

Language, Gender and Hate Speech
A Multidisciplinary Approach

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The Legal Framework on Hate Speech and the Internet

Good Practices to Prevent and Counter the Spread of Illegal Hate Speech Online

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Abstract *Hate speech* includes all forms of expression which spread, incite, promote or justify hatred towards a person or group. The expansion of the Internet has marked an important change in the phenomenon, insofar as content is no longer mediated by editors. Hate speech based on ethnic, racial and religious hatred is recognized as a violation of the human rights set out by the European and international standards. This is not the case for sexist hate speech, although this difference is not justified by the data. The lack of a shared regulatory definition leads to shortcomings in, or even the complete absence of victim protection. Gender equality and freedom of expression are interconnected: enabling hate speech against women and girls to go unpunished limits women's freedom of information and deprives society of their voices. The balance must be struck by finding the tools for free speech. An overview of such tools is the goal of this contribution.

Keywords Hate Speech. Hate Crimes. Sexism. Free Speech. Internet Regulation. VAWG. Discrimination.

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1 Introduction

The term 'hate speech' includes all forms of expression which spread, incite, promote or justify hatred towards a person or group. Traditionally, the phenomenon has been taken into consideration by international and national standards in reference to racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities. Hatred towards women – gender hate – has been taken into consideration only in recent years, even though international conventions to protect human rights ban gender-based discrimination in the same way as discrimination based on race, nationality and religion.

Public expressions of hate are a concern, not only because they harm personal dignity and identity, but also because they are capable of creating a favourable environment for crimes inspired by hatred and fuelling social conflicts on a wider scale. These are the reasons why it becomes acceptable to limit freedom of expression, considered a fundamental right in democratic States.

The impact of hate speech is directly correlated to the size of the public who see and hear it: indications on the need to abstain from using or circulating hate speech are therefore mainly addressed to the media.

The expansion of the Internet has marked an important change in the phenomenon, insofar as content is no longer mediated by editors (disintermediation of information) and it spreads further. Social networks (e.g., Facebook, Twitter, Instagram, LinkedIn) are the main arenas where the haters wage battle, but the same methods can be seen wherever it is possible to comment on a text (on web content and themed discussion sites e.g., Reddit), in search engines (e.g., Google), instant messaging services (e.g., Whatsapp, Facebook Messenger, Snapchat, WeChat or Skype), blogs, dating sites and apps, media and online newspaper comments sections, forums (e.g., 4chan), chat rooms, online video games, etc.

The specific characteristics of the Internet facilitate hate speech because they:

1. allow hate contents to remain visible for very long periods of time;
2. enable hate that is removed from the web to return easily in a different form or with a different title;
3. can provide anonymity, removing the inhibitions of many users owing to the conviction that they can avoid the consequences of their actions;
4. make it difficult to identify the people behind it, given the transnational nature of the web.

2 Gender Hate Speech. The Phenomenon

In the relationship between men and women, hate speech is fundamentally linked to the persisting inequality in male and female power relations. 'Sex' refers to male or female biological characteristics, while 'gender' is a social construct referring to the socially accepted idea of masculinity and femininity. Targeting people owing to their sex or because their behaviour contrasts with the dominant thought as to how a person should orient his or her sexuality is a crime inspired by gender hatred.

As far as women and the web are concerned, there are two interesting aspects.

First of all, one of the main digital divides is the gender divide: from the World Summit on the Information Society (WSIS) in 2017 it emerged that 184 million fewer women than men possess a mobile phone; that 250 million fewer women than men use the Internet; and that in Europe only 17% of jobs in IT are occupied by women.

At the same time, international organization reports (UN Broadband Commission for Digital Development 2015; EIGE 2017) document that women are among the main victims of web-based violence, and that this violence has a significant impact on real life (in 77% of cases as indicated in the 2017 EIGE report). The Italian association Vox carries out on a yearly basis a mapping activity of the hate speech contents spread via social networks and online websites. The resulting maps focus on diverse hate and discrimination grounds, also including misogyny; according to the maps, lots of contents propagate hate against women (in 2019 the 27% of the mapped contents).¹

Gender hate speech is linked to the representation of women, which continues to be hampered by entrenched stereotypes. Sexist hate speech takes on many forms, in particular criticism and victimization of the targets; brutal and sexualized threats of death, rape and violence; and offensive comments on appearance, sexuality, sexual orientation or gender roles on social networks, websites or in Internet chat rooms. However, it can also involve false compliments or alleged jokes, using humour to humiliate and ridicule the victim, non-consensual use of images and sexist hate speech.

