Journal of Ethnic and Migration Studies, 2014
Vol. 40, No. 2, 174–193, http://dx.doi.org/10.1080/1369183X.2013.851470

Routledge
Taylor & Francis Group

Regulation of Speech in Multicultural Societies: Introduction

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What to do about speech which vilifies or defames members of minorities on the grounds of their ethnic or religious identity or their sexuality? How to respond to such speech, which may directly or indirectly cause harm, while taking into account the principle of free speech, has been much debated in contemporary Europe, not least with respect to speech about, or by, Muslims. This introduction to the Special Issue on the 'Regulation of Speech in Multicultural Societies' argues that a sociopolitical approach, and sensitivity to power configurations, is necessary to complement the legal-normative perspective which predominates the 'hate speech' literature. Such an approach takes into account the national and international sociopolitical contexts which interactively shape and are shaped by debates about hate speech and its regulation. The politics and politicisation of speech and its regulation (both within and aside from state law) may thus offer a way of understanding specific forms of contestation and provide a framework for comparative analysis.

Keywords: Hate Speech; Free Speech; Minorities; Ethnicity; Religion; Europe

1. Introduction

A recurrent challenge for present-day democratic, plural societies is the negotiation of the boundaries of legitimate speech and the subsequent monitoring and protecting of those boundaries. In the case of Europe, legal or other forms of regulation have been debated in connection with the sensitivities of ethnic and religious minorities (especially but not exclusively Muslim), the rise of populist parties and their leaders' anti-immigrant rhetoric, offensive speech in plays, books and films, on the basis of gender, sexuality or disability, and in association with violence and terrorism. This

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Special Issue[1] of the *Journal of Ethnic and Migration Studies* proposes a sociopolitical analysis of processes of contestation around regulation which complements existing legal and normative perspectives.

We are using 'speech' as shorthand for a wide range of forms of expressions (oral or written) which may include pictorial and other kinds of representation, including symbols and signs, for example the 'Heil Hitler!' salute, or dress codes that express political sympathies. Such speech occurs in all kinds of settings and contexts: schools, newspapers, workplaces, the Internet or the street, and there is a wide variety of institutions with varying capacity to regulate speech, including, but not limited to, the state and the law.

Our particular focus is the regulation of speech which might be seen as 'harmful' and which is expressed in 'public forums' and conveying messages on 'public matters' (Bleich 2011b, 76), though we recognise that the boundaries between what is public and non-public are fluid, and there are different conceptions of what constitutes 'harm'. We are not concerned with pornography, private libel or defamation, or with commercial speech that is deceitful or misleading, but with what has come to be called 'hate speech'. Commonly, three essential features are seen as defining such speech: it is directed against a specified or easily identifiable individual or, more usually, group of individuals based on aspects of their (core, non-voluntary) identity; it stigmatises the target group by implicitly or explicitly ascribing qualities widely regarded as highly undesirable; and because of its negative qualities, the target group is viewed as an unwelcome presence and a legitimate object of hostility (adapted from Parekh 2012, 40–41). Hate speech in various ways demeans, denigrates, defames, essentialises or otherwise 'harms', an individual or group, typically one which constitutes a 'minority'. It also entails some element of 'incitement', by inciting or legitimising violence, discrimination or hostility vis-à-vis (members of) a group.

Concerning appropriate responses to hate speech, one of the major challenges in democratic societies is to find ways of addressing the problem while maintaining the principle of free speech (Herz and Molnar 2012b, 2). With regard to public speech, the main thrust of this principle is that everyone should have the freedom to express ideas, viewpoints or sentiments on society, social and political processes, groups and social relations and historical events. As the European Court of Human Rights (ECtHR) affirmed in a crucial ruling on offensive speech, the freedom of expression constitutes one of the essential foundations of a democratic society and it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference but also those that offend, shock or disturb the state or any sector of the population.[2] The purpose of this Special Issue is not, however, to revisit that normative debate, but rather to analyse empirically and theoretically how multicultural societies in Europe are struggling with the challenge of addressing the balance between controlling hate speech and protecting freedom of expression.

The paper is organised as follows. Section 2 reviews the hate speech literature and argues that the pervasive normative-legal approach needs to be complemented by one which pays attention to the politicisation of free speech and its limits. Sections 3 and 4 develop this theme, examining the sociopolitical context of the evolving debate on hate speech and its regulation, principally in Western Europe, and exploring the politics of regulation. Section 5 seeks to take the study of the regulation of speech beyond the legal arena. Section 6 offers a brief conclusion and summarises the papers included in the Special Issue.

2. Studying Hate Speech: From a Normative-legal to a Sociopolitical Perspective

The regulation of hate speech has generated a substantial academic debate encompassing different national and disciplinary traditions and addressing both contemporary concerns and their intellectual and political antecedents. Besides important monographs by, among others, Jeremy Waldron (2012, see Bangstad 2014) or Erik Bleich (2011b) writing in defence of hate speech legislation, or Jytte Klausen (2009) on the Danish Cartoons, there have been numerous edited collections contributing to the field as a whole or significant parts of it.[3] Without attempting a detailed review, the following indicates what we feel to be some of that literature's limitations.

(1) There is much normative discussion on constitutional and legal limits to public speech, and of the extent to which such limits are justifiable, or not, in terms of the principles of liberal democracy. One important 'master-frame' that structures the debate is the opposition between the outright defence of free speech, for which US First Amendment 'free speech absolutism' is taken as exemplary (e.g. in Molnar and Strossen 2012), and the view that there are grounds for restrictions, with a 'European model' as its primary reference point.[4]

(2) The literature is often repetitive, on both sides (pro and anti-regulation) going over the same or similar ground, making the same or similar points, using the same examples. There is much discussion, for the USA, of the legal decisions in *Beauharnais v Illinois*, *New York Times v Sullivan*, *Brandenburg v Ohio*, *Chaplinsky v New Hampshire*, or *Snyder v Phelps*; in the UK *Hammond* and *Norwood* frequently recur, and in relation to the ECtHR *Jersild v Denmark*; for France (and Germany) the criminalisation of Holocaust denial is at the forefront of debate. Iconic legislation (e.g. on seditious libel or blasphemy) is constantly revisited as are certain paradigmatic events: the Rushdie Affair, the Danish Cartoons, the Rwanda genocide and so on. The focus on exemplary cases and judgements is far from unimportant, but because scholars are constantly circling around the same arguments over principles and instances, contributions are rarely fresh and original.

