.int/ViewDoc.jsp?id=1207291)

promote the public service value of the Internet (<u>https://wcd.coe.int/ViewDoc.jsp?id=1207291</u>)²⁷ ECRI General Policy Recommendation No 6 on combating the dissemination of racist, xenophobic and anti-Semitic material via the internet, adopted on 15 December 2000

(www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N14/e-GPR%2014%20-%20A4.pdf)

Final programme



9:30	Possible next steps and recommendations for action
Sugar -	
Cushed	by Stine Andresen, Director, Financial Mechanism Office, EEA and Norway Grants
	Speakers
	 Combating hate speech on line: ECRI's contribution Jenö Kaltenbach, Chair, European Commission against Racism and Intolerance, Council o Europe
	2. Combating hate speech and violence while preserving free expression
	Benjamin Ward, Deputy Director, Europe and Central Asia Division, Human Rights Watch
	 Conclusions and recommendations of the workshop "Action and Campaigning against Hate Speech" Nicole Currie, European Roma Rights Centre, Hungary
	4. European online youth campaign against hate speech
	Shannon Stephens, Representative of the Advisory Council on Youth and of the follow-up Group of the project "Young People Combating Hate Speech Online," Council of Europe
	Discussion
11:30	Coffee break
12:00	Closing session
	Rapporteur: Robin Wilson, Researcher and policy analyst, United Kingdom
	Closing remarks
	Christos Giakoumopoulos, Director, Directorate of Human Rights, Directorate General o Human Rights and Rule of Law, Council of Europe
	Torgeir Larsen, Deputy Minister, Ministry of Foreign Affairs, Norway
13:00	Lunch