The haters' goals, or nonetheless the consequences of their action, also come to bear in the real world. For example, they can jeopardize a person's employment possibilities owing to a reputation compromised by information shared online. In some cases, it can even result in the victim's suicide.

¹ The maps report the most common stereotypes and perceptions of the websites' and social network's users http://www.voxdiritti.it/wp-content/uploads//2019/06/A3_Misoginia.jpg.

In all cases, the goal is to humiliate and objectify women, destroy their reputation and make them vulnerable and fearful. It is a form of ‘social shaming’, which spreads the message that women are ‘less human beings’. Gender hate speech instils deep fear and creates, reinforces and perpetuates gender hierarchy in public places. In any case, the anonymity often associated with its perpetrators should not be a deterrent for the lawmaker.

In the same way as gender discrimination, sexist hate speech has some main characteristics: the victim is a woman (men are less exposed); the aggression is addressed towards one woman in particular; the abuse involves the gender of the person who is targeted in sexually threatening and degrading ways.

The period 2018-20 saw a re-emergence of fear of foreigners and migrants, with the consequent increase in hate speech prompted by racial discrimination. This trend appears in the annual reports on the application of the Code of Conduct on countering illegal hate speech online published by the EU Commission, based, however, on the number of notifications sent by national organizations.²

In spring-summer 2020, the international attention was more focused on hate speech connected to the Coronavirus emergency. The web platforms fell into line, updating their guidelines to protect people against dangerous content and new types of improper platform use linked to COVID-19.

All the same, there has been no decline in gender hate speech. It emerges every time that a piece of news comes out concerning a woman. One out of three personal attacks directed at women is sexist. Amnesty International Italia (2020) monitored the social profiles of 20 influential figures in Italy (ten men and ten women) in the period November-December 2019: it emerged that liberal-minded, high-flying women whose actions attract media interest are particularly subject to aggression. Indeed, on the social networks sexist attacks are seen against women who touch topics occupying a sensitive or dominant spot in the public debate: examples are the offence against ship captain Carla Rackete, aid worker Silvia Romano and journalist Giovanna Botteri.

In substance, attacks are made against women who present themselves as independent and making their own free choices, or against women who come out in favour of other categories of hate speech victims, such as migrants and Muslims. It is a true assembly line of hate, putting together ideas, behaviours, identities and choices to which people are freely entitled, in order to subject them to public mockery

² From the *Code of Conduct on Countering Illegal Hate Speech Online*, 5th evaluation, June 2020, it appears that sexual orientation is the most commonly reported ground of hate speech (33.1%), followed by xenophobia, including anti-migrant hatred (15%); gender-based hate speech is less commonly reported (3.7%).

and violent discrimination. What is concerning is that these forms of expression, which entail a tendency to deny fundamental rights – and, in some cases, to lead to physical violence – find room to circulate and gain followers in the media system and political establishment.

In the report on ‘keyboard sexism’ published in June 2020, Amnesty International Italia highlights how one third of comments to influencers are sexist, substantially constituting attacks against gender rights, sexuality and the right of expression. ‘Moral’ insults which brand women as immoral or ‘prostitutes’, which classify them by their way of dressing or love life, are common. These comments stem from women’s stance against gender discrimination and their support for the right to abortion, to equality between the sexes or to the free expression of their sexual choices. It is particularly interesting to analyse the various methods of verbal aggression towards women: sarcasm is seen alongside offensive terms used for other categories, de-humanizing insults and language attacking sexual identity; physical and personal attacks are used to delegitimize at the political or moral level; and gender hate speech is denied through ‘but what about this?’ and ‘anyone can see’ tactics.