(3) Within this framework of constitutional and legal discussion, the politics of regulation (including its implementation and effects) are only lightly addressed, and many accounts are content to describe historical evolution in a particular jurisdiction with limited attention to what happens outside the constitution and the courts, and in contexts such as education or employment; it sometimes seems as if state regulation

via 'criminalisation' is the only option in addressing hate speech. Other studies, for example those concerned with racism and Islamophobia, indeed have a political dimension, but while they have strong (perhaps implicit) normative implications, they are often unreflexive about challenges involved in balancing different liberal and democratic principles.

(4) Those who oppose legislation on the grounds of freedom of speech frequently do little more than repeat the refrain 'more speech'. Those in favour of 'self-restraint' and 'self-regulation' give little guidance on how a reasonable balance between freedom of speech and preventing harm can be struck, and in what settings (see Section 5, below).

(5) Comparisons of different regimes of speech governance are poorly developed or at a general level, with particular emphasis on the difference between US and 'European' theory and practice. The US First Amendment is frequently seen as the benchmark, providing a test by which other regimes are to be judged, with only limited attention to the factors which influence different national traditions.

While recognising the significance of the many issues raised in hate speech literature, we believe that the discussion of how liberal democratic states protect free expression and oppose hate speech should be grounded in an approach which treats hate speech and its regulation as embedded in political, social and cultural processes. Briefly, we point to five aspects of such an approach, some of which are developed in the contributions to this Special Issue.

(1) Hate speech (the very existence of the category, how it is interpreted and operationalised) is best conceptualised as a social, cultural and political construct, its meaning dependent on the context in which it is deployed, and from whose perspective. This involves not only the legal discourse in which it is situated but also the claims of those who are victims (or perpetrators), and those who seek to problematise certain forms of speech. This is part of what we call the politics of regulation and its politicisation, in which the pros and cons of addressing hate speech are debated. In legal practice, a precise definition of 'hate speech' may be preferable (see Bader 2014) whereas in other contexts more inclusive notions can be used.

(2) Speech should be analysed with sensitivity to power differentials, a perspective which fundamentally distances itself from a naive version of speech as a 'free market place of ideas'. We need to acknowledge that public and political speech is not (exclusively or primarily) about truth seeking, and that in our societies, there are many 'public forums' each shaped by configurations of power that structure opportunities for access (of people, groups, viewpoints, issues, styles) and regulation, and that social inequalities affect the way public speech develops.

(3) Interpreting the balancing of free speech/hate speech entails analysing the wider (national) cultural/legal contexts and traditions, the social and political contexts that shape the debate, and the situations and settings in which the balancing and regulation takes place. Comparisons need to avoid re-producing stereotypical images of a country's approach, for example, citing the rulings of the US Supreme Court in favour of absolute free speech and ignoring other verdicts (see critically Walker 1994

and Bleich 2014), or assuming that laws punishing Holocaust denial signify the end of democracy without taking into account how this type of legislation has been implemented. An empirical and contextual analysis can assist in identifying why some forms of balancing seem plausible in specific situations and whether or not they merit serious (normative) consideration.

(4) One important, albeit difficult, task, is to analyse the role that legislation *actually* plays and the effects it may/may not have, while at the same time deconstructing how possible effects are represented by advocates and opponents of hate speech laws (see Van Spanje and de Vreese 2011, on the impact of the prosecution of Geert Wilders for hate speech). Social scientists may also contribute to the debate, and to some extent reclaim it from legal scholars, by focusing more on studying regulation (and its difficulties) outside of the legal arena.

(5) Legal regulation by states and supranational institutions, and public and political debate on hate speech, occur in an increasingly globalised context. This requires taking into account intertextual and transnational ties in the forming of national public and political agendas (as well as with regard to the operation of the law);

We develop some of these points below.

3. The Move to Regulation

Historically, a great number of legal restrictions on public speech have existed, which were commonly defended as necessary for maintaining public order, protecting public welfare and morals (e.g. banning blasphemy, *lèse majesté*, or sedition), or simply outlawing critique of the powers-that-be, or speech deemed to violate state interests. Whereas some restrictions on speech are retrospectively seen as illegitimate in liberal and democratic societies (e.g. suppression of socialist and communist views in the United States in the twentieth century), there is now debate on outlawing some forms of Islamist speech. Also 'blasphemy' still exists as a legal concept, for example in Denmark, and at least for the present in the Netherlands, even though it is no longer used to criminalise speech (Larsen 2014; Van Noorloos 2014).

A relatively new concern arose in the early-mid twentieth century, around restrictions thought necessary to address racist and anti-Semitic speech. In Europe, prior to the Second World War, such initiatives were at best 'sporadic and poorly enforced' (Bleich 2011b, 19), and primarily concerned with protecting democracy against its internal enemies, namely fascist and Nazi movements. The idea that there was a causal relationship between racist and anti-Semitic *acts* and racist *speech*, that the latter spread and legitimated the former, was carried over into the post-war era in legislation in Germany and Austria (Bleich 2011b, 19–20). In the early twentieth century, some states in the US also had provisions against racist and anti-Semitic hate speech, usually because this type of speech could be categorised as entailing 'fighting words' or 'group libel' (Bleich 2011b, 67–69; 2014).

Another route towards the regulation of racist speech developed against the background of the Universal Declaration of Human Rights of 1948. Of crucial importance was the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) of 1965, signatories to which committed themselves to developing legislation to ban racism and 'condemn all propaganda and all organisations which are based on ideas or theories of superiority of one race or group of persons of one color or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form' (in Bleich 2011b, 22). One of the primary goals of this declaration was to delegitimise and undermine racist regimes and racist discrimination by public authorities (Fennema 2000). The political context was the era of decolonisation, the campaign against Apartheid in South Africa, and the civil rights movement in the USA. How the 1965 ICERD affected the development of national legislation in countries that ratified it is a subject in its own right (Lerner 1980). Many countries had qualms: the USA, for one, only ratified in 1994 and set out its reservations, including those related to the articles concerning 'freedom of speech, expression and association', at great length.[5]

In a global perspective, the goal of fighting racism and racist speech continues to be linked to resisting racist regimes and policies, and preventing the escalation of intergroup hatred and ethnic or religious violence resulting in genocidal atrocities by states, militias or individuals, as in Rwanda or former Yugoslavia (Tsesis 2002; Cotler 2012). In Western Europe, likewise, following the experience of World War II, racism, rather than public morals or religious doctrine (e.g. blasphemy, but see Larsen 2014) became the principal concern of speech regulation. Normative and institutional pressure to restrict racist speech was also stimulated at a supra-national level, through the ICERD, and through the International Covenant on Civil and Political Rights of 1966 (Bleich 2011b, 22). In Europe, there was additionally a series of supra-national treaties and conventions related to the fight against racism.[6]

While debates about hate speech and its regulation need to be understood partly against the background of these supra-national developments, and partly in terms of their embedment within national political cultures (explored in contributions to this Special Issue), we must also take note of two general trends: a new understanding of the role of language which influenced ways of thinking about public speech and its effects (Rosenfeld 2012, 249); and the response to the political mobilisation against immigration and multiculturalism, especially by extreme right and populist parties, in societies that were becoming more ethnically diverse.

