

# Hate speech

**Hate speech** is speech that attacks a person or group on the basis of attributes such as gender, ethnic origin, religion, race, disability, or sexual orientation.<sup>[1][2]</sup> In the law of some countries, hate speech is described as speech, gesture or conduct, writing, or display which is forbidden because it incites violence or prejudicial action against or by a protected individual or group, or because it disparages or intimidates a protected individual or group. The law may identify a protected group by certain characteristics.<sup>[3][4][5]</sup> In the law of other countries, hate speech is not a legal term.<sup>[6]</sup> In some countries, a victim of hate speech may seek redress under civil law, criminal law, or both. A website that uses hate speech is called a *hate site*. Most of these sites contain Internet forums and news briefs that emphasize a particular viewpoint.

There has been debate over freedom of speech, hate speech and hate speech legislation. Critics have argued that the term "hate speech" is a contemporary example of Newspeak, used to silence critics of social policies that have been poorly implemented in a rush to appear politically correct,<sup>[7][8]</sup>

## International

The International Covenant on Civil and Political Rights (ICCPR) states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".<sup>[9]</sup> The Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibits all incitement of racism.<sup>[10]</sup> On 3 May 2011, Michael O'Flaherty with the United Nations Human Rights Committee published Draft General Comment No. 34 on the ICCPR, which among other comments expressed concern that many forms of "hate speech" do not meet the level of seriousness set out in Article 20. This paragraph does not appear in the final document.<sup>[11]</sup> Concerning the debate over how freedom of speech applies to the Internet, conferences concerning such sites have been sponsored by the United Nations High Commissioner for Refugees.<sup>[12]</sup>

## Enforcement of hate speech laws

Hate law regulations can be divided into two types: those that

### Part of a series on **Discrimination**

#### General forms

Age · Caste · Class · Color · Disability · Genotype · Height · Hair · Language · Looks · Mental type · Race / ethnicity / nationality · Rank · Religion · Sex / Gender · Sexuality · Size · Species

#### Specific forms

##### Social

AIDS stigma · Adultism · Anti-albinism · Anti-autism · Anti-homelessness · Anti-intellectualism · Anti-left handedness · Anti-Masonry · Antisemitism · Audism · Binarism · Biphobia · Cronyism · Elitism (academic) · Ephebiphobia · Fatism · Genderism · Gerontophobia · Handicapism · Heteronormativity · Heterosexism · Homophobia · Intersex discrimination · Leprosy stigma · Lesbophobia · Mentalism · Misandry · Misogyny · Nepotism · Pedophobia · Reverse discrimination · Sectarianism · Shadism · Transmisogyny · Transphobia · Xenophobia

##### Manifestations

Bumfights · Blood libel · Class conflict · Compulsory sterilization · Counterjihad · Cultural genocide · Democide · Disability hate crime · Economic · Eliminationism · Employment · Enemy of the people · Ethnic cleansing · Ethnic joke · Ethnocide · Forced conversion · Freak show · Gay bashing · Gendercide · Genital mutilation · Genocide (examples) · Group libel · Hate crime · Hate group · Hate speech · Homeless dumping · Housing · Indian rolling · LGBT hate crime · Lavender scare · Lynching · McCarthyism · Mortgage · Persecution · Murder Music · Occupational segregation · Pogrom · Purge · Race war · Red Scare · Scapegoating · Segregation academies · Sex-selective abortion · Slavery · Slut-shaming · Trans bashing · Victimization · Wife selling · Witch-hunt · White flight

are designed for public order and those that are designed to protect human dignity. Those designed to protect public order seem to be somewhat ineffective because they are rarely enforced. For example, in Northern Ireland, as of 1992 only one person was prosecuted for violating the regulation in twenty one years. Those meant to protect human dignity, however, like those in Canada, Denmark, France, Germany and the Netherlands seem to be frequently enforced.<sup>[13]</sup>