Despite the increase in the phenomenon, interventions to remove hate speech are to a large extent left to the initiative of the providers, even following requests by the various stakeholders. Multinationals such as Google and Facebook rely on work teams whose task is to decide if particular content breaches the rules for use of the platform or not. YouTube explicitly prohibits hate speech, which is defined as offensive discriminatory language. Facebook abstractly bans hate speech, but allows messages with clearly satirical or humorous content, which in other circumstances could present a threat and many might nevertheless be considered in bad taste. Twitter for a long time did not explicitly ban hate speech, nor does it even mention it, except in a note which reads that political campaigns against a candidate are generally not considered hate speech.

In any case, it is at the providers’ discretion to intervene (not all notifications result in removal) and few tools are available to those affected to demand the removal of hate content. Difficulties are encountered in evaluating contents as offensive, both because of the different sensibilities of the people making the evaluations and the lack of specification in the platforms’ ‘rules of engagement’.

3 Combating the Hate Speech Phenomenon

The fight against hate speech began in the 1960s. The protocols against hate crimes – the UN *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), which was signed in New York in 1965 and came into force in 1969, and the UN *Inter-*

national Covenant on Civil and Political Rights (ICCPR) from 1966 – et out to punish incitement to hatred for reasons of race, “colour”, ancestry or national or ethnic origin, and invited the States to take action accordingly. Hate crimes are described as having been committed when the victim is targeted because of his or her group identity: prejudice towards a group (bias motivation) is the element that distinguishes crimes inspired by hate from other crimes.

This stance was based on the principle of equality, cornerstone of democratic States, as stated in national constitutions and international conventions for the protection of human rights, which prohibit discrimination on any ground such as gender (sex), race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or any other status.³

In 1997, having noted the media’s multiplier effect on the spread of the phenomenon, the Committee of Ministers of the Council of Europe issued a recommendation dedicated to hate speech which invites member States to equip themselves with suitable tools to combat hate speech, albeit in observance of the freedom of the press and expression. The hate speech taken into consideration covers all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on hostility against minorities, migrants and people of immigrant origin.⁴ The same definition is found in 2001, in the Additional Protocol to the *Budapest Convention on Cybercrime*⁵ and in the recommendation on self-regulation and user protection against incitement to hatred in the new media.⁶

Like in all other crimes, hate speech victims are chosen on the grounds of *what they represent*, rather than *who they are*. They are classified according to their association with a group. Hate speech conveys the message to the victims and the group to which they belong that they are not welcome and are not safe.

The reaction of the legal system to hate speech must be carefully balanced with the fundamental right of freedom of expression and thought. In view of this fact, over the years democratic States have regulated hate speech in a more or less broad manner, on the basis of the definitions given in the international conventions, and banned this speech when it constitutes an immediate threat of violence or

³ Art. 2, *The Universal Declaration of Human Rights*, 1948; art. 14, *European Convention on Human Rights*.

⁴ Recommendation R (97) 20 of the Committee of Ministers of the Council of Europe on “hate speech”.

⁵ *Convention on Cybercrime*, adopted on 21 November 2001.

⁶ Recommendation Rec (2001) 8 of the Committee of Ministers of the Council of Europe on self-regulation concerning cyber content (self-regulation and user protection against illegal or harmful content on new communications and information services).

an incitement to violence. However, there is no consent as to which forms of expression, while not directly inciting violence, nevertheless deserve to become the subject of special incrimination.

In 2011 it was recognized for the first time that the development of information and communication technologies and their use in mass communication had introduced significant changes to the media ecosystem.⁷ The immense possibility of interaction between users, even without particular technical skills or professional requirements, gave the unprecedented opportunity to involve diversities in media governance, but at the same time facilitated the spread of harassment, intimidation and stalking. While the problem was acknowledged, its consequences were not examined. What is more, the recommendations were aimed prevalently at the private sector, with the invitation to outline forms of self-regulation to combat discrimination and stereotypes, promote gender equality and avoid the spread of hate speech or other content that could incite violence or discrimination for any reason.