The idea that language is a type of action, that it has a performative force, gained currency, notably through the influence of philosophers such as Wittgenstein and Austin, through the work of Foucault and Bourdieu, and neo-Marxist studies of ideology and discourse (Fairclough, Van Dijk). The role of language in the marginalisation and oppression of minorities became a key concern, within so-called 'critical' studies (Matsuda 1993; Delgado and Stefancic 2004). In the slipstream of these academic developments, the theory and practice of anti-racism focused on the need to challenge and prohibit racist expressions in public discourse and in everyday

social practices (Müller 2009, 11). A similar theoretical and activist perspective developed around sexism in language, and discourse and practice which vilified sexuality or disability. So-called (and much maligned) 'political correctness' was one attempt to address discrimination by stigmatising terms or categories that contributed to the reproduction of unequal relations.

How these social-scientific and political ideas influenced proposals for hate speech legislation and jurisprudence requires further study, as does the role of the anti-racist movement in particular countries and how they interacted with legal and political movements and discourses. What is clear, however, is that the idea that 'language entailed action', and that there was real harm in certain ways of speaking about minority groups, which justified some kind of intervention by the state, became embroiled with the legal-political debate on criminalising hate speech and on reconciling criminalisation with freedom of expression. The move towards banning and punishing hate speech which stemmed from these developments meant both broadening and narrowing what kind of speech would be affected: broadening in that it would not only concern 'race' but also ethnic, cultural and religious difference, sexuality, gender and disability; but narrowing in that it would be about speech that was plausibly 'harmful' to people. The term 'hate speech' thus came into currency to justify restriction of speech targeted at people because of their 'core identities'.

European states that signed the ICERD committed themselves to implementing anti-racist legislation, which they mostly did in the 1970s (the UK in 1970 and 1976, Denmark and the Netherlands in 1971, France in 1972). By that time, the societal context was marked by growing ethnic diversity, the result of postcolonial and labour migration, and later through family reunification and the inflow of refugees. Of major significance for anti-racist legislation and its application were the anti-immigrant sentiments (exemplified by so-called 'race' riots in the UK and elsewhere) which developed along with the rise of extreme right and populist parties, including, among others, the Front National in France, the National Front and the British National Party in the UK, the Vlaams Blok/Vlaams Belang in Belgium, the Freiheitliche Partei Österreichs in Austria and the Centrum Democraten in the Netherlands. Not only did there apparently exist a direct relation between an increasingly xenophobic public speech and acts of racist violence and discrimination by individuals and organised groups, it also seemed that to halt the rise of extreme right parties, it was necessary to stop the spread of hateful political discourse.

The European Union (EU) began a joint approach to combat racism in response to the breakthrough of anti-immigrant parties in the European elections in 1984 and 1989 (Fennema 2000, 132ff.) However, besides the public speech of extreme right activists and political leaders, seen as driving racist violence and discrimination and manipulating the media (Van Dijk 1991), how the wider public engaged in 'everyday racism' (Essed 1991) also came under scrutiny, as did the ways in which speakers sought to camouflage xenophobic messages ('I am not a racist, but…'), or engage in coded speech or 'racism by proxy'. Given that it was thought xenophobic attitudes risked undermining the integration of immigrants, it seemed plausible to argue that

politicians and citizens should show restraint and refrain from speaking in a racist or discriminatory way.

The terrain of the hate speech/free speech debate was profoundly affected by the Rushdie Affair of 1989. The incidents following the publication of *Satanic Verses*, and the death threats directed at Salman Rushdie, demonstrated that the issue of regulating hate speech was not limited to protecting ethnic minorities from discriminatory speech. Moreover, while Muslim mobilisation against speech believed offensive on religious grounds could be seen (positively) as a demand for equality, it could also be seen (negatively) as threatening liberal norms. The latter perspective gained currency as European societies witnessed polarisation around immigrant integration in the 1990s, with politicians in many countries increasingly distancing themselves from multiculturalism. Finally, the Affair demonstrated how complex and deeply contested issues of group representation and the right to speak on behalf of a minority group could become, and how concepts such as 'group libel' or 'religious offence' could become politicised.

When *Jyllands-Posten* published a series of illustrations of the Prophet Muhammad in September 2005, setting off a chain of events, including a broad debate about balancing free speech and hate speech, it raised issues broached in the earlier Rushdie Affair, but in a context that was fundamentally different. Populist parties riding on a strong anti-Islam and anti-immigrant ticket were established in the political landscape and had entered the governments of several countries, with dramatic changes in countries previously thought of as 'progressive' and 'multicultural', such as Denmark, the Netherlands, Norway, and Sweden. 9/11 and subsequent attacks resulted in concern about incitement to violence and the 'glorification' of terrorism, but also in renewed questioning about the polarised nature of public debate and 'Islamophobia'. While the regulation of hate speech continued to be seen as necessary to inhibit acts of violence and the marginalisation of ethnic minorities (a possible cause for radicalisation), it was also linked to violence on the part of minorities themselves. Death threats and acts of violence against politicians and public commentators who were critical of Islam, including the assassinations of Pim Fortuyn (2002) and Theo van Gogh (2004), led to a hardening of positions around free speech, and the need to protect 'liberal values'. It is against this background that we will later situate the sociopolitical contestation around regulation of hate and racist speech.

While we do not pursue the discussion of normative positions and their part in national debates (but see Veit Bader's contribution), a comment is appropriate. An important part of the political debate is disagreement about whether and how speech may cause 'harm'. Even those sympathetic to the need to limit hate speech may question whether its effects can be established empirically. Heinze, for example, who writes about homophobia, comments (2009, 278) that there is no evidence that 'hate speech *demonstrably* causes detriment to the disparaged groups', at least, he adds, in 'stable and prosperous democracies'. He further observes that the fact that epithets such as 'nigger' are now widely disparaged may be attributed not to bans but to the

'free and robust exchange of ideas' (2009, 284). Kenan Malik (in Molnar and Malik 2012) makes a similar point: changes in attitudes and practice in the UK are not due to laws banning racial discrimination. On the other hand, bans may have a 'chilling effect' on free speech or 'impose the will of the state' (Jacobson and Schlink 2012, 221) in ways characteristic of totalitarian societies.