## Harm of hate speech

Communication theory provides some insight into the harms caused by hate speech. According to the ritual model of communication, racist expressions allow minorities to be categorized with negative attributes tied to them, and are directly harmful to them. Matsuda *et al.* (1993)<sup>[14]</sup> found that racist speech could cause in the recipient of the message direct physical and emotional changes. The repeated use of such expressions cause and reinforce the subordination of these minorities. This has been enough to sway the court in previous cases such as *Brown v. Board of Education* in the United States, in which the Court stated that segregation "generates a feeling of inferiority as to [African Americans'] status in the community that may affect their hearts and minds in a way unlikely ever to be undone." The idea that hate speech is a mechanism of subordination is supported by scholarly evidence.<sup>[15]</sup>

## Hate speech on the Internet

On May 31, 2016, Facebook, Google, Microsoft, and Twitter, jointly agreed to a European Union code of conduct obligating them to review "[the] majority of valid notifications for removal of illegal hate speech" posted on their services within 24 hours.<sup>[16]</sup>

Following a campaign that involved the participation of Women, Action and the Media, the Everyday Sexism Project and the activist Soraya Chemaly, who were among 100 advocacy groups, Facebook agreed to update its policy on hate speech. The campaign highlighted content that promoted domestic and sexual violence against women, and used over 57,000 tweets and more than 4,900 emails to create outcomes such as the withdrawal of advertising from Facebook by 15 companies, including Nissan UK, House of Burlesque, and Nationwide UK. The social media website initially responded by stating that "While it may be vulgar and offensive, distasteful content on its own does not violate our policies",<sup>[17]</sup> but then agreed to take action on May 29, 2013, after it had "become clear that our systems to identify and remove hate speech have failed to work as effectively as we would like, particularly around issues

### Policies

Segregation: by age / racial / religious / by sex  
 Age of candidacy · Blood quantum ·  
 "Cleanliness of blood" · Apartheid · Ethnocracy ·  
 Gender roles · Gerontocracy · Ghetto benches ·  
 Internment · Jewish quota · Jim Crow laws ·  
 Law for Protection of the Nation ·  
 MSM blood donor controversy  
*Numerus clausus*  
 (as religious or racial quota)  
 Nuremberg Laws · One-drop rule · Racial quota ·  
 Racial steering · Redlining  
 Same-sex marriage  
 (laws and issues prohibiting)  
 Sodomy law · Ugly law

### Other forms

Pregnancy  
 Supremacism  
 (Arab · White · Black)

### Countermeasures

Anti-discrimination law · Affirmative action ·  
 Cultural assimilation · Desegregation ·  
 Diversity training · Empowerment ·  
 Ethnopluralism · Human rights · Intersex rights ·  
 Masculism · Multiculturalism · Racial integration ·  
 Self-determination · Social integration · Toleration

### Related topics

Allophilia · Anti-cultural sentiment · Assimilation  
 · Bias · Bigotry · Diversity · Ethnic penalty ·  
 Eugenics · Intersectionality · Male privilege ·  
 Multiculturalism · Neurodiversity · Oppression ·  
 Police brutality · Political correctness ·  
 Power distance · Prejudice ·  
 Racial bias in criminal news ·  
 Religious intolerance · Religious persecution ·  
 Social stigma · Snobbery · Stereotypes ·  
 White privilege

 **Discrimination portal**

of gender-based hate."<sup>[18]</sup><sup>[18]</sup>

## By country

### Australia

*Main article: Hate speech laws in Australia*

Australia's hate speech laws vary by jurisdiction, and seek especially to prevent victimisation on account of race.

### Belgium

*Main articles: Belgian Anti-Racism Law and Belgian Holocaust denial law*

The Belgian Anti-Racism Law, in full, the *Law of 30 July 1981 on the Punishment of Certain Acts inspired by Racism or Xenophobia*, is a law against hate speech and discrimination passed by the Federal Parliament of Belgium in 1981 which made certain acts motivated by racism or xenophobia illegal. It is also known as the *Moureaux Law*.

The Belgian Holocaust denial law, passed on 23 March 1995, bans public Holocaust denial. Specifically, the law makes it illegal to publicly "deny, play down, justify or approve of the genocide committed by the Nazi Germany regime during the Second World War". Prosecution is led by the Belgian Centre for Equal Opportunities. The offense is punishable by imprisonment of up to one year and fines of up to 2500 EUR.