In 2016 the European Commission, in accordance with the Facebook, Microsoft and Youtube web platforms (which are due to be joined by Instagram, Google+, Snapchat, Dailymotion and jeuxvideo) introduced the *Code of Conduct* on countering illegal hate speech online, a tool for removing hate speech from the web, with user notification and intervention by the platforms within a few hours. According to the five reports drafted on the monitoring and removal activities, the last in December 2019, on average 70% of harmful content has been removed. In any case, it is always left up to the big platforms to evaluate whether the content should be removed.⁸

4 Gender Hate Speech. No Definition, no Sanction

The definition of hate speech did not change until 2019 (see § 5) and still today it is a struggle to punish gender hate speech. This is despite the great spread of hate speech against women, and despite the prohibition of all forms of discrimination on grounds of sex as well as race, religion, ethnicity etc. in the values and fundamental rights set out in all the international sources (from the *Universal Declaration of Human Rights* onwards).

In 2011 it began to be acknowledged that the new media could be a vehicle for forms of abuse against women, such as aggression, bullying, intimidation and stalking.⁹ In 2013 it was recognized that free-

⁷ Recommendation CM/Rec (2011) 7 of the Committee of Ministers of the Council of Europe on a new notion of media.

⁸ *Code of Conduct on Countering Illegal Hate Speech Online*, 5th evaluation, June 2020.

⁹ Recommendation CM/Rec (2017) 7.

dom of expression, as a fundamental right, goes ‘hand in hand’ with gender equality. Nevertheless, on a practical level, the Committee of Ministers of the Council of Europe only went so far as to invite the media, Internet service providers and online content and service providers to adopt best practices to prevent advertising, language and content from resulting in sex-based discrimination, the promotion of hatred and gender violence.¹⁰

This stance was taken at the same time as some important awareness-raising campaigns. The first, launched by UN Women, was on the so-called “autocomplete truth” of the web.¹¹ It was based on the results of real Google searches and aimed to reveal that sexism still exists and is a big problem in contemporary society. The second, by the No Hate Speech Movement, sets out to raise awareness among young people so that they can recognize and combat online hate speech. It also comprehends forms of discrimination and prejudice not included in the indications of Recommendation R (97) 20, such as misogyny and sexism. Sexism, in turn, can be defined as:

the supposition, belief or assertion that one sex is superior to the other, often expressed in the context of traditional stereotyping of social roles on the basis of sex, with resultant discrimination practiced against members of the supposedly inferior sex. (UN-ESCO 2012, 54)

In the General Policy Recommendation on Combating Hate Speech, the European Commission Against Racism and Intolerance (ECRI) refers explicitly to gender, which is indicated as “the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men” (ECRI 2016, 14), and gender identity, namely:

each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body and other expressions of gender, including dress, speech and mannerism. (14)

Indeed, the recommendation remembers the necessity to fight gender-based discrimination and gender-based sexism and recognizes that hate speech can be based on different criteria to those hitherto traditionally considered, amongst which, gender. In addition to

¹⁰ Recommendation CM/Rec (2013) 1 of the Committee of Ministers to member States on gender equality and media. Recommendation CM/Rec (2014) 6 of the Committee of Ministers to member States on a guide to human rights for Internet users.

¹¹ <https://www.unwomen.org/en/news/stories/2013/10/women-should-ads>.

the Commission's recommendations, the previously mentioned 2017 EIGE report suggests that:

[t]he EU should aim towards agreeing on definitions of forms of cyber violence against women and girls and incorporate these forms of violence into EU legislation, to ensure that victims of cyber VAWG in Member States have access to justice and specialised support services. (EIGE 2017, 5)

In all of these cases, none of the interventions or stances are binding. Added to the light touch of the Council of Europe is the position adopted by UNESCO (2015), which remembers how limiting freedom of expression has to be exceptional and legitimized by binding international standards. In the case of hate speech on grounds of race, nationality and religion, the references are indicated in the *New York Convention* and the ICCPR,¹² which clearly impose the criminalization of such expressions. Instead, in the case of gender hate speech, limits can, but do not have to be introduced, based on another ICCPR standard (solely) to protect reputation.¹³

It is probably owing to the lack of gender in the obligatory regulations that few States have included gender and/or sex as a protected category in their domestic legislation on hate-inspired crimes or policies to detect these crimes. All the same, many States have undertaken to include equality between men and women in their policies and prevent and combat all forms of sexual-based violence against women and girls.

