ARTICLE 19

Responding to 'hate speech' with positive measures: A case study from six EU countries

2018

Report

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This report was produced with financial support from the Rights, Equality and Citizenship (REC) Programme of the European Union. The European Commission does not necessarily share the opinions expressed within the report. ARTICLE 19 bears the sole responsibility for the content.

The report was produced as part of "Media Against Hate", a Europe-wide campaign initiated by the European Federation of Journalists and a coalition of civil society organisations, including the Media Diversity Institute (MDI), ARTICLE 19, the Croatian Journalists Association (CJA), Community Media Forum Europe (CMFE), Community Medien Institut (COMMIT) and Cooperazione per lo Sviluppo dei Paesi Emergenti (COSPE). For more information about the campaign see: http://europeanjournalists.org/mediaagainsthate/

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Executive summary

In this brief, ARTICLE 19 offers an overview of positive measures which States should take to respond to 'hate speech,' and provides examples of such measures from six European Union (EU) countries.

Under international human rights standards, States are obliged to adopt a series of complex measures to ensure an enabling environment for freedom of expression and equality.

When responding to 'hate speech,' States should not limit themselves to sanctions and prohibition for such expression. Experience shows that this approach is often counter-productive, as it fails to address the underlying social roots of the kinds of prejudice that drive 'hate speech.' Excessive restrictions of 'hate speech' might be a temporary way of dealing with the issue, but may result in the violation of international standards on freedom of expression and undermine the protection of equality in the long-term. In most instances, equality is better-promoted through positive measures, which increase understanding and tolerance, create spaces for inclusive dialogue, and promote intercultural understanding.

Examples of positive measures outlined in this brief have been identified by ARTICLE 19 through our work addressing 'hate speech' globally, and through research commissioned by ARTICLE 19 in 2017 in six Member States of the EU: Austria, Germany, Hungary, Italy, Poland and the United Kingdom. The brief is not an exhaustive report on all positive measures undertaken in the respective countries: it provides examples of actions which illustrate possible approaches in this area, including for the media sector.

This brief first offers an overview of key international and Council of Europe human rights instruments stipulating State obligations to adopt positive measures in response to 'hate speech.' It then elaborates examples of such measures in the six countries of the study.

ARTICLE 19 hope that the examples outlined in this brief can assist States in their identification of further positive examples of alternative policy measures to censorship, in order to more effectively address the root causes of hatred and increase general awareness among societal stakeholders of 'hate speech' - throughout the EU and beyond. The brief also aims to advance progressive interpretations of applicable international human rights law in this area, including to increase understanding of the standards laid out in the UN Rabat Plan of Action among decision-makers and stakeholders in the EU.

Introduction

'Hate speech'* is an emotive term which does not have a uniform definition under international human rights law: in general, it refers to a broad range of expression of discriminatory hatred towards people.

'Hate speech' and its consequences, including violence and discrimination, are serious human rights concerns, including from a freedom of expression perspective. Often, 'hate speech' has real impacts on the freedom of individuals in minority or marginalised groups to speak out and be heard, as well as on the freedom of others to hear their opinions and ideas.

ARTICLE 19 has long argued that when responding to 'hate speech,' States should not limit themselves to prohibiting and sanctioning 'hate speech'; they should also adopt a series of complex measures to ensure an enabling environment for freedom of expression and equality.

Experience shows that relying solely on prohibition of 'hate speech' is often counter-productive to the promotion of equality, as prohibition fail to address the underlying social roots of the kinds of prejudice that drive 'hate speech.' Excessive restrictions of 'hate speech' might be a temporary way of dealing with the issue but they may result in the violation of international standards on freedom of expression and undermine the protection of equality. In most instances, equality is better-promoted through positive measures, which increase understanding and tolerance, create spaces for inclusive dialogue, and promote intercultural understanding. These measures should be based on, and supported by, a firm commitment to respect human rights, and should foster participation from all quarters of society. It is through these practical and positive policy measures that States can increase inter-group communication and trust, and change hearts and minds to address the root causes of 'hate speech.'