### Brazil

In Brazil, according to the 1988 Brazilian Constitution, racism and other forms of race-related hate speech are "Offense(s) with no statute of limitations and no right to bail for the defendant".<sup>[19]</sup>

### Canada

*Main article: Hate speech laws in Canada*

In Canada, advocating genocide against any "identifiable group" is an indictable offence under the *Criminal Code* and carries a maximum sentence of five years imprisonment. There is no minimum sentence.<sup>[20]</sup>

Publicly inciting hatred against any identifiable group is also an offence. It can be prosecuted either as an indictable offence with a maximum sentence of two years imprisonment, or as a summary conviction offence with a maximum sentence of six months imprisonment. There are no minimum sentences in either case.<sup>[21]</sup> The offence of publicly inciting hatred makes exceptions for cases of statements of truth, and subjects of public debate and religious doctrine. The landmark judicial decision on the constitutionality of this law was *R. v. Keegstra* (1990).

An "identifiable group" is defined for both offences as "any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, or mental or physical disability".

### Chile

Article 31 of the "Ley sobre Libertades de Opinión e Información y Ejercicio del Periodismo" (statute on freedom of opinion and information and the performance of journalism), punishes with a large fine those who "through any means of social communication makes publications or transmissions intended to promote hatred or hostility towards persons or a group of persons due to their race, sex, religion or nationality".<sup>[22]</sup> This law has been applied to expressions transmitted via the internet.<sup>[23]</sup> There is also a rule increasing the penalties for crimes motivated by discriminatory hatred.

## Council of Europe

The Council of Europe has worked intensively on this issue. While Article 10 of the European Convention on Human Rights does not prohibit criminal laws against revisionism such as denial or minimization of genocides or crimes against humanity, as interpreted by the European Court of Human Rights (ECtHR), the Committee of Ministers of the Council of Europe went further and recommended to member governments to combat hate speech under its Recommendation R (97) 20. The ECtHR does not offer an accepted definition for "hate speech" but instead offers only parameters by which prosecutors can decide if the "hate speech" is entitled to the protection of freedom of speech.<sup>[24]</sup>

The Council of Europe also created the European Commission against Racism and Intolerance, which has produced country reports and several general policy recommendations, for instance against anti-Semitism and intolerance against Muslims.

## Croatia

The Croatian Constitution guarantees freedom of speech, but Croatian penal code prohibits and punishes anyone "who based on differences of race, religion, language, political or any other belief, wealth, birth, education, social status or other properties, gender, skin color, nationality or ethnicity violates basic human rights and freedoms recognized from international community".<sup>[25]</sup>

## Denmark

Denmark prohibits hate speech, and defines it as publicly making statements by which a group is threatened (*true*s), insulted (*forhånes*) or degraded (*nedværdiges*) due to race, skin colour, national or ethnic origin, faith or sexual orientation.<sup>[26]</sup>

## Finland

There has been considerable debate over the definition of "hate speech" (*vihapuhe*) in the Finnish language.<sup>[27][28]</sup>

If "hate speech" is taken to mean ethnic agitation, it is prohibited in Finland and defined in the section 11 of the penal code, *War crimes and crimes against humanity*, as published information or as an opinion or other statement that threatens or insults a group because of race, nationality, ethnicity, religion or conviction, sexual orientation, disability, or any comparable trait. Ethnic agitation is punishable with a fine or up to 2 years in prison, or 4 months to 4 years if aggravated (such as incitement to genocide).<sup>[29]</sup>

Critics claim that, in political contexts, labeling certain opinions and statements "hate speech" can be used to silence unfavorable or critical opinions and suppress debate. Certain politicians, including Member of Parliament Jussi Halla-aho, consider the term "hate speech" problematic because of the lack of an easy

definition.<sup>[28]</sup>

## France

*Main article: Hate speech laws in France*

France prohibits by its penal code and by its press laws public and private communication which is defamatory or insulting, or which incites discrimination, hatred, or violence against a person or a group of persons on account of place of origin, ethnicity or lack thereof, nationality, race, specific religion, sex, sexual orientation, or handicap. The law prohibits declarations that justify or deny crimes against humanity, for example, the Holocaust (Gayssot Act).<sup>[30]</sup>