Gender hate speech is struggling to be recognized and remains underestimated. Nevertheless, its impact on women, whether emotional, psychological and/or physical, can be devastating, especially for young women. The lack of provisions expressed against gender hate speech has been justified over time by the necessity to guarantee freedom of expression, and by referring to other tools as suitable to fight it; in the report accompanying the Recommendation of the Committee of Ministers of the Council of Europe on hate speech,¹⁴ justification was given for the failure to refer to sex, gender and gender identity by stating the necessity to avoid detracting from the focus of the text by setting out every form of intolerance in detail. It highlighted how the discussion on freedom of expression tends to stoke tensions and how the conflict between freedom of expression and gender equality

12 ICCPR Art. 20.2: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".

13 ICCPR Art. 19.3: 3. "The exercise of the rights provided for in paragraph 2 of this article [right to freedom of expression] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by the law and are necessary: (a) For respect of the rights or reputations of others; [...]"

14 Council of Europe CM Rec (97) 20 on hate speech.

was the greatest obstacle to fighting it. In substance, it highlighted how freedom of expression was more important than gender equality, and hence every attempt to combat gender hate speech was perceived as censure. There seem to be no concrete grounds for putting forward this reasoning with regard to gender hate speech, and not to other types of hate speech. And yet still today there is the widespread conviction that the efforts to combat crimes based on gender hate interfere with a particular social order; but it is hard even to imagine that a manifestation of hate can be part of a society's values and the harmful, long-term impact on victims cannot be ignored.¹⁵

The OECD office dedicated to monitoring gender-based hate crimes, as well as hate crimes on multiple grounds (multiple bias motivation), has highlighted that while on one hand many OECD participating States transmit both gender-based and multiple-bias data to the Office for Democratic Institutions and Human Rights (ODIHR), these crimes are often underestimated and misunderstood. Very often the gender prejudice element of hate crimes is neglected, despite its reach and prevalence compared to other factors in multiple-bias crimes.¹⁶

The lack of a shared (regulatory) definition leads to shortcomings in, or even the complete absence of victim protection. The insufficient response of the justice system (both criminal and otherwise) can be attributed in part to the dichotomy between offline and online violence. As a result, the authorities (criminal investigation department) designated to protect citizens often tend to minimize the harm caused by cyberviolence, and reconstruct the victims' experiences as 'incidents', rather than as repeated (or repeatable) forms of behaviour.

In Italy, the most significant forms, or the ones which receive most social and media attention, can be classified as crimes promoting racial hatred,¹⁷ threats, defamation, or crimes linked to slander or the protection of personal details. Nevertheless, gender hate speech still lacks any form of cover.

An emblematic case is that of a woman regional councillor, at the same time author and victim of sexist hate speech. On 13 June 2013, the councillor wrote on Twitter, referring to Cécile Kyenge, of Afri-

15 Liesbet Stevens, Deputy Director of the Institute for the Equality of Women and Men in Belgium and a participant in the ODIHR (OECD Office for Democratic Institutions and Human Rights) event on gender-based hate crime (<https://hatecrime.osce.org/infocus/2019-gender-intersectionality-and-hate-crime>).

16 In order to define and categorize such crimes, and to translate the key concept into practical policy measures, ODIHR held two expert roundtables in 2019. These events examined the application of legal provisions in the 21 OECD participating States that track gender-based hate crime, and the potential for integrating an intersectional perspective into national hate crime responses. This helped increase the visibility of victims and potential targets of hate crime, to make their voice heard when approaches to countering gender-based and multiple-bias hate crimes are developed.

17 The so-called Mancino Law, no. 205/1993.

can origin and at the time Italian government minister, “Will no one rape her, so she can understand what victims of this brutal crime feel? Shame on them”. The matter was brought to the attention of the judiciary and the councillor was condemned for inciting hatred for racial reasons (*Il Fatto Quotidiano* 2013; *Corriere del Veneto* 2013). In July 2013, the same councillor was in turn seriously insulted by a municipal councillor belonging to another political party, who wrote on Facebook “What kind of a woman is she? [...] She should be dumped in a pen with a score of horny niggers and no one to help her, then we could watch what her reaction is” (*Padova Oggi* 2013). In this case there was no response at the legal level. The lack of definition also makes it impossible to appeal to the European Court of Human Rights (ECHR), as can easily be grasped from the fact that all the cases on hate speech taken to this court concern the expressly listed hypotheses alone.