International human rights standards provide numerous recommendations on positive measures to respond to 'hate speech' across all aspects of public life, in particular through addressing prejudice and discrimination and other negative consequences of 'hate speech.' In this brief, we offer examples of such positive measures, identified by ARTICLE 19 through our work addressing 'hate speech' globally, and through research in six Member States of the European Union (EU) -

* While 'hate speech' has no definition under international human rights law, the expression of hatred towards an individual or group on the basis of a protected characteristic can be divided into three categories, distinguished by the response international human rights law requires from States: a) severe forms of 'hate speech' that international law requires States to prohibit; b) other forms of 'hate speech' that States may prohibit; and c) 'hate speech' that is lawful but nevertheless raises concerns in terms of intolerance and discrimination, meriting a critical response by the State, but should be protected. Given the complexity around this term, ARTICLE 19 refers to it as 'hate speech' in this and other policy documents.

Austria, Germany, Hungary, Italy, Poland and the United Kingdom - commissioned by ARTICLE 19 in 2017.

The brief is not an exhaustive report of all the positive measures undertaken in the respective countries: it provides examples of actions which illustrate possible approaches in this area, including for the media sector.

Firstly, the brief offers an overview of key international and Council of Europe human rights instruments stipulating the obligations on States to adopt positive measures in response to 'hate speech.' We then explore examples of these measures in the six countries (however, the brief does not evaluate the effectiveness of the respective measures in these countries).[1]

ARTICLE 19 hopes that the examples outlined in this brief can assist States in their identification of further positive examples of alternative policy measures to censorship, in order to more effectively address the root causes of hatred, and increase awareness among various societal stakeholders of the issues around 'hate speech' throughout the EU and beyond. The brief also aims to advance progressive interpretations of applicable international human rights law in this area, including to increase understanding of the standards in the UN Rabat Plan of Action among decision-makers and stakeholders in the EU.[2]

Positive measures against 'hate speech' under human rights law

The right to freedom of opinion and expression[3] (freedom of expression) and the right to equality and non-discrimination[4] (right to equality) for all people are fundamental human rights, protected by international human rights standards.

International human rights law requires States:

- To guarantee to all people **the freedom to seek, receive or impart information or ideas** of any kind, regardless of frontiers, through any media of a person's choice;[5] and
- To guarantee **equality in the enjoyment of human rights**, and equal protection of the law.[6]

It is the protection of dignity for all people, without discrimination, which motivates most responses to 'hate speech.'[7]

While the right to freedom of expression is fundamental, it is not absolute. Under international and regional human rights standards, States may, exceptionally, limit the right to freedom of expression, provided that the limitation is:[8]

- **Provided for by law**: any law or regulation must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly;
- **In pursuit of a legitimate aim**, listed exhaustively as: respect of the rights or reputations of others;[9] or the protection of national security or of public order, or of public health or morals; and
- **Necessary in a democratic society**: States are required to demonstrate in a specific and individualised fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.

Further, States are obligated under Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) to prohibit the most severe forms of 'hate speech,' i.e. any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

The requirements of Article 20(2) of the ICCPR have been clarified in the Rabat Plan of Action which provides guidance on the limitation of the right freedom of expression under international human rights standards.[10]

Positive measures under international standards

International human rights standards highlight the importance of a range of positive policy measures States should employ alternatives to censorship, in order to more effectively address the root causes of 'hate speech.' States are obliged to create an enabling environment for freedom of expression and equality, to take positive steps to promote diversity and pluralism, to promote equitable access to the means of communication, and to guarantee the right to information.

The relevant international standards include:

- **United Nations Human Rights Council Resolution 16/18** on 'combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence, and violence, against persons based on religion or belief.'[11] Resolution 16/18 recognises that the promotion of inclusion, diversity, and pluralism is the best antidote to 'hate speech,' along with policies and laws to tackle the root causes of discrimination.

Aside from measures to criminalise incitement, it stipulates that States should:

- Create collaborative networks to build mutual understanding, promote dialogue, and inspire constructive action in various fields;
- Create a mechanism within government to identify and address potential areas of tension between members of different religious communities, and assist with conflict prevention and mediation;
- Train government officials in effective outreach strategies;
- Encourage efforts by leaders to discuss within their communities the causes of discrimination, and evolve strategies to counter them;
- Speak out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;
- Combat denigration and negative religious stereotyping, as well as incitement to religious hatred, including through education and awareness-building;
- Recognise that the open, constructive, and respectful debate of ideas plays a positive role in combating religious hatred, incitement, and violence.

While UN Human Rights Council resolutions are not legally binding, they are often grounded in States' international human rights obligations, and represent a commitment by States to take action on specific human rights issues.