## Germany

In Germany, Volksverhetzung ("incitement of popular hatred") is a punishable offense under Section 130 of the Strafgesetzbuch (Germany's criminal code) and can lead to up to five years imprisonment.<sup>[31]</sup> Section 130 makes it a crime to publicly incite hatred against parts of the population or to call for violent or arbitrary measures against them or to insult, maliciously slur or defame them in a manner violating their (constitutionally protected) human dignity. Thus for instance it is illegal to publicly call certain ethnic groups "maggots" or "freeloaders".<sup>[32]</sup> Volksverhetzung is punishable in Germany even if committed abroad and even if committed by non-German citizens, if only the incitement of hatred takes effect within German territory, e.g., the seditious sentiment was expressed in German writing or speech and made accessible in Germany (German criminal code's Principle of Ubiquity, Section 9 §1 Alt. 3 and 4 of the Strafgesetzbuch).

## Iceland

In Iceland, the hate speech law is not confined to inciting hatred, as one can see from Article 233 a. in the Icelandic Penal Code, but includes simply expressing such hatred publicly:

"Anyone who in a ridiculing, slanderous, insulting, threatening or any other manner publicly assaults a person or a group of people on the basis of their nationality, skin colour, race, religion or sexual orientation, shall be fined or jailed for up to 2 years." (*In this context "assault" does not refer to physical violence but only to verbal "assault".*)

## India

*Main article: Hate speech laws in India*

Freedom of speech and expression is protected by article 19 (1) of the constitution of India, but under article 19(2) "reasonable restrictions" can be imposed on freedom of speech and expression in the interest of "the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence".<sup>[33]</sup>

## Indonesia

Indonesia has been a signatory to the International Covenant on Civil and Political Rights since 2006, but has not promulgated comprehensive legislation against hate-speech crimes. Calls for a comprehensive anti-hate

speech law and associated educational program have followed statements by a leader of a hard-line Islamic organization that Balinese Hindus were mustering forces to protect the "lascivious Miss World pageant" in "a war against Islam" and that "those who fight on the path of Allah are promised heaven". The statements are said to be an example of similar messages intolerance being preached throughout the country by radical clerics.<sup>[34]</sup>

The National Police ordered all of their personnel to anticipate any potential conflicts in society caused by hate speech. The order is stipulated in the circular signed by the National Police chief General Badrodin Haiti on Oct. 8, 2015.<sup>[35]</sup>

## Ireland

In Ireland, the right to free speech is guaranteed under the Constitution (Article 40.6.1.i), however, this is only an implied right provided that liberty of expression "shall not be used to undermine public order or morality or the authority of the State".<sup>[36]</sup> The Prohibition of Incitement to Hatred Act 1989, proscribes words or behaviours which are "threatening, abusive or insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred" against "a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of the travelling community or sexual orientation".<sup>[37][38]</sup>

## Japan

Japanese law covers threats and slander, but it "does not apply to hate speech against general groups of people".<sup>[39]</sup> Japan became a member of the United Nations International Convention on the Elimination of All Forms of Racial Discrimination in 1995. Article 4 of the convention sets forth provisions calling for the criminalization of hate speech. But the Japanese government has suspended the provisions, saying actions to spread or promote the idea of racial discrimination have not been taken in Japan to such an extent that legal action is necessary. The Foreign Ministry says that this assessment remains unchanged.<sup>[40]</sup>

In May 2013, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) warned the Japanese government that it needs to take measures to curb hate speech against so-called "comfort women", or Asian women forced into sexual slavery by the Japanese military during World War II. The committee's recommendation called for the Japanese government to better educate Japanese society on the plight of women who were forced into sexual slavery to prevent stigmatization, and to take necessary measures to repair the lasting effects of exploitation, including addressing their right to compensation.<sup>[41][42]</sup>

In 2013, following demonstrations, parades, and comments posted on the Internet threatening violence against foreign residents of Japan, especially Koreans, there are concerns that hate speech is a growing problem in Japan.<sup>[43][44][45]</sup> Prime Minister Shinzo Abe and Justice Minister Sadakazu Tanigaki have expressed concerns about the raise in hate speech, saying that it "goes completely against the nation's dignity", but so far have stopped short of proposing any legal action against protesters.<sup>[40]</sup>