5 The Regulations against Gender Hate Speech. The Italian Debate

In 2019, for the first time, the Council of Europe adopted a recommendation to prevent and combat sexism, in which it defines sexism as:

[a]ny act, gesture, visual representation, spoken or written words, practice or behaviour based upon the idea that a person or a group of persons is inferior because of their sex, which occurs in the public or private sphere, whether online or offline, with the purpose or effect of: i. violating the inherent dignity or rights of a person or a group of persons; or ii. resulting in physical, sexual, psychological or socio-economic harm or suffering to a person or a group of persons; or iii. creating an intimidating, hostile, degrading, humiliating or offensive environment; or iv. constituting a barrier to the autonomy and full realisation of human rights by a person or a group of persons; or v. maintaining and reinforcing gender stereotypes.¹⁸

It notes that while racist hate speech is recognized as contrary to the human rights set out by the European and international standards, this is not the case for sexist or misogynous hate speech. This is why the member States are invited to take responsibility for combating gender hate speech, and to ensure that the same rules and sanctions are applied as those laid down for racist hate speech, whether offline or online: not only through criminal sanctions but also, for example, economic measures against those organizations which do not report such cases or intervene to eliminate gender hate speech.

¹⁸ Recommendation CM/Rec (2019) 1 on preventing and combating sexism.

In the same period, the European Commission adopted the Audiovisual Media Directive.¹⁹ This directive invites the member States to ensure that audiovisual media services, supplied by media service providers and video sharing platform providers and subject to their jurisdiction, do not contain any incitement to violence or hatred towards a group of people or a member of a group on any of the grounds in article 21 of the *Charter of Fundamental Rights* of the European Union, also including gender.

In Italy there is still a long way to go. Hatred against women in Italy is customary, it seems to be rooted in Italian culture and characterizes everyday language, which is still based on prejudices and stereotypes. At present, hate speech is criminalized on grounds of race, ethnicity, religion or nationality.²⁰ Some bills to fight homophobia and discrimination based on gender identity are currently under examination in parliament, providing a good opportunity to intervene and assert equality.²¹ The debate is over the definitions (for example, the difference between ‘incitement’, ‘promotion’ and ‘propaganda’), the type and entity of the sanctions to impose and the minimum threshold in order to evaluate conduct as punishable (is imprisonment justifiable for a post on Facebook which does not determine a real danger of the commission of acts of discrimination or violence?).

6 Conclusions

Hate speech is a form of expression that lies outside the scope of protection of article 10 of the *European Convention of Human Rights*. The European Court of Human Rights has judged that these forms of expression, or expressions that deny the fundamental values of the Convention, are excluded from protection.²² That at present only those crimes based on ethnic, racial and religious hatred are protected is not justified by the data, which demonstrate an alarming spread of sexist acts.

Gender equality and freedom of expression should be seen as interconnected rather than conflicting rights; indeed, if gender equal-

¹⁹ Directive (EU) 2018/1808 of the European Parliament and of the Council concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

²⁰ Italian laws no. 654/1975 and 205/1993, aggravating circumstances for the crimes in art. 604 bis and 604 ter of the Italian Criminal Code.

²¹ In particular bill no. 1721 to the Senate, currently under report, as well as Act of the Chamber (AC) no. 2171 of 14 October 2019 Perantoni et al.; AC no. 2255 of 4 November 2019 Bartolozzi et al.; AC no. 868 of 4 July 2018 Scalfarotto et al.; AC no. 569 of 2 May 2018 Zan et al.

²² *Delfi As v. Estonia*, no. 64569/09, § 78-81 (this case has been referred to the Grand Chamber of the Court); *Axel Springer AG v. Germany* no. 39954/08 § 89-95, and *Von Hannover v. Germany* (no. 2), nos. 40660/08 and 60641/08 §§ 108-13.

ity is achieved, freedom of expression can be expanded too. On the contrary, enabling hate speech directed against women and girls to go unpunished limits women's freedom of information and deprives society of their voices. Once this has been understood, the balance must be struck by finding the tools for free speech. However, this must not mean accepting hate speech.