- **The Istanbul Process** is a series of inter-governmental meetings, initiated in 2011, to promote and guide implementation of Resolution 16/18. It has the potential to be a cross-regional, inclusive, and participatory forum for exchanging best practices in tackling intolerance on the basis of religion or belief. Representation in the process and its meetings should be drawn from domestic government ministries and agencies whose mandates encompass public efforts to tackle discrimination, as well as a broader range of stakeholders, including civil society, religious leaders, the media and technology companies.

- **The Rabat Plan of Action** calls for a variety of positive policy measures from States, many of which are also found in the action plan of HRC Resolution 16/18. In addition, it emphasises a number of other measures for States to take, including recommendations to:

    - Create 'equality bodies' or enhance the function of national human rights institutions established in accordance with the Paris Principles,12 to promote dialogue, but also in relation to accepting complaints about incidents of incitement under Article 20(2) of the ICCPR;

    - Create mechanisms and institutions to systematically collect data in relation to incitement under Article 20(2) of the ICCPR;

    - Have in place a public policy and a regulatory framework which promote pluralism and diversity of the media, including new media, and which promotes universal and non-discrimination in access to and use of means of communication;

    - Promote and provide teacher training on human rights, and strengthen intercultural understanding as part of the school curriculum for pupils of all ages;

    - Build the capacity of security forces, law enforcement agents, and those involved in the administration of justice on issues concerning the prohibition of incitement under Article 20(2) of the ICCPR; and

    - Strengthen current international human rights mechanisms to provide advice and support to States with regard to national policies for implementing human rights law.

The Rabat Plan of Action also emphasises the role of non-State actors in speaking out against 'hate speech' and countering intolerance. In this way, it takes a 'whole

of society' approach to promoting inclusion, diversity and pluralism, underscoring the importance of open civic space and the involvement of a range of different actors in addressing intolerance.

- **The 2017 Beirut Declaration and its 18 Commitments on Faith for Rights** was adopted within the initiative of the Office of the UN High Commissioner for Human Rights (OHCHR) on *Faith for Rights.*[13]

The Declaration and its 18 Commitments broadly outline ways for religious leaders, as well as leaders of non-theistic or atheistic movements, to mobilise religions to further human rights, in particular freedom of religion or belief and freedom of expression.

These include *inter alia:*

  - Revisiting religious interpretations which appear to perpetuate gender inequality and harmful stereotypes and those which condone gender-based violence;
  - Standing up for the rights of all persons belonging to minorities;
  - Publicly denouncing all instances of advocacy of hatred that incites to violence, discrimination, or hostility;
  - Refraining from oppressing critical voices;
  - Refining the curricula, teaching materials, and textbooks; and
  - Engaging with children and youth who are either victims of or vulnerable to incitement to violence in the name of religion.

- **The Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes'**[14] is structured around three clusters: 'prevent,' 'strengthen' and 'build.' While the Plan is focused on the role of religious leaders, it also makes recommendations to States, legacy and digital media, and also addresses the intersection between religion and incitement to gender-based violence.

Positive measures under European standards

At the European level, the relevant standards include, for example:

- The Committee of Ministers of the Council of Europe **Recommendation No. R (97) on 'hate speech'**[15] stipulates that States should respond to 'hate speech' in a manner that appropriately protects freedom of expression and places considerable emphasis on the role and responsibility of the media in tackling problems of discrimination and intolerance. It states that victims should be given the right to reply, or the right to order a retraction of the expression constituting 'hate speech.' It also recommends that the public and media are provided with information on the legal provisions applying to 'hate speech.'

  The explanatory memorandum to Recommendation No. R97 (20) recognises that responding to 'hate speech' through legal measures is not sufficient as 'hate speech' is "only one manifestation of intolerance that is part of a broad phenomenon with "deeper roots [...] linked to a variety of social, economic, cultural, historical and other factors." [16] It therefore highlights "the need to integrate such measures into a more comprehensive policy approach which incorporates not only legal measures, but also policy measures."[17]

- The Committee of Ministers of the Council of Europe **Recommendation No. R(97)21 on the Media and the Promotion of a Culture of Tolerance** points out that the media can make a positive contribution to the fight against intolerance, especially when they foster a culture of understanding between different ethnic, cultural and religious groups in society.[18] The Recommendation is targeted at media institutions, encouraging them to make positive contributions.