On 22 September 2013 around 2,000 people participated in the "March on Tokyo for Freedom" campaigning against recent hate speech marches. Participants called on the Japanese government to "sincerely adhere" to the International Convention on the Elimination of All Forms of Racial Discrimination. Sexual minorities and the disabled also participated in the march.<sup>[46]</sup>

On 25 September 2013 a new organization, "An international network overcoming hate speech and racism"

(Norikoenet), that is opposed to hate speech against ethnic Koreans and other minorities in Japan was launched.<sup>[47]</sup>

On 7 October 2013, in a rare ruling on racial discrimination against ethnic Koreans, a Japanese court ordered an anti-Korean group, Zaitokukai, to stop "hate speech" protests against a Korean school in Kyoto and pay the school 12.26 million yen (\$126,400 U.S.) in compensation for protests that took place in 2009 and 2010.<sup>[48][49]</sup>

A United Nations panel urged Japan to ban hate speech.<sup>[50][51][52]</sup>

In May 2016 Japan passed a law dealing with hate speech. However, it does not ban hate speech and sets no penalty for committing it.<sup>[53]</sup>

## Jordan

*See also: Blasphemy law in Jordan*

Several Jordanian laws seek to prevent the publication or dissemination of material that would provoke strife or hatred.<sup>[54]</sup>

- Article 6 of Act No. 76 of 2009 regulating publicity and advertising in municipal areas states: (a) The following shall be deemed an infringement of this regulation: (i) The inclusion in publicity or advertisements of material that offends national or religious sentiment or public morals or that is prejudicial to the maintenance of public order. The publicization of ideas based on racial superiority, racial hatred and the instigation of racial discrimination against any person or group constitute punishable offences.
- Article 20 of the Audiovisual Media Act No. 71 of 2002 states: “The licensee shall not broadcast or rebroadcast any material that is likely to provoke confessional and interethnic strife, to undermine national unity or to instigate terrorism, racism or religious intolerance or to damage domestic relations in the Kingdom.”
- Article 7 of the Printing and Publications Act No. 8 of 1998 sets out the ethical rules that apply to journalism and the conduct of journalists. It is illegal to publish material likely to stir up hatred or to make propaganda with a view to setting citizens against one another.
- Article 40(a)(iv) of the Print and Publications Act No. 10 of 1993 states that it is prohibited to publish articles that are likely to jeopardize national unity, incite others to commit crimes, stir up hostility, and foment hatred, division and discord between members of society.

## Netherlands

The Dutch penal code prohibits both insulting a group (article 137c) and inciting hatred, discrimination or violence (article 137d). The definition of the offences as outlined in the penal code is as follows:

- Article 137c: *He who publicly, orally, in writing or graphically, intentionally expresses himself insultingly regarding a group of people because of their race, their religion or their life philosophy, their heterosexual or homosexual orientation or their physical, psychological or mental disability, shall be punished by imprisonment of no more than a year or a monetary penalty of the third category.*<sup>[55]</sup>
- Article 137d: *He who publicly, orally, in writing or graphically, incites hatred against, discrimination of or violent action against person or belongings of people because of their race, their religion or their life philosophy, their gender, their heterosexual or homosexual orientation or their physical, psychological or*

*mental disability, shall be punished by imprisonment of no more than a year or a monetary penalty of the third category.*<sup>[56]</sup>

In January 2009, a court in Amsterdam ordered the prosecution of Geert Wilders, a Dutch Member of Parliament, for breaching articles 137c and 137d.<sup>[57]</sup> On 23 June 2011, Wilders was acquitted of all charges.<sup>[58]</sup>

## **New Zealand**

New Zealand prohibits hate speech under the Human Rights Act 1993. Section 61 (Racial Disharmony) makes it unlawful to publish or distribute "threatening, abusive, or insulting...matter or words likely to excite hostility against or bring into contempt any group of persons...on the ground of the colour, race, or ethnic or national or ethnic origins of that group of persons". Section 131 (Inciting Racial Disharmony) lists offences for which "racial disharmony" creates liability.

