

HATE SPEECH ONLINE: ASSESSING EUROPE'S CAPACITY TO TACKLE AN EMERGING THREAT

From politically charged headlines to hate-filled interactions on social media, the phenomenon of words being used as weapons has rapidly taken shape in the public sphere within the last decade. Advances in global communication have made it easier for people across the world to stay in touch, exchange ideas, and foster cooperation at all levels of society. Nevertheless, communication technologies can also be used to spread extremist ideologies, racism, xenophobia, and other social ills, while potentially inciting individuals or groups to commit psychological abuse or physical acts of violence in the real world.

Hate speech is not a new issue societies are facing, and the question of where the limits of freedom of speech end and hate speech begins is one that has yet to be decided. However, in the past, means of mass communication were limited in scope and arguably more quantifiable. These days, the rapid expansion of the Internet and the birth of social media have an effect on billions of people worldwide and have brought the issue of hate speech to the forefront of social and political discourse. Perceived anonymity in cyberspace and the ability to cheaply reach large numbers of people in a multimedia environment makes the Internet an attractive arena for individuals that are intent on engaging in hate-filled rhetoric that targets immigrants, the lesbian, gay, bisexual, and transgender (LGBT) community, persons with disabilities, and other vulnerable groups.

Upon analyzing the comments made by users on popular news sites, video sharing websites, social media and other fora, it may appear as if cyberspace is governed by no rule, except for the law of the jungle. However, this is not quite the case, at least within the European Union. As part of PRISM – Preventing, Redressing, and Inhibiting hate Speech in new Media, a project funded by the European Commission's DG Justice – UNICRI, as a member of a consortium led by the Associazione Ricreativa e Culturale Italiana (ARCI) that includes 11 partner organizations based in 5 European countries, has engaged in significant research on the legislative frameworks and procedures in place across Europe to combat hate crime, particularly hate speech in new media.

The data obtained to produce the Comparative Analysis: Legislation and Existing Legal Procedures for addressing Hate Crime and Hate Speech across the European Union was derived through the distribution of a comprehensive questionnaire to national equality bodies and relevant ministries in each of the 28 EU Member States. 1 The questionnaire covered issues pertaining to the adherence to international protocols, European and national level legislation, legal procedures, mechanisms for reporting, interagency cooperation, and levels of awareness.

Responses were received from entities in 18 EU countries, allowing for the assessment of trends at the macro level with respect to the use of definitions, the diversity of legislative frameworks, information sharing, reporting procedures, and gaps in awareness and training.

Stakeholders responding to the questionnaire were generally very open, offering important insights for preventing and countering hate speech at the practical level.

To begin with, working definitions of hate speech are often employed to tackle this phenomenon and typically vary from country to country, posing a challenge to harmonization efforts. While utilizing working definitions, and in some cases strictly defining "hatred" in national legislation, can be beneficial at the country-level for tailoring laws to the cultural context, legal harmonization across borders is important in the cyber domain as crimes committed in this field are often transnational in nature. Failure to do so can lead to jurisdictional barriers and differing interpretations as to what constitutes hate speech in a particular state. On

the positive side, however, the EU has formulated unified language on forms of hate speech through the enactment of EU Council Framework Decision 2008/913/JHA, meant to be complied with by all member states. Moreover, guidance on hate-based crime from international institutions, such as the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe provide a basis from which legislation on hate speech can be further enhanced. The Council of Europe's Convention on Cybercrime, and specifically its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, represents a benchmark in the fight against hate speech; yet, some states within the EU have still not ratified these fundamental pieces of international legislation.

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In the area of national legislation, many states do prosecute hate speech, but also continue to rely on outdated laws that fail to take into account the potential damage caused by committing such acts in a multimedia environment, which can impact countless individuals. Other states have taken a different route by enacting hate speech legislation that encompasses enhanced penalties for offenses carried out through computer systems, or the like. While serving to contribute to the diversity among legal frameworks for the time being, states such as Croatia, Greece, Latvia, and Spain, among others, do have legislation of this nature and can serve as examples for others to follow.

Disparities with respect to victim assistance and relevant services have also emerged as major issues that need to be addressed in this field. Reporting hate speech incidents in-person or via phone to local police stations remains the standard reporting method in all member states. Other forms of recourse available to victims, depending on their country, include reporting to prosecutorial offices; contacting the police through mobile phone applications, email, or online forms; reporting via a toll-free hate crime hotline; reporting to equality bodies and via third parties; and reporting incidents anonymously. However, according to the data obtained from stakeholders, these methods represent the exception rather than the norm, with most states often offering only two or three of these additional reporting methods. In the case of online hate speech, reporting cybercrime of any kind is typically bewildering to victims due to its virtual nature; therefore, providing multiple methods of reporting can offer them channels through which they can comfortably bring incidents to the attention of law enforcement authorities, and simultaneously tackle underreporting.

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While underreporting represents a serious risk when trying to accurately calculate the number of hate speech incidents at national level, this task is additionally hampered by a lack of data sharing between law enforcement agencies and equality bodies, among others. Where information sharing does happen, it is normally carried out through ad-hoc arrangements. In other circumstances, channels may be official, but information is likely separated in different agency databases, being difficult to share due to restrictions posed by data privacy laws.

This separation of information leads to the creation of knowledge gaps, contributing to the inability of national authorities to accurately gain a comprehensive understanding of hate speech in their respective countries. While states have begun to form specialized law enforcement departments and prosecutorial offices to address hate-based crime, these entities will still need to routinely share information with national equality bodies and civil society to bridge any knowledge gaps, promote awareness, and build trust within the community.

Finally, training and awareness were evaluated through the questionnaire, with respondents being allowed to rate awareness levels of hate speech among policymakers, civil society, the general public, prosecutors, law enforcement and the private sector. Perceptions regarding hate speech awareness among the general public and the private sector were typically the lowest, with respondents citing poorly funded (or nonexistent) public awareness campaigns and a lack of cooperation with social media and private enterprise as being significant factors. In many countries, training on how to deal with hate speech is often not mandatory, and when it is

available, programmes routinely target general human rights issues and are only open to certain actors, such as law enforcement, while failing to take into account the needs of judges or other key stakeholders. Training remains an important tool for actors to exchange good practices, engage in dialogue, forge networks of cooperation, and kick-start public awareness and victim assistance initiatives.

In conclusion, examples of good practices and legislative measures to combat hate speech are prevalent throughout the EU and efforts are being made to prosecute hate speech. Yet, these measures are frequently overshadowed by apparent differences in national frameworks and procedural deficiencies in a number of areas, as listed above. However, the diverse nature of the EU allows for states to learn from one another and evaluate the varied approaches employed to combat this rapidly emerging threat. In moving forward, the EU can serve as a catalyst for bringing its member states and multiple stakeholders together, and promoting awareness, training and information sharing.

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It is within this scenario that Europe can distinguish itself and exhibit its strength to effectively address hate speech in new media, simultaneously speaking with a unified voice to foster positive change at the global level.

Footnotes

1. For more information, and to download all of the available PRISM reports, please visit: http://unicri.it/special_topics/hate_crimes/

The project and the author

PRISM is a project funded by the European Commission - DG Justice, under the Fundamental Rights and Citizenship Programme. PRISM has worked to develop effective strategies for awareness raising, information and dissemination, both for increasing denunciations and reporting, as well as for promoting a more conscious use of language, in order to reduce the use and impact of hate speech. For further information, please consult the PRISM website at prismproject.eu, or the project's Facebook and Twitter pages.

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