- The Council of Europe's **Charter on Education for Democratic Citizenship** aims to utilise education as a "defence mechanism against the rise of violence, racism, extremism, xenophobia, discrimination and intolerance."[19] It acknowledges that education makes a major contribution to social cohesion and social justice, and provides a number of recommendations to integrate human rights education and education for democratic citizenship into primary, secondary and tertiary education. These include recommendations on empowering young people to exercise and defend their democratic rights and responsibilities in society, to value diversity and to play an active part in democratic life, with a view to the promotion and protection of democracy and the rule of law.[20]

  The Charter recommends that education should seek to embed the values of "diversity and equality" and builds "mutual respect for human dignity and shared values" through encouraging dialogue and promoting non-violence in the resolution of problems and disputes."21 It is noteworthy that these measures are focussed on the encouragement of open dialogue, rather than the suppression of certain viewpoints.

Positive measures – civil society

ARTICLE 19 has developed the Camden Principles on Freedom of Expression and Equality, as well as other resource materials on addressing 'hate speech' while protecting the right to freedom of expression, which also outline positive measures States should undertake in this area.[22]

These include:

- Adopting a comprehensive public policy approach to tackling forms of intolerance and prejudice of which manifestations of 'hate speech' are symptomatic;

- Building institutional knowledge, especially through creating properly-funded and independent equality institutions, with mandates to develop data collection mechanisms and to promote scientific research on discrimination is an important first step for identifying key actors and obstacles to change, and to arrive at priority areas for policy interventions;

- Public education and information campaigns related to discrimination, especially in cases where discrimination is institutionalised and has a history of going unchallenged. Areas of priority may include schools, the medical profession, the armed forces, the police, the judiciary, and the Bar, as well as sport. It emphasises that cooperation with a broad range of stakeholders is necessary.

- Strengthening the role of an independent, pluralistic, and self-regulated media: a model framework for the media should promote the right of different communities to freely access and use media and information and communications technologies for the production and circulation of their own content and for the reception of content produced by others. The media should also recognise the role they play in responding to 'hate speech,' and reflect the principle of equality in voluntary professional codes of conduct, as well as taking effective steps to promulgate and implement such codes, including through effective self-regulatory mechanisms.

Speaking against intolerance and hatred

ARTICLE 19 has long argued that public officials, including politicians, have a key role to play in recognising and promptly speaking out against intolerance and discrimination, including instances of 'hate speech.' This requires recognising and rejecting the conduct itself, as well as the prejudice of which it is symptomatic, expressing sympathy and support to the targeted individuals or groups, and framing such incidents as harmful to the whole of society.

These interventions are particularly important where inter-communal tensions run high, or are susceptible to escalation, and where political stakes are also high, such as in the run-up to elections, during democratic transition, or during political and/or economic upheaval.

Actions in this area might include:

- **Carefully examining the circumstances in which counter-speech by public officials is most effective.** Condemnations of 'hate speech' may be insufficient if public officials fail to substantively and persuasively engage with the underlying anxieties and misperceptions that render parts of the public susceptible to 'hate speech'.

  Responses by public officials should therefore be nuanced, and go beyond denunciation to provide persuasive counter-narratives based on fact that appeal to and, where necessary, challenge the concerns and anxieties of the public. However, public officials should avoid responding to incidents of 'hate speech' where doing so would give undue attention to the positions of fringe individuals or groups that are not influential to public discourse.

- **Instigating or encouraging broader dialogue to counter intolerance and discrimination.** Early and effective intervention from public officials can play an important preventative role and guard against escalating tensions, deterring others from engaging in similar conduct. These figures can also play an important role in opening space for counter-speech by others, in particular those who are themselves targeted by the 'hate speech,' as well as sympathetic allies, including the silent majority for whom proponents of 'hate speech' often claim to speak.