## **Norway**

Norway prohibits hate speech, and defines it as publicly making statements that threaten or ridicule someone or that incite hatred, persecution or contempt for someone due to their skin colour, ethnic origin, homosexual orientation, religion or philosophy of life.<sup>[59]</sup> At the same time, the Norwegian Constitution guarantees the right to free speech, and there has been an ongoing public and judicial debate over where the right balance between the ban against hate speech and the right to free speech lies. Norwegian courts have been restrictive in the use of the hate speech law and only few persons have been sentenced for violating the law since its implementation in 1970. A public Free Speech committee (1996-1999) recommended to abolish the hate speech law but the Norwegian Parliament instead voted to slightly strengthen it.<sup>[60]</sup>

## **Poland**

*Main article: Hate speech laws in Poland*

The hate speech laws in Poland punish those who offend the feelings of the religious by e.g. disturbing a religious ceremony or creating public calumny. They also prohibit public expression that insults a person or a group on account of national, ethnic, racial, or religious affiliation or the lack of a religious affiliation.<sup>[61]</sup>

## **Serbia**

The Serbian constitution guarantees freedom of speech, but restricts it in certain cases to protect the rights of others. The criminal charge of "Provoking ethnic, racial and religion based animosity and intolerance" carries a minimum six months prison term and a maximum of ten years.<sup>[62]</sup>

## **Singapore**

Singapore has passed numerous laws that prohibit speech that causes disharmony among various religious groups. The Maintenance of Religious Harmony Act is an example of such legislation. The Penal Code criminalizes the deliberate promotion by someone of enmity, hatred or ill-will between different racial and religious groups on grounds of race or religion. It also makes it an offence for anyone to deliberately wound the religious or racial feelings of any person.



## South Africa

In South Africa, hate speech (along with incitement to violence and propaganda for war) is specifically excluded from protection of free speech in the Constitution. The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 contains the following clause:

[N]o person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to—

- a. be hurtful;
- b. be harmful or to incite harm;
- c. promote or propagate hatred.<sup>[63]</sup>

The "prohibited grounds" include race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

The crime of *crimen injuria* ("unlawfully, intentionally and seriously impairing the dignity of another")<sup>[64]</sup> may also be used to prosecute hate speech.<sup>[65]</sup>

In 2011, a South African court banned "Dubula iBhunu (Shoot the Boer)", a derogatory song degrading Afrikaners, on the basis that it violated a South African law prohibiting speech that demonstrates a clear intention to be hurtful, to incite harm, or to promote hatred.<sup>[66]</sup>

## Sweden

Sweden prohibits hate speech, and defines it as publicly making statements that threaten or express disrespect for an ethnic group or similar group regarding their race, skin colour, national or ethnic origin, faith, or sexual orientation.<sup>[67][68]</sup> The crime does not prohibit a pertinent and responsible debate (*en saklig och vederhäftig diskussion*), nor statements made in a completely private sphere.<sup>[69]</sup> There are constitutional restrictions pertaining to which acts are criminalized, as well limits set by the European Convention on Human Rights.<sup>[70]</sup> The crime is called *Hets mot folkgrupp* in Swedish which directly translated can be translated to *Incitement (of hatred/violence) towards population groups*.

The sexual orientation provision, added in 2002,<sup>[71]</sup> was used to convict Pentecostalist pastor Åke Green of hate speech based on a 2003 sermon. His conviction was later overturned.<sup>[70][72]</sup>

## Switzerland

In Switzerland public discrimination or invoking to rancor against persons or a group of people because of their race, ethnicity, is getting penalized with a term of imprisonment until 3 years or a mulct. In 1934, the authorities of the Basel-Stadt canton criminalized anti-Jewish hate speech, e.g., the accusation of ritual murders, mostly in reaction against a pro-Nazi antisemitic group and newspaper, the Volksbund.<sup>[73]</sup>

## United Kingdom

## *Main article: Hate speech laws in the United Kingdom*

In the United Kingdom, several statutes criminalize hate speech against several categories of persons. The statutes forbid communication which is hateful, threatening, or abusive, and which targets a person on account of disability, ethnic or national origin, nationality (including citizenship), race, religion, sexual orientation, or skin colour. The penalties for hate speech include fines, imprisonment, or both.<sup>[3][74][75][76][77][78][79]</sup>

Legislation against Sectarian hate in Scotland, which is aimed principally at football matches, does not criminalise jokes about people's beliefs, nor outlaw "harsh" comment about their religious faith.<sup>[80]</sup>

## United States

### Constitutional framework

The 1789 Constitution of the United States of America dealt only with the three heads of power—legislative, executive, and judicial—and sketched the basic outlines of federalism in the last four articles. The protection of civil rights was not written into the original Constitution but was added two years later with the Bill of Rights, implemented as several amendments to the Constitution. The First Amendment, ratified December 15, 1791, states:

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

Although this section was considered only to apply to the federal congress (i.e. the legislative branch), the 14th Amendment, ratified on July 9, 1868, clarifies that this prohibition applies to laws of the states as well.