Against that, advocates of bans may argue that the effects should be seen in a wider perspective. A ban 'asserts that certain expressions are deemed unacceptable by the country as a whole and reassures vulnerable groups that their interests and identities are considered worthy of national acknowledgement' (Bleich 2011a, 928; see also Nash and Bakalis 2007, 364 ff. on the symbolic significance of the UK's Racial and Religious Hatred Act, 2006). Waldron (2012, 47), commenting on libel laws, puts it this way:

> [Such laws] vindicate public order, not just by pre-empting violence, but by upholding against attack a shared sense of the basic elements of each person's status, dignity, and reputation as a citizen or member of society in good standing—particularly against attacks predicated upon the characteristics of some particular social group.

More evidence is needed for the efficacy (and effects) of criminalisation, but in judging those effects, it is necessary to cast a wide net: constitutional and legal texts, yes, but also how they are interpreted by courts (jurisprudence), and how enforced (numbers of prosecutions, convictions and acquittals, penalties imposed, etc.), as well as exploring possible 'symbolical' effects and estimating hidden effects (e.g. demonstrated by the absence of speech).

Section 4 develops this discussion through a contextual approach to the politics of regulation.

4. Contextualising the Politics of Regulation

One of the effects of the focus on criminalisation is that it stimulates a formalistic approach to the issue of regulation, in which the main issue appears to be whether individual statements or wordings make a meaningful contribution to public opinion and/or whether the harm that is allegedly entailed in that expression merits 'punishment'. The hate speech literature, with its focus on exemplary individual statements, legal cases and decisions and normative principles, has thus to a large extent developed on a parallel track to the literature on racist and sexist discourse. The lack of sociological imagination in the hate speech literature is mirrored, however, by the lack of normative and legal reflexivity in critical studies of racism. A more contextual approach may be of assistance.

This entails, first, taking into account distinctive national traditions of governance of speech and the more general characteristics of political culture. Macro-comparisons between the US and the rest (notably Europe), have some value, and have produced some significant, if under-documented and under-theorised, observations, but they need to be examined more finely with regard to the complexities of

different European societies and their political histories (Bleich 2011b). We need to study not only different legal arrangements and concepts and terminologies of what is or is not illegal but also the broader operation of legal institutions in a distinctive sociopolitical context. For example, that several of the papers in this Special Issue relate to countries (the Netherlands, Norway, Sweden, Denmark) with reputations as liberal-progressive welfare states that have undergone dramatic changes in relation to multicultural policies and the rise of populist parties in recent years presents an opportunity for a more nuanced comparative approach. Their experience is illustrative of the intense international debate about free speech and its limitations which has been increasingly framed in terms of a confrontation between the values of liberal democracy and those of Islam, with public questioning of whether/when the law should be used to regulate speech.

Comparison also entails examining the cultural significance of speech in different societies: one analysis of the Danish Cartoon affair, for example, explored different cultural understandings of what constitutes a cause for humour (Kuipers 2011). Reichman (2009, 342) has further argued that conceptions of 'what it means to speak', can differ between countries. In his comparison between Israel and the USA, he argues that there is a different concept of the power of words. In Israel, which he describes as a 'hyper-heterogeneous society', they have

> an independent force; nearly mystical [with] the power to constitute reality … Each speaker is taken as having a formative power, and once a word is spoken it cannot be taken back … public discourse is infused with transformative speech. (2009, 343)

Speech is often seen as a 'threat to the complex mechanism of keeping the various social units together' (Reichman 2009, 343). By contrast in the USA, Post has argued (2009, 137), the freedom to speak is integral to the maintenance of diversity.

Further developing inter-country comparisons does not lessen the significance (in the contemporary period) of taking into account international and transnational influences, facilitated by technologies that have affected the spread, content, accessibility and availability of public speech and its possible consequences. Although there is little agreement on whether or not a kind of 'European public sphere' exists, it is clear that many events and debates (and legislation) are influenced by international events and each other's public discourse. In Europe, exemplary cases involving Islam demonstrate this. There we find a cross-national interweaving of political, academic and popular discourse, embracing a skein of vocabulary, sources, tropes, ideas, instances and paradigms as, for instance, in the Rushdie and Danish Cartoon affairs. This 'transnational intertextuality' brings into play understandings of free speech and its limitations which originate in different legal systems and political cultures, both within Europe and across the Atlantic.

The outcome of these simultaneous trends of divergence, reflecting national particularism, and convergence, remains to be seen. Perhaps, the transnational diffusion of minimal moral norms for balancing hate speech and free speech will

result in convergence, especially when institutionalised in international treaties and supranational legal and policy agreements (at the level of the EU and the Council of Europe for example). But it is also likely that regulation of speech will remain a symbol of state sovereignty and national distinctiveness, similar to the way country-specific models of church-state relations are often invoked to resist 'Europeanisation' (Koenig 2007). The use by the ECtHR of the 'margin of appreciation' doctrine in the domain of speech regulation constitutes one aspect of the interplay between forces of convergence and divergence (see Bleich 2014; Kučs 2014; Bader 2014).

Another issue is that discussion of the regulation of speech has become embroiled in the debate about secularism and the place of religious values and sensibilities, especially but not exclusively with regard to Islam, and thus bound up with other controversies including the wearing of conspicuously religious symbols in public (institutional) space, the funding of religious schools, the public financing of religions or the recognition of religious interlocutors. It has also entailed rethinking important legal concepts in this domain, such as blasphemy, whether religiously offensive speech should be seen as a form of 'cultural racism' or 'group libel', and to what extent religious speech should be protected if it is deemed offensive to minorities, for example in the case of anti-Gay sentiments (see Bob 2014). In some cases, for instance the UK, demands to prohibit hate speech converged with demands for legal equality between 'traditional' and 'new' religions with claims that blasphemy legislation should also protect Muslims or should be reformulated to include religions other than Christianity. In other cases, the very existence of a blasphemy law was seen as privileging the sensibilities of religious people, whereas general regulations against offensive speech should suffice for all.