  For example, at the Council of Europe, the No Hate Parliamentary Alliance unites members of parliaments who commit themselves to taking open, firm and pro-active stands against racism, hatred, and intolerance on any grounds, however they manifest themselves.[23] The parlamentarians must comply with the charter of commitments for membership of the No Hate Parliamentary Alliance, in which they pledge to:

- Take open, firm, and proactive stands against racism, hatred, and intolerance on any grounds;
- Promote non-discrimination and respect for diversity, grounded in the European Convention on Human Rights and its Protocols;
- Raise awareness of racism and intolerance amongst politicians and civil society, at the national and European levels;
- Conduct campaigning activities against racism, hatred, and intolerance by all means, including social media, in co-operation with national parliaments, at the national and European levels;
- Exchange information on law and best practices to prevent and combat racism, hatred, and intolerance with parliamentarians from other countries;

Members are also focal points for national stakeholders in this area.[24]

- **Politicians and public officials should avoid statements that might promote discrimination or undermine equality**, and must understand the dangers of trivialising violence or discrimination, including in the form of 'hate speech,' as well as the possibility of silence equating to tacit endorsement. In this regard, public bodies should have clear rules in place governing the conduct of individuals speaking in their capacity as public officials.

- **Parliaments and political parties should adopt ethical codes and anti-discrimination policies** for their members, in particular during elections and political campaigning, when the atmosphere is typically intense and underlying issues of inequality might come to the fore.[25] Other positive examples include pre-election pledges against 'hate speech.'[26]

For example:

- The 2016 Common Ethical Principles for Members of Parliament (Common Ethical Principles), developed by the Open Government Partnership (OGP), codify a set of norms which individual members of parliament should adhere to in their service as the people's representatives. In the section 'Valuing Diversity and Pluralism,' the Common Ethical Principles stipulate that "members of parliament have a duty to create an atmosphere of inclusion within the legislature for all segments of society… [They] shall demonstrate zero tolerance with respect to all forms of hate speech or intimidation, whether based on race, ethnicity, gender, religion, minority status, or other basis… [and have] a duty to ensure reasonable accommodations to facilitate the full participation of people with disabilities in the parliamentary process."[27]

- In the UK, the code of conduct of the Labour Party (Rule book) prohibits members of the party from engaging in conduct which, in the opinion of the National Executive Committee (NEC), "might reasonably be seen to demonstrate hostility or prejudice based on age; disability; gender reassignment or identity; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation… [T]hese shall include but not be limited to incidents involving racism, antisemitism, Islamophobia or otherwise racist language, sentiments, stereotypes or actions, sexual harassment, bullying or any form of intimidation towards another person on the basis of a protected characteristic as determined by the NEC, wherever it occurs… The NCC shall not have regard to the mere holding or expression of beliefs and opinions except in any instance inconsistent with the Party's aims and values, agreed codes of conduct, or involving prejudice towards any protected characteristic."[28]

  Disciplinary provisions are applied in case of breach of these provisions. In 2016, this policy was put into action when the 'Shami Chakrabarti Inquiry,' was carried out following allegations of racism and antisemitism in the party. The Inquiry resulted in twenty recommendations on tackling racism in the Party.[29]

- States should provide training for public officials, public figures, and State institutions on the rights to equality and non-discrimination, particularly in contexts where discrimination is institutionalised, or has historically gone unchallenged. Priority contexts should include schools and other educational settings, the armed forces, the police, the judiciary, the medical profession, legal services, political associations, and religious institutions. Equality training may form part of a broad range of measures designed to tackle institutionalised discrimination, and it should be clearly communicated to the public to demonstrate what efforts are underway, in order to build trust in institutions.

Role of equality bodies in addressing 'hate speech'

Independent equality institutions or **national human rights institutions** (NHRIs) with mandates in the area of non-discrimination and equality play a crucial role in responding to 'hate speech' and promoting and protecting the right to equality and non-discrimination, including with respect to the right to freedom of expression.

ARTICLE 19 has previously recommended that it is important that such institutions are properly resourced and are mandates, as appropriate, to:

- **Assist legislatures and governments in the development of laws and policies** that comply with States' international human rights obligations, including in relation to freedom of expression and non-discrimination, encouraging the full and effective participation of civil society in these processes;

- **Receive complaints** regarding discrimination, and, where appropriate, provide alternative and/or voluntary dispute resolution mechanisms;

- Complement and provide information to **governmental early warning mechanisms** or focal-points that monitor tensions within or between different communities; and

- Encourage and, where appropriate, **support alternative mechanisms for inter-communal interaction and dialogue**.

It is important that NHRIs and equality bodies, do not operate in isolation. They should be empowered to build partnerships across public sector agencies and, where appropriate, with private actors and civil society, to tackle the root causes of discrimination. In this regard, they should play an integral role in **developing and implementing national action plans** to tackle the root causes of discrimination, in particular those outlined in Human Rights Council Resolution 16/18, and the Rabat Plan of Action.