Some state constitutions also have a "free speech" provision, most notably, that of California.<sup>[81]</sup>

### Supreme Court case law

Some limits on expression were contemplated by the framers and have been read into the Constitution by the Supreme Court (SCOTUS). In 1942, Justice Frank Murphy summarized the case law: "There are certain well-defined and limited classes of speech, the prevention and punishment of which have never been thought to raise a Constitutional problem. These include the lewd and obscene, the profane, the libelous and the insulting or 'fighting' words – those which by their very utterances inflict injury or tend to incite an immediate breach of the peace."<sup>[82]</sup>

Traditionally, however, if the speech did not fall within one of the above categorical exceptions, it was protected speech. In 1969, the Supreme Court protected a Ku Klux Klan member's racist speech and created the "imminent danger" test to permit hate speech. The court ruled in *Brandenburg v. Ohio* that; "The constitutional guarantees of free speech and free press do not permit a state to forbid or proscribe advocacy of the use of force, or of law violation except where such advocacy is directed to inciting imminent lawless action and is likely to incite or produce such action."<sup>[83]</sup>

This test has been modified very little from its inception in 1969 and the formulation is still good law in the United States. Only speech that poses an imminent danger of unlawful action, where the speaker has the intention to incite such action and there is the likelihood that this will be the consequence of his or her speech, may be restricted and punished by that law.

In *R.A.V. v. City of St. Paul*, (1992), the issue of freedom to express hatred arose again when a gang of white people burned a cross in the front yard of a black family. The local ordinance in St. Paul, Minnesota, criminalized such racist and hate-filled expressions and the teenager was charged thereunder. Associate Justice Antonin Scalia, writing for the Supreme Court, held that the prohibition against hate speech was unconstitutional as it contravened the First Amendment. The Supreme Court struck down the ordinance. Scalia explicated the fighting words exception as follows: "The reason why fighting words are categorically excluded from the protection of the First Amendment is not that their content communicates any particular idea, but that their content embodies a particularly intolerable (and socially unnecessary) mode of expressing whatever idea the speaker wishes to convey".<sup>[84]</sup> Because the hate speech ordinance was not concerned with the mode of expression, but with the content of expression, it was a violation of the freedom of speech. Thus, the Supreme Court embraced the idea that hate speech is permissible unless it will lead to imminent hate violence.<sup>[85]</sup> The opinion noted "This conduct, if proved, might well have violated various Minnesota laws against arson, criminal damage to property", among a number of others, none of which was charged, including threats to any person, not to only protected classes.

In 2011, the Supreme Court issued their ruling on *Snyder v. Phelps*, which concerned the right of the Westboro Baptist Church to protest with signs found offensive by many Americans. The issue presented was whether the 1st Amendment protected the expressions written on the signs. In an 8–1 decision the court sided with Phelps, the head of Westboro Baptist Church, thereby confirming their historically strong protection of hate speech, so long as it doesn't promote imminent violence. The Court explained, "speech deals with matters of public concern when it can 'be fairly considered as relating to any matter of political, social, or other concern to the community' or when it 'is a subject of general interest and of value and concern to the public.'"<sup>[86]</sup>

## Societal implementation

In the 1980s and 1990s, more than 350 public universities adopted "speech codes" regulating discriminatory speech by faculty and students.<sup>[87]</sup> These codes have not fared well in the courts, where they are frequently overturned as violations of the First Amendment.<sup>[88]</sup> Debate over restriction of "hate speech" in public universities has resurfaced with the adoption of anti-harassment codes covering discriminatory speech.<sup>[89]</sup>