It is in the realm of the new media in particular that interventions need to be made. In this complex universe, it is often only the technological element that is emphasized, while little consideration is given to the consequences of these tools' 'interactivity, which can quickly transform into a vehicle for widespread hatred.

The road to rooting out gender hate speech is long, but it is important that we follow it.

Bibliography

- Abbondante, F. (2017). "Il ruolo dei social network nella lotta all'hate speech. Un'analisi comparata fra l'esperienza statunitense e quella europea". *Informativa e diritto*, 1-2, 41-68.
- Athar, R. (2015). "From Impunity to Justice. Improving Corporate Policies to End Technology-Related Violence against Women". *Association for Progressive Communications (APC)*. http://www.genderit.org/sites/default/upload/flow_corporate_policies_formatted_final.pdf.
- Banks, J. (2011). "European Regulation of Cross-Border Hate Speech in Cyberspace. The Limits of Legislation". *European Journal of Crime, Criminal Law and Criminal Justice*, 19(1), 1-13. <https://doi.org/10.1163/157181711X553933>.
- Corriere del Veneto* (2013). "La leghista: 'Nessuno stupra Kyenge?'. E il ministro: 'Ognuno si senta offeso'". *Corriere del Veneto*, 13 giugno. <https://corriereedelveneto.corriere.it/padova/notizie/cronaca/2013/13-giugno-2013/mai-nessuno-che-si-stupri-kyenge-frase-choc-consigliere-leghista--2221627206840.shtml>.
- D'Amico, M. (2020). *Audizione davanti alla Commissione Giustizia della Camera dei Deputati sui progetti di legge volti a contrastare l'omofobia e le discriminazioni fondate sull'identità di genere*. https://www.camera.it/apPLICATION/xmanager/projects/leg18/attachments/upload_file_doc_acquisiti/pdfs/000/003/708/0sservazioni_prof.ssa_Marilisa_D_Amico.pdf.
- Keats Citron, D. (2009). "Law's Expressive Value in Combatting Cyber Gender Harassment, 2009". *Michigan Law Review*, 108(3), 373-415. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1300&context=mlr>.
- Il Fatto Quotidiano* (2013). "Mai nessuno che stupra la Kyenge? Il tribunale condanna Valandro". *Il Fatto Quotidiano*, 17 luglio. <https://www.ilfattoquotidiano.it/2013/07/17/invito-a-stuprare-ministro-kyenge-condannata-a-anno-dolores-valandro/658886>.
- Mensi, M.; Falletta, P. (2015). *Il diritto del web. Casi e materiali*. Padova: CEDAM.

- Nardi, V. (2019). "I discorsi d'odio nell'era digitale. Quale ruolo per l'internet service provider?". *Diritto Penale Contemporaneo*, 7 marzo 2019. <https://archiviopdc.dirittopenaleuomo.org/upload/4923-nardi2019a.pdf>.
- Padova Oggi (2013). "Consigliere di SEL di Cavarzere a Valandro: 'Mollatela a venti negri'". *Padova Oggi*, 20 luglio. <https://www.padovaoggi.it/politica/angelo-romano-garbin-di-cavarzere-dolores-valandro-mollatela-a-20-negri.html>.
- Rosenfeld, M. (2003). "Hate Speech in Constitutional Jurisprudence. A Comparative Analysis". *Cardozo Law Review*, 1523-67. <https://larc.cardozo.yu.edu/faculty-articles/148>.
- Ziccardi, G. (2016). *L'odio online. Violenza verbale e ossessione in rete*. Milano: Cortina Raffaello.
- Weber, A. (ed.) (2009). *Manual on Hate Speech*. Strasbourg: Council of Europe.