Regulating to protect religious sensibilities or to include religious identity within the terms of reference of hate speech (as in the UK's *Racial and Religious Hatred Act* of 2006) is also linked to the wider issue of an imbalance of power between established groups and newcomers, and majorities and minorities. To understand what might seem in abstract a debate between those demanding protection from certain types of speech, versus those demanding the right to speak freely, power and social inequality must be taken into account. As Signe Larsen shows with regard to the Danish debate about blasphemy (2014), defending freedom of speech was no longer only about securing the right to criticise political power but also about securing the right to offend a religious minority. The debate is constructed in terms of upholding 'our' 'modern' norms against 'backward' religious values. In the spirit of 'muscular' or 'repressive liberalism' (Joppke 2007), defenders of secularism proclaim the need to challenge Islamic practices and offend Muslim religious sensibilities as a necessary step in their emancipation. This is of a piece with the reassertion of the cultural content of citizenship (its 'culturalisation', Moors 2009), and an increasing tendency to criminalise ethnic alterity (Ballard 2011). However, as Parekh (2012, 46) stresses, hate speech has a different meaning and potential impact when it concerns groups that face long-standing 'deeply rooted prejudices', as with persons of colour,

gays, Jews or Muslims. Inequalities are also reflected in the ability to gain access to the public debate, to 'speak back'; cultural capital is unevenly distributed.

Liberals, it is said, have the right to 'criticize all religions, the right precisely to treat nothing as 'sacred' or 'taboo', the right … not to respect sincerely held religious conviction, the right to have a good laugh at the godly' (O'Leary 2006, 24). But how is this to be balanced against the experience of those such as the British Muslim journalist Mehdi Hasan:

> Every morning, I take a deep breath and then go online to discover what new insult or smear has been thrown in my direction… The post that sticks in my mind is from the blogger who referred to me as a 'moderate cockroach'… The mere mention of the words 'Islam' or 'Muslim' generates astonishing levels of hysteria and hate on the web… A recent interview of mine with the shadow chancellor, Ed Balls, elicited the following response: 'Get out of my country, goatfucker'. (*The Guardian*, 8 July 2012)

But then, the task of balancing is further complicated when the private lives of those who criticise religion(s) are marked by threats and actual violence, as was (and is) the case in Denmark and the Netherlands for academics, journalists and politicians.

In multicultural societies, arguments in favour of free speech to challenge religious sensibilities have over the past two decades moved from the left to the right of the political spectrum, just as gender equality and gay rights are now commonly employed by populist leaders to challenge Islam. Diversity and the tensions apparently associated with it have provoked a two-fold, seemingly contradictory response. On one hand, as in the UK and elsewhere, laws protecting ethnic and religious minorities from discrimination and expressions of hatred, on the other a 'backlash' which seeks to restrict certain kinds of speech by (religious) minorities, and defend 'Western' or 'European' (sometimes described as 'Judeo-Christian') liberal (and secular) values. The contradiction is only apparent as the two approaches represent a change of focus: from protection *of* minorities, to the protection of the established order *from* minorities.

5. Responding to Hate Speech: Alternative Options?

Leaving the regulation of public speech to the law, notably in the form of criminalisation, limits other possible (legitimate) forms of action (Yong 2011), which, however, are also situated in a nexus of power relations and entail balancing hate speech and free speech.

Maleiha Malik (2008, 2009, 2011) contends that the criminalisation debate has been a 'costly distraction from a much-needed discussion about how to address the very real harm caused by hate speech' (2009, 105). Instead she emphasises engagement, establishing ways in which genuine differences of principle and belief may be accommodated without recourse to law, while remaining prepared to countenance its use in extreme cases. Her framework for a non-legal approach entails three basic tenets (egalitarian reciprocity; voluntary self-ascription; freedom of

exit and association) with degree of acceptance or rejection of those tenets providing a benchmark for determining whether it is possible to enter into dialogue.

One way into this debate is to conceptualise 'rules of the game' for public speech in liberal democracies (Fennema and Maussen 2000), distinguishing between 'rules of entry' and 'rules of deliberation', which may vary depending on the type of speech involved, the institution or setting in which it occurs, the actors or agencies that can regulate and the broader societal and national context.

A first step, then, is to distinguish different settings and contexts in which public speech occurs, for example state and governmental institutions (Parliament, courts), the public realm (the street, squares, football stadiums, demonstrations, the Internet) and institutions such as schools, theatres, workplaces and so on. A second is to assess whether speech conveying messages on public matters is central or peripheral to the activity in a particular setting and institution. For the purposes of balancing hate speech/free speech, chants in a football stadium might be considered differently from similar speech during a political rally, interfaith dialogues that aim to enhance understanding and respect may require stricter rules of entry and deliberation than a topical discussion in a debating club. Thirdly, we should consider how actors with a capacity to regulate (editorial boards, moderators on internet forums, teachers, discussion leaders, football associations) operate, and for what reasons. The editorial board of a newspaper, for example, obviously plays a major role in deciding what is published, but it does so in an organisational network, which includes various regulatory agencies and, for example, the Council of Europe's Mass Media Policy. It also acts in relation to the ethical codes of good journalism, the wishes of readers, and its assessment of the relevance of a story or message, including whether it will increase sales, or correspond with a proprietor's interests.

Non-legal regulation provides more opportunities for intervention before, during and after an event than does criminalisation. Such interventions, including the power relations involved, may be studied in a variety of contexts, such as schools and workplaces, but here we consider only political debate. One of the major challenges over the past 30 years in European democracies has been how to address outspoken anti-immigrant rhetoric by populist leaders. While some notorious individual cases have indeed been prosecuted, there has been unease lest it create heroic victims. Engaging with extremists, might also serve to legitimise their views and unintentionally contribute to increasing the visibility of hateful speech in the public realm, drawing leaders of mainstream parties into a style of speaking they rejected. One solution, long celebrated by anti-racist organisations, was the 'cordon sanitaire'. In the 1980s and 1990s, it was still common for television programmes in France, the Netherlands or the UK to exclude leaders of extreme right parties. In 2002 Jacques Chirac, as presidential candidate, refused to engage in a television debate with Jean-Marie Le Pen, leader of the Front National and his only contender in the second round, saying there was nothing to discuss with a representative of the extreme right. In the Netherlands, nearly all MP's would commonly leave the parliament when extreme right MP Hans Janmaat was speaking. With the stabilising of electoral

support for these parties, this strategy has not only been seen as ineffective but also as illegitimate from a democratic point of view. But media and politicians continue to struggle with how to engage with statements and discursive strategies employed by populists. How to prevent figures of speech introduced by the populist right (the country being 'swamped' by immigrants, 'Islamising' Europe, etc.), and how to shift the debate in other directions? How to respond when populists overstep what are seen as norms of civility in political debate, for example when Geert Wilders calls the prime minister of Turkey an 'Islamic monkey'?