## NTIA report

In 1992, Congress directed the National Telecommunications and Information Administration (NTIA) to examine the role of telecommunications, including broadcast radio and television, cable television, public access television, and computer bulletin boards, in advocating or encouraging violent acts and the commission of hate crimes against designated persons and groups. The NTIA study investigated speech that fostered a climate of hatred and prejudice in which hate crimes may occur.<sup>[90]</sup> The study failed to link telecommunication to hate crimes, but did find that "individuals have used telecommunications to disseminate messages of hate and bigotry to a wide audience." Its recommendation was that the best way to fight hate speech was through additional speech promoting tolerance, as opposed to government regulation.<sup>[91][92]</sup>

## See also

- Allport's scale
- Anti-LGBT slogans
- Ethnic intolerance (disambiguation)
- Ethnic joke
- Gay bashing
- Gregory Stanton's 8 Stages of Genocide

- Graphic pejoratives in written Chinese
- Hate mail
- Historical revisionism (negationism)
- Incitement to ethnic or racial hatred
- Personal attack
- Political correctness
- Race baiting

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## External links

- TANDIS (Tolerance and Non-Discrimination Information System), developed by the OSCE Office for Democratic Institutions and Human Rights
- Reconciling Rights and Responsibilities of Colleges and Students: Offensive Speech, Assembly, Drug Testing and Safety
- From Discipline to Development: Rethinking Student Conduct in Higher Education
- Sexual Minorities on Community College Campuses
- The Foundation for Individual Rights in Education
- Survivor bashing - bias motivated hate crimes
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### Censorship

#### Media regulation

Books (books banned) · Films (banned films) · Internet (circumvention) · Music · Post · Press · Radio · Speech and expression · Thought · Video games

#### Methods

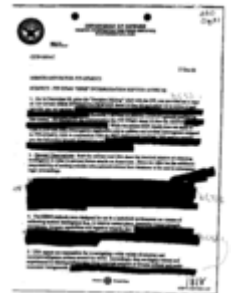
Bleeping · Book burning · Broadcast delay · Burying of scholars · Censor bars · Chilling effect · Concision · Conspiracy of silence · Content-control software · Euphemism (Minced oath) · Expurgation · Fogging · Gag order · Heckling · Heckler's veto · Internet police · Memory hole · National intranet · Newspaper theft · Pixelization · Prior restraint · Propaganda · Purge · Revisionism · Sanitization · Self-censorship · Speech code · Strategic lawsuit · Surveillance (computer & network · mass) · Whitewashing · Word filtering · Damnatio memoriae

#### Contexts

Criminal · Corporate · Hate speech · Ideological · Media bias · Moralistic fallacy · Naturalistic fallacy · Politics · Propaganda model · Religious (Islamic) · Suppression of dissent · Systemic bias

#### By country

Censorship · Freedom of speech · Internet censorship



## Racism

### Types of racism

Against Jews · Aversive · Among Black people · Among White people ·  
Among LGBT people · Among US minorities (Colorism) · Among Hipsters ·  
Consumer · Covert · Cultural · Environmental (in Europe) · Gendered · Institutional ·  
Internalized · Laissez-faire · Nationalist · New racism (Neo-racism) · Reverse ·  
Romantic (Love) · Sexual · Scientific · Societal · Symbolic

### Manifestations of racism

Anti-miscegenation laws · Expression (in the media · in Charles Dickens' works ·  
in music · in early US films (Censored Eleven) · in horror films · in porn · online  
(on Wikipedia) · in sport (baseball · martial arts · soccer) · in school curricula ·  
in US politics · Jokes · Slurs) · Racial antagonism · Racial determinism ·  
Racial hatred · Racial hierarchy (Casta) · Racial polarization · Racial quota ·  
Racial vilification · Racial violence (Race war)

### Racism by region

Africa · Arab world · Asia · Australia · Europe · Middle East · North America ·  
South America

### Related topics

Anti-racism · Psychological impact (Psychoanalysis) · Racial transformation ·  
Passing · Racial democracy · Racial fetishism · Race traitor ·  
List of racism-related articles · List of anti-ethnic terms

## Internet censorship by country

### Africa

Algeria · Angola · Botswana · Burkina Faso · Burundi · Cameroon ·  
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Gambia · Ghana · Guinea · Guinea-Bissau · Ivory Coast · Kenya · Lesotho · Liberia ·  
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