The following examples of equality bodies taking actions against 'hate speech' are illustrative in this area:

- In Austria, there are two key equality bodies tasked with addressing discrimination, which have an important role in responding to 'hate speech':

    - The Equal Treatment Commission can examine individual cases of discrimination and prepare analysis on questions related to discrimination.[30] If it finds that discrimination has occurred, the Commission can require the responsible person to cease the action (though it cannot award damages) and offer recommendations on realising equal

treatment in the specific situation: these must be implemented within three months of the decision.

- The Ombudspersons for Equal Treatment offers affected persons free and confidential advice and support.[31] Its mandate covers grounds of sex, ethnic origin, religion or belief, age, and sexual orientation. It is also entitled to represent affected persons in the Equal Treatment Commission and accompany them in proceedings. The duties of the Ombudspersons also include providing advice to those who wish to avoid discrimination, support with the handling/prevention of conflicts, investigating activities on behalf of the Equal Treatment Commission, independent investigations on discrimination, and awareness-raising, trainings, lectures, and workshops. Additionally, there is an Ombud for People with Disabilities, who is responsible for providing advice and support to those with disabilities.[32]

- In Germany, at the federal level, the Federal Anti-discrimination Agency is tasked with, *inter alia,* providing independent assistance to persons believed to have been discriminated against in asserting their rights.[33] This can include providing information as to the applicable legal provisions and judicial proceedings; arranging for further guidance and advice to be provided by other authorities; mediating between involved parties; engaging in advocacy and public relations concerning discrimination and equal treatment; taking measures to prevent discrimination; and conducting research and academic studies in the respective areas.

  Other bodies in the area of non-discrimination include the Commissioners for Migration, Refugees and Integration, and for People with Disabilities.[34]

- In Hungary, there are two equality bodies:

  - The Equal Treatment Authority (the Authority) has overall responsibility for ensuring compliance with the principle of equal treatment.[35] It conducts complaint-based or *ex officio* investigations to establish whether the principle of equal treatment has been violated and, if necessary, applies sanctions, or can offer a relatively wide range of remedies, ranging from injunctions to fines.

  - The Authority can also deal with complaints of 'hate speech' under the provisions of the Equal Treatment Act on harassment, which includes complaints submitted in relation to offensive statements or conduct by local government, public officials, or employees of State-funded institutions (hospitals, public transportation, or the police force).[36] The Authority publishes its decisions on its website and the media widely cover them, which contributes to public awareness on these issues.

- The Commissioner (an ombudsman-type institution) is responsible for the protection of fundamental rights in Hungary.[37] S/he can take action in response to complaints or proceed ex officio in case of human rights violations, and generally has soft powers in relation to remedies.[38] The recommendations and reports of the Commissioner often provide interpretive guidance on human rights provisions in the Constitution and can be taken into consideration by other institutions such as the courts.

- In 2013, the Commissioner launched 'Using Communication for Equal Dignity – Integrating Speech vs. Hate Speech,' a project which included several thematic studies examining different ways to prevent 'hate speech,' including issues related to media.[39] The Commissioner also investigates complaints against the media about specific 'hate speech' cases.[40]

- In Italy, the National Office Against Racial Discrimination (UNAR) carries out a number of tasks in the area of discrimination including: providing assistance to the alleged victims of discrimination; intervening in judicial proceedings; receiving complaints from victims and witnesses of incidents of discrimination and conducting its own independent inquiries; promoting and coordinating studies, research, training, communications campaigns as well as disseminating information on the protection tools available.[41]

  UNAR receives reports and complaints of discrimination, including 'hate speech,' through a Contact Centre accessible via a free telephone number or a form on its website. It has also a Facebook page, which informs users on its latest initiatives and re-directs to its website for the submission of reports and complaints to its Contact Centre.[42]

  UNAR runs the National Observatory Against Discrimination in the Media and Internet, which collects and analyses emerging forms of discrimination online media and on social networks.[43] UNAR also cooperates with the Observatory for Security Against Discriminating Acts, which can receive reports and complaints from individuals, institutions or associations via a (not free) telephone number or via email, and monitors cases of discrimination.[44]

- Poland has two equality institutions mandated to combat 'hate speech':

  - The Commissioner for Citizens' Rights (the Ombudsperson)[45] whose mandate includes monitoring, supporting, and promoting equal treatment; carrying out independent research on discrimination; preparing and publishing reports; and making recommendations on discrimination related-issues. S/he is also able to act on his/her own motion or in response to applications or complaints received from concerned individuals, and can carry out investigations and request that the competent authorities (in particular State, professional, or social supervisory bodies, or prosecution services) investigate a matter or certain aspects of it.