Several authors have suggested possible ways of engaging with political extremists in public discussion (Fennema and Maussen 2000; Capoccia 2001; Rummens and Abts 2010, and for religious extremists, Malik 2008). One problem is that because political speech, especially by leaders, is highly protected in democracies and 'rules of entry' should be minimal, the threshold for legitimate exclusion is often the same as that for criminalisation. It is insufficient to say that the language of populists is intolerable or obnoxious, or that they stigmatise groups, to justify excluding them from public debate. The principal strategies available include confrontation in debate (or more optimistically engaging in dialogue), reframing issues (Lakoff 2004) and upholding democratic norms of civility. The Netherlands has shown that this may be quite effective, allowing the incorporation of populists in political debate and letting voters make up their own minds, as happened in the UK in 2009 when the British National Party leader, Nick Griffin, appeared on the BBC programme *Question Time*, after much heart-searching.

Maleiha Malik among others stresses the virtue of 'giving voice to all members of minority communities' (2011, 28), and enabling marginal groups to 'speak back' (Gelber 2012), as in the Norwegian inter-faith dialogues discussed by Mårtensson (2014). This may be easier said than done. In the situations we are discussing, there is a multiplicity of actors employing representations, discourses, narratives and tropes, articulating different social and cultural forces and interests and engaging in a contest to control meaning. But it is in a context in which voices are unequal and questions of power and authority, the right to speak and name, are inevitably central.

6. Outline of the Special Issue

Awareness of the contexts, and of the power relations (macro, meso, micro) involved in balancing hate/free speech, is crucial in the analysis of regulation, legislative or other, as well as in any normative debate. This includes the circumstances and influences (national and international) which lead to legislation and how it is implemented, inside and outside the judicial process. It also encompasses monitoring and moderating speech in various contexts other than through legislation, and any attempt to counter hate speech with 'more speech' or otherwise engage with extremists through dialogue. This approach inter alia takes cognisance of the wide range of actors engaged in this process including (the list is not complete) religious leaders, academics, lawyers in all their various guises, legislators, activist

organisations, commissions of inquiry, police and security services, artists and writers, the media, and majorities and minorities of all kinds.

We do not offer an exhaustive account of these themes, but seek to investigate them from a variety of angles and at various levels in different national and international contexts. The papers in this Special Issue do so as follows. Signe Larsen, writing about parliamentary debates in Denmark concerning blasphemy legislation over the last 100 years, shows that the blasphemy provision is a 'floating signifier' which has been appropriated at different times to fit different political goals and societal identity constructions, as exemplified most recently by the Cartoons affair.

Clifford Bob looks at another Scandinavian country (Sweden) and recent legislation protecting sexual minorities from contemptuous speech. The law was opposed by Christian traditionalists who courted prosecution by flouting it in a case which attracted international attention, with foreign activists on both sides using it in their own domestic battles over gay rights and religious expression.

Ulrika Mårtensson, writing about Norway, illustrates another aspect of the interaction between religion and free speech in a case study of an interfaith dialogue between the Church of Norway and Islam which sought to address the claims of far right politicians concerning the incompatibility of Islam and human rights, in particular freedom of speech, and hence the impossibility of integrating Muslims in Norwegian society. The dialogue, she argues, enabled Muslims to 'speak back' to hate speech.

Marloes van Noorloos examines the limits of criminal law on hate speech in the Netherlands with particular attention to the prosecution of the politician, Geert Wilders. She shows how legal developments around hate speech bans have interacted with sociopolitical changes in a multicultural society in the twenty-first century, and how bans have become politicised, leading to contestation over fundamental rights and the role of the judiciary versus the legislature.

Sindre Bangstad, who defends hate speech legislation along lines suggested by Waldron (2012), shows how Norwegian social, political and legal elite understandings of freedom of expression and its limitations moved from the late 1990s to the early 2000s, in a more liberal direction, partly in response to the acquittal of a Norwegian neo-Nazi accused of anti-Semitic and racist hate speech. Bangstad contends that legal restrictions on hate speech are not anti-liberal since such speech undermines the principles of liberal and democratic societies in which equal citizenship rights and rights to dignity for individuals of all backgrounds are fundamental.

Erik Bleich contributes to the comparative analysis of the politics of hate speech regulation by examining the role of the Supreme Court in the USA and the ECtHR. Through analysis of court cases that constituted turning points in the regulation of racist speech, he argues that political cultural variables, legal texts and differences in jurisprudential norms strongly influence the overarching patterns of outcomes across jurisdictions. Yet, preferences of individual judges also matter, especially in cases that have shifted the trajectory over time within a region.

Artūrs Kučs turns attention to legal restrictions on representing historical events through an examination of the EU Council's Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law. This obliges states to declare an offence any speech that condones, denies or grossly trivialises crimes defined by the Nuremberg Tribunal. He compares the approach taken by the Human Rights Committee which monitors the International Covenant on Civil and Political Rights and jurisprudence of the ECtHR. Specifically, he investigates the justification for proscription of historical interpretations (e.g. concerning the Holocaust) in their jurisprudence and questions whether their decisions have a 'chilling effect' on freedom of speech.

Finally, Veit Bader develops a conceptual framework to identify the main dimensions of the legal and normative balancing of free speech and regulation of hate speech in different national contexts. From the perspective of liberal democratic constitutionalism, there is agreement that speech acts that violate basic principles of a decent life and protection from individual discrimination may be banned, whereas other grounds for speech restricted are contested. Contextualised balancing requires taking into account the way 'power asymmetries' affect public speech in a number of ways. Bader argues that both in normative theory and in 'experimentalist' constitutional learning in Europe some form of convergence is visible around minimal norms.

Notes

[1] Several of the papers in this Special Issue were presented at a workshop on the 'Regulation of Speech in Multicultural Societies', Amsterdam, July 2011, funded by a grant from the International Migration, Integration and Social Cohesion (IMISCOE) network. Participants were asked to address the following: What might justify the regulation of speech acts? What are the various means and modalities of speech regulation? What are the issues and considerations in different national contexts and institutional settings? This continued a line of inquiry that originated in other IMISCOE workshops relating broadly to the governance of culturally and religiously diverse societies (Bader 2007; Grillo 2008; Grillo et al. 2009; Maussen, Bader, and Moors 2011). We also thank the Institute for Migration and Ethnic Studies of the University of Amsterdam for their support and Boris Slijper for his help and guidance at all times. Special thanks to the anonymous referee who commented on the contributions.

[2] *Handyside v The United Kingdom* (1976) 1 EHRR 737, para. 49. Bader (2014) prefers the term 'freedoms of political communication' to distinguish the reasons for defending free speech in this regard from other concerns, such as freedom of artistic expression or freedom of religious expression.