Reports

- AGCOM, Autorità per le garanzie nelle comunicazioni (2019). *Regolamento recante disposizioni in materia di rispetto della dignità umana e del principio di non discriminazione e di contrasto all'hate speech (delibera 157/19/CONS del 15 maggio 2019)*. <https://www.agcom.it/documents/10179/13511391/ALlegato+23-5-2019+1558628852738/5908b34f-8c29-463c-a7b5-7912869ab367?version=1.0>.
- Amnesty International Italia (2020). *Barometro dell'odio. Sessismo da tastiera*. <https://d21zrvtkxtd6ae.cloudfront.net/public/uploads/2020/03/15212126/Amnesty-Barometro-odio-aprile-2020.pdf>.
- Commissione "Jo Cox" (2017). *Relazione finale sull'intolleranza, la xenofobia, il razzismo e i fenomeni di odio*. <https://www.camera.it/Leg17/1264>.
- Council of Europe (2013). *Gender Equality Strategy 2014-2017*. <https://rm.coe.int/1680590174>.
- Council of Europe (2018). *Gender Equality Strategy 2018-2023*. <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>.
- Council of Europe (2016). *Gender Equality Unit. Background Note on Sexist Hate Speech*. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168059ad42>.
- Council of Europe (2019). *Preventing and Combating Sexism. Recommendation CM/Rec(2019)1*. <https://rm.coe.int/prems-055519-gbr-2573-cmrec-2019-1-web-a5/168093e08c>.
- Council of Europe; ELSA, The European Law Students' Association (2014). *International Legal Research Group on Hate Speech Online. Final Report*. http://files.elsa.org/AA/Final_Report_OHS_Final.pdf.
- ECRI, European Commission against Racism and Intolerance (2016). *ECRI General Policy Recommendation no. 15 on Combating Hate Speech. Adopted on 8 December 2015*. <https://rm.coe.int/ecri-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01>.
- EIGE, European Institute on Gender Equality (2017). *Cyber Violence against Women and Girls*. <https://eige.europa.eu/publications/cyber-violence-against-women-and-girls>.
- European Commission (2016). *Code of Conduct on Countering Illegal Hate Speech Online*. <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism>

- and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en#theeucodeofconduct.
- European Parliament; FEMM Committee (2018). *Cyber Violence and Hate Speech Online against Women. Women's Rights and Gender Equality*. [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604979/IPOL_STU\(2018\)604979_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604979/IPOL_STU(2018)604979_EN.pdf).
- International Women's Media Foundation (2014). *Violence and Harassment against Women in the News Media. A Global Study*. <https://www.iwmf.org/wp-content/uploads/2018/06/Violence-and-Harassment-against-Women-in-the-News-Media.pdf>.
- OSCE-ODIHR; IAP (2014). *Prosecuting Hate Crimes. A Practical Guide*. <https://www.osce.org/files/f/documents/0/0/124532.pdf>.
- OSCE. *Hate Crime Reporting. Italy*. <http://hatecrime.osce.org/italy>.
- OSCE-ODIHR (2019). *Democracy and Human Rights in the OSCE. Annual Report 2019*. <https://www.osce.org/odihr/annual-report/2019>.
- Presidenza del Consiglio dei Ministri; Dipartimento della Gioventù e del Servizio Civile (2013). *Lotta all' odio e all' intolleranza nel web. No Hate Italia*. <http://www.nohatespeech.it/menu-azioni/no-hate-italia>.
- PRISM, Preventing, Redressing and Inhibiting Hate Speech in New Media, co-funded by the European Union and coordinated by Associazione Arci, 2016. <https://ec.europa.eu/migrant-integration/librarydoc/hate-crime-and-hate-speech-in-europe-comprehensive-analysis-of-international-law-principles-eu-wide-study-and-national-assessments>.
- UNESCO (2012). *Gender-Sensitive Indicators for Media: Framework of indicators to gauge gender sensitivity in media operations and content*. Paris: UNESCO. <https://unesdoc.unesco.org/ark:/48223/pf0000217831>.
- UNESCO (2015). *Countering Hate Speech*. UNESCO Series on Internet Freedom. <https://unesdoc.unesco.org/ark:/48223/pf0000233231>.
- Unione Forense per la Tutela dei Diritti Umani (2012). *Observations submitted to the Committee on the Elimination of Racial Discrimination for the Thematic Discussion on "racist hate speech", 28 August 2012, Palais des Nations - Genève*. <http://www.unionedirittiumani.it/wp-content/uploads/2012/07/Information-paper-on-racist-hate-speech-Italian-network-on-racial-discrimination.pdf>.
- UN Broadband Commission for Digital Development (2015). *Cyber Violence Against Women and Girls. A World-Wide Wake-Up Call*. https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender%20report.pdf?vs=4259.