Since 2015, the Ombudsperson has kept dedicated records on complaints related to 'hate speech,' including in the media and in advertising. Importantly, the current Ombudsperson and his office additionally undertake various positive measures aimed at tackling 'hate speech' in Poland. The Ombudsperson maintains contact with the National Broadcasting Council, the editorial boards of the Polish media, the Council of Media Ethics, and representatives of social media platforms, and frequently raises his concerns in relation to their activities. The Ombudsperson proactively initiates dialogue on the need to combat 'hate speech' in public discourse. The Office of the Ombudsperson is very active in promoting space for debate among various stakeholders in the media environment, including social media, human rights organisations, politicians, and public authorities; for example, he has set up Anti-Hate Platforms to operate at national and local levels which provide space for such debates.

- The mandate of the Government Plenipotentiary for Equal Treatment primarily extends to the coordination of governmental policies in the area of equal treatment, and to the implementation of the National Action Plan for Equal Treatment, and should collaborate with equality NGOs and other civil society actors.[46]

- In the UK, the Equality and Human Rights Commission (EHRC) regularly collects general information regarding 'hate speech,' including 'hate speech' on social media, and publishes reports on this topic.[47] It has also issued guidance on the legal framework relating to freedom of expression, which includes references to the legal framework in respect of 'hate speech.'[48] The EHRC refers complainants who think they may be victims of a crime to the police or to the Independent Police Complaints Commission or, in Scotland, the Police Investigations and Review Commissioner; and, on its website, it promotes the online reporting of 'hate speech' to various governmental and non-governmental organisations.[49] The EHRC can conclude that it may have a "duty to make enquiries"[50] in relation to 'hate speech' in individual cases where the facts of a case suggest that a public authority or a body exercising public functions may have committed an unlawful act or may not have complied with the Public Service Equality Duty.[51] The EHRC also occasionally produces guidance for the media on reporting on certain minorities; for example, 'Gypsy Travellers in Scotland - a resource for the media.'[52]

Public policy on media pluralism and diversity and 'hate speech'

In ARTICLE 19's experience, instances of 'hate speech' often occur in situations where dissent and criticism are not tolerated; where media is owned or dominated by political actors, or a single actor; or where people access or rely on a single source or form of information, or listen to a single voice.

It is therefore crucial that States have in place a public policy and regulatory framework which fully protects the right to freedom of expression; promotes pluralism and diversity of the media, including digital media and social platforms; and which promotes universal and non-discriminatory access to, and use of, means of communication.

The public policy and regulatory framework for diverse and pluralistic media should include, in particular, the following tenets:

- Any regulation of the media should only be undertaken by bodies which are independent of the government, are publicly accountable, and operate transparently. Editorial independence and media plurality should not be compromised: both are essential to the functioning of a democratic society.

- Media pluralism should be guaranteed in practice as well as in law and policy. The term 'pluralism' is generally associated with recognition and respect for diversity in media supply or media ownership, i.e. the presence of a plurality of independent and autonomous media (external pluralism) and a diversity of media contents or output available to the public (internal pluralism). The concept, however, encompasses a "wide range of social, political and cultural values, opinions, information and interests to find expression through the media."[53] More specifically, it means the diversity of media supply, use, and distribution in relation to ownership and control; media types and genres; political viewpoints; cultural expressions; and local and regional interests.

- The right of different communities to freely access and use media, information, and communications technologies to produce and circulate their own content, as well as to receive of content produced by others, regardless of frontiers, should be promoted.[54]

This framework should be implemented through measures including:

- Promoting **universal and affordable access to the means of communication** and reception of media services, including telephones, the Internet, and electricity;

- **Eliminating discrimination in relation to the right to establish the media outlets** (newspapers, radio and television outlets), and other communications systems;

- **Equitable allocation of resources**, including broadcasting frequencies, among public service, commercial and community media so that, together, they represent the full range of cultures, communities and opinions in society;

- Requiring governing bodies of media regulators broadly to **reflect society as a whole,** including women, minorities, and people from all parts of the community and all walks of life;

- Effective measures to **prevent undue concentration of media ownership**;

- **Providing public support**, whether financial or in other forms, through an independent and transparent process, and based on objective criteria, to promote the provision of reliable, pluralist, and timely information for all, as well as the production of content which makes an important contribution to diversity or which promotes dialogue among different communities;

- Repealing restrictions on the **use of minority languages** that have the effect of discouraging or preventing media specifically addressed to different communities;

- Making diversity, including targeting different communities, one of the criteria for **assessing broadcasting license applications**; and

- Ensuring that **disadvantaged and excluded groups have equitable access to media resources,** including training opportunities.