[3] Horton (1993) covered this ground 20 years ago, concentrating on the Rushdie Affair. More recently, Hare and Weinstein (2009) and Herz and Molnar (2012a) alone amounted to 1200 pages with 63 individual contributions. See also Ellian, Molier, and Zwart (2011) and Maitra and McGowan (2012). There have been several journal special issues: *Indiana Law Journal*, 84(3), 2009, *International Migration*, 44(5), 2006, *Res Publica*, 17(1), 2011, and the *Journal of Ethnic and Migration Studies*, 37(6), 2011, on 'Limits to the Liberal State'.

[4] Many if not all supporters of the First Amendment do, however, draw the line at some forms of speech (e.g. Baker 2009, 155), and as Soutphommasane (2006, 36) puts it: 'If we are to

take liberal principles seriously, we should accept that there are justifiable reasons to restrict speech where it generates harm to others', while setting the bar quite high. Waldron (2010, 1600) thinks that legislation diminishes the 'presence of visible hatred in society' and demonstrates a commitment against 'public denigration' (Waldron 2010, 1600).

[5] CERD (2000, 37–39). The free speech doctrine developed in the 1960s and 1970s meant that there were few if any restrictions on racist speech (Bleich 2011b, 70–75).

[6] For the Council of Europe, these include the European Convention of Human Rights, the Framework Convention for the Protection of National Minorities, the European Convention on Transfrontier Television and the Additional Protocol to Convention on Cybercrime (McGonagle 2012). See also the EU's 2008 framework decision on the need to punish incitement to hatred or violence on the grounds of race, colour, religion, descent or national or ethnic origin (Bleich 2011b, 23).

References

Austin, J. L. 1962. *How to Do Things with Words*. Oxford: Clarendon Press.

Bader, V., ed. 2007. "Special Issue: 'State Governance of Islam in Europe'." *Journal of Ethnic and Migration Studies* 33 (6): 871–1020.

Bader, V. 2014. "Free Speech or Non-Discrimination as Trump? Reflections on Contextualised Reasonable Balancing and Its Limits." *Journal of Ethnic and Migration Studies* 40 (2): 320–338. doi:10.1080/1369183X.2013.851478.

Baker, C. E. 2009. "Autonomy and Hate Speech." In *Extreme Speech and Democracy*, edited by I. Hare and J. Weinstein, 139–157. Oxford: Oxford University Press.

Ballard, R. 2011. "'Honour Killing? Or Just Plain Homicide?'" In *Cultural Expertise and Litigation: Patterns, Conflicts, Narratives*, edited by O. Holden, 123–148. London: Routledge.

Bangstad, S. 2014. "Fighting Words: What's Wrong with Freedom of Expression?" *Journal of Ethnic and Migration Studies* 40 (2): 266–282. doi:10.1080/1369183X.2013.851475.

Bleich, E. 2011a. *The Freedom to Be Racist*? New York: Oxford University Press.

Bleich, E. 2011b. "The Rise of Hate Speech and Hate Crime Laws in Liberal Democracies." *Journal of Ethnic and Migration Studies* 37 (6): 917–934. doi:10.1080/1369183X.2011.576195.

Bleich, E. 2014. "Freedom of Expression versus Racist Hate Speech: Explaining Differences between High Court Regulations in the United States and Europe." *Journal of Ethnic and Migration Studies* 40 (2): 283–300. doi:10.1080/1369183X.2013.851476.

Bob, C. 2014. "The Global Battle over Religious Expression: Sweden's Åke Green Case in Local and Transnational Perspective." *Journal of Ethnic and Migration Studies* 40 (2): 212–229. doi:10.1080/1369183X.2013.851472.

Capoccia, G. 2001 "Defending Democracy: Reactions to Political Extremism in Inter-war Europe." *European Journal of Political Research* 39 (4): 431–460.

CERD (Committee on the Elimination of Racial Discrimination). 2000. *Reports Submitted by States Parties Under Article 9 of the Convention (CERD/C/351/Add.1)*. New York: UN Committee on the Elimination of Racial Discrimination.

Cotler, I. 2012. "State-Sanctioned Incitement to Genocide: The Responsibility to Prevent." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 430–455. Cambridge: Cambridge University Press.

Delgado, R., and J. Stefancic. 2004. *Understanding Words That Wound*. Boulder, CO: Westview Press.

Ellian, A., G. Molier, and T. Zwart, eds. 2011. *Mag ik dit zeggen? beschouwingen over de vrijheid van meningsuiting* [Am I Allowed to Say This? Reflection on the Freedom of Expression]. Den Haag: Boom Juridische Uitgevers.

Essed, P. 1991. *Understanding Everyday Racism*. Newbury Park, CA: Sage.

Fennema, M. 2000. "Legal Repression of Extreme-Right Parties and Racial Discrimination." In *Challenging Immigration and Ethnic Relations Politics: Comparative European Perspectives*, edited by R. Koopmans and P. Statham, 119–144. Oxford: Oxford University Press.

Fennema, M., and M. Maussen. 2000. "Dealing with Extremists in Public Discussion. Front National and "Republican Front" in France." *Journal of Political Philosophy* 8 (3): 379–400. doi:10.1111/1467-9760.00108.

Gelber, K. 2012. "Reconceptualizing Counter-Speech in Hate Speech Policy (with a Focus on Australia)." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 198–216. Cambridge: Cambridge University Press.

Grillo, R. D., ed. 2008. *The Family in Question: Immigrant and Ethnic Minorities in Multicultural Europe*. Amsterdam, the Netherlands: Amsterdam University Press.

Grillo, R. D., R. Ballard, A. Ferrari, A. J. Hoekema, M. Maussen, and P. Shah, eds. 2009. *Legal Practice and Cultural Diversity*. Aldershot: Ashgate.

Hare, I., and J. Weinstein, eds. 2009. *Extreme Speech and Democracy*. Oxford: Oxford University Press.

Heinze, E. 2009. "Cumulative Jurisprudence and Hate Speech: Sexual Orientation and Analogies to Disability, Age, and Obesity." In *Extreme Speech and Democracy*, edited by I. Hare and J. Weinstein, 265–285. Oxford: Oxford University Press.

Herz, M., and P. Molnar, eds. 2012a. *The Content and Context of Hate Speech: Rethinking Regulation and Responses*. Cambridge: Cambridge University Press.

Herz, M., and P. Molnar, eds. 2012b. "Introduction." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 1–7. Cambridge: Cambridge University Press.

Horton, J., ed. 1993. *Liberalism, Multiculturalism and Toleration*. Basingstoke: Macmillan.

Jacobson, A., and B. Schlink. 2012. "Hate Speech and Self-Restraint." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 217–241. Cambridge: Cambridge University Press.

Joppke, C. 2007. "Beyond National Models: Civic Integration Policies for Immigrants in Western Europe." *West European Politics*, 30 (1): 1–22. doi:10.1080/01402380601019613.

Klausen, J. 2009. *The Cartoons That Shook the World*. New Haven, CT: Yale University Press.

Koenig, M. 2007. "Europeanising the Governance of Religious Diversity: An Institutionalist Account of Muslim Struggles for Public Recognition." *Journal of Ethnic and Migration Studies* 33 (6): 911–932. doi:10.1080/13691830701432756.

Kučs, A. 2014. "Denial of Genocide and Crimes against Humanity in the Jurisprudence of Human Rights Monitoring Bodies." *Journal of Ethnic and Migration Studies* 40 (2): 301–319. doi:10.1080/1369183X.2013.851477.

Kuipers, G. 2011. "The Politics of Humour in the Public Sphere: Cartoons, Power and Modernity in the First Transnational Humour Scandal." *European Journal of Cultural Studies* 14 (1): 63–80. doi:10.1177/1367549410370072.

Lakoff, G. 2004. *Don't Think of an Elephant! Know Your Values and Frame the Debate: The Essential Guide for Progressives*. White River Junction, VT: Chelsea Green.

Larsen, S. E. 2014. "Towards the Blasphemous Self: Constructing Societal Identity in Danish Debates on the Blasphemy Provision in the Twentieth and Twenty-first Centuries." *Journal of Ethnic and Migration Studies* 40 (2): 194–211. doi:10.1080/1369183X.2013.851471.

Lerner, N. 1980. *The U.N. Convention on the Elimination of All Forms of Racial Discrimination*. Alphen aan de Rijn: Sijthoff and Noordhoff.

Maitra, I., and M. K. McGowan, eds. 2012. *Speech and Harm: Controversies Over Free Speech*. Oxford: Oxford University Press.

Malik, M. 2008. "Engaging with Extremists." *International Relations* 22 (1): 85–104. doi:10.1177/0047117807087244.

Malik, M. 2009. "Extreme Speech and Liberalism." In *Extreme Speech and Democracy*, edited by I. Hare and J. Weinstein, 96–120. Oxford: Oxford University Press.

Malik, M. 2011. "Religious Freedom, Free Speech and Equality: Conflict or Cohesion?" *Res Publica* 17 (1): 21–40. doi:10.1007/s11158-011-9141-7.

Mårtensson, U. 2014. "Hate Speech and Dialogue in Norway: Muslims 'Speak Back'." *Journal of Ethnic and Migration Studies* 40 (2): 230–248. doi:10.1080/1369183X.2013.851473.

Matsuda, M. J. 1993. *Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment*. Boulder, CO: Westview Press.

Maussen, M., V. Bader, and A. Moors, eds. 2011. *Colonial and Post-Colonial Governance of Islam. Continuities and Ruptures*. Amsterdam, the Netherlands: Amsterdam University Press.

McGonagle, T. 2012. "A Survey and Critical Analysis of Council of Europe Strategies for Countering "Hate Speech"." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 456–498. Cambridge: Cambridge University Press.

Molnar, P., and K. Malik. 2012. "Interview with Kenan Malik." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 81–91. Cambridge: Cambridge University Press.

Molnar, P., and N. Strossen. 2012. "Interview with Nadine Strossen." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 378–398. Cambridge: Cambridge University Press.

Moors, A. 2009. "The Dutch and the Face-veil: The Politics of Discomfort." *Social Anthropology/ Anthropologie Sociale* 17 (4): 393–408. doi:10.1111/j.1469-8676.2009.00084.x.

Müller, F. 2009. "Communicating Anti-Racism." Unpublished PhD thesis. Faculty of Social and Behavioral Sciences, University of Amsterdam.

Nash, D., and C. Bakalis. 2007. "Incitement to Religious Hatred and the 'Symbolic': How Will the Racial and Religious Hatred Act 2006 Work?" *Liverpool Law Review* 28 (3): 349–375. doi:10.1007/s10991-007-9023-4.

O'Leary, B. 2006. "Liberalism, Multiculturalism, Danish Cartoons, Islamist Fraud, and the Rights of the Ungodly." *International Migration* 44 (5): 22–33.

Parekh, B. C. 2012. "Is There a Case for Banning Hate Speech?" In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 37–56. Cambridge: Cambridge University Press.

Post, R. 2009. "Hate Speech." In *Extreme Speech and Democracy*, edited by I. Hare and J. Weinstein, 123–138. Oxford: Oxford University Press.

Reichman, A. 2009. "Criminalizing Religiously Offensive Satire: Free Speech, Human Dignity, and Comparative Law." In *Extreme Speech and Democracy*, edited by I. Hare and J. Weinstein, 331–354. Oxford: Oxford University Press.

Rosenfeld, M. 2012. "Hate Speech in Constitutional Jurisprudence. A Comparative Analysis." In *The Content and Context of Hate Speech: Rethinking Regulation and Responses*, edited by M. Herz and P. Molnar, 242–289. Cambridge: Cambridge University Press.

Rummens, S., and K. Abts. 2010. "Defending Democracy: The Concentric Containment of Political Extremism." *Political Studies* 58 (4): 649–665. doi:10.1111/j.1467-9248.2009.00809.x.

Soutphommasane, T. 2006. "Liberalism, Harm, and the Limits of Free Speech." *Australian Quarterly* 78 (5): 33–37. doi:10.2307/20638427.

Tsesis, A. 2002. *Destructive Messages: How Hate Speech Paves the Way for Harmful Social Movements*. New York: New York University Press.

Van Dijk, R. 1991. *Racism and the Press*. London: Routledge.

Van Noorloos, M. 2014. "The Politicisation of Hate Speech Bans in the Twenty-first Century Netherlands: Law in a Changing Context." *Journal of Ethnic and Migration Studies* 40 (2): 249–265. doi:10.1080/1369183X.2013.851474.

Van Spanje, J., and C. De Vreese. 2011. "The Way Democracy Works: Political Prosecution of Politicians and Its Effects on Satisfaction with Democracy." Paper Presented to the American Political Science Association, Annual Conference, Seattle, WA.

Waldron, J. 2010 "Dignity and Defamation: The Visibility of Hate (2009 Oliver Wendell Holmes Lectures)." *Harvard Law Review* 123 (7): 1596–1657.

Waldron, J. 2012. *The Harm in Hate Speech*. Cambridge, MA: Harvard University Press.

Walker, S. 1994. *Hate Speech: The History of an American Controversy*. Lincoln: University of Nebraska Press.

Yong, C. 2011. "Does Freedom of Speech Include Hate Speech." *Res Publica* 17 (4): 385–403. doi:10.1007/s11158-011-9158-y.