Public service values in the media should be protected and enhanced by transforming State- or government-controlled media systems into public service media, by strengthening existing public service broadcasting networks, and by ensuring adequate funding for public service media, so as to ensure pluralism, freedom of expression, and equality.

Examples

The following examples in the area of media diversity and pluralism in individual States are illustrative of positive activities promoting tolerance in society and addressing the issue of 'hate speech':

- In the UK, Ofcom regulates, among others, broadcast media and the BBC (a public service broadcaster). Ofcom has legal obligations to promote plurality, diversity, and the inclusion of minorities in the media. This means giving due regard to the interests of different persons in different parts of the UK and of different ethnic communities, as well as promoting the development of opportunities and ensuring equality of opportunity between men and women, persons of different ethnic backgrounds, and persons with disabilities, in relation to employment and training in the media.

Ofcom has issued guidance on diversity in the broadcasting industry, together with the equality body, the EHRC. In August 2015, Ofcom and the EHRC launched a guide entitled 'Thinking outside the box' which aimed to set out steps which organisations could take to improve fairness and diversity, without falling foul of the law (addressing, for example, the use of paid internships, the use of databases that can lawfully identify potential employees from under-represented groups, and of 'tie-break provisions' which allow an employer to select the person from an under-represented group if two candidates are equally qualified). Ofcom has also developed an equality and diversity 'toolkit' for broadcasters, available on its website.[55]

- In Germany, the Interstate Broadcasting Treaty (the Treaty) serves as the umbrella law setting the framework for public and private broadcasting in all 16 German federal states. The Treaty obliges all national and regional broadcasters with a nationwide footprint to respect and protect human dignity, and the moral and religious beliefs of the population, in their programming. It also obliges broadcast media outlets to follow recognised journalistic ethical standards, and apply due diligence in their reporting.

- In Italy, in September 2016, the regulator AGCOM approved a regulation containing 'Guidelines on the Respect of Human Dignity and the Principle of Non-Discrimination in Programmes related to News, Information Analysis and Entertainment.' The Guidelines set out a series of recommendations for the prevention of discrimination and negative stereotyping in broadcasting. The guidelines are intended as an instrument of 'moral persuasion,'[56] promoting constructive (rather than punitive) sanctions. However, if these guidelines are breached by a broadcast during the protected time band, AGCOM is empowered to initiate proceedings against the responsible broadcaster and issue warnings as well as pecuniary sanctions.

- In Poland, the Broadcasting Council established the 'Media of Equal Opportunities' programme for the purpose of promoting equal treatment by the media, and organising competitions for the best media initiatives related to the principle of equal treatment. Moreover, the National Programme for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance includes activities such as periodic consultation of the Minority Media Council by representatives of the public service media, as well as running training for journalists who are members of national and ethnic minorities and who produce programming in minority languages.

Digital technologies, pluralism, and 'hate speech'

The proliferation of online 'hate speech' has been identified as a serious problem, and policy responses to it have posed certain challenges in terms of the protection of freedom of expression. There seems to be a reluctance to formulate specific and positive policies and approaches to promote pluralism through new media.[57]

ARTICLE 19 believes that there are many opportunities to foster pluralism through digital technologies, providing greater possibilities for individuals to engage in counter-speech and respond to 'hate speech'. States should dedicate resources and efforts to this area.

These could include, for example:

- Promoting and investing in **digital literacy skills**,[58] so that a wide range of individuals understand the benefits of digital technologies, particularly online media, as well as the benefits of engagement and contributing information;

- **Initiatives to monitor media pluralism** that should specifically include indicators relating to digital technologies, particularly as opportunities afforded by the Internet, convergence, blogging, social networking sites, mobile phones and other forms of electronic communication could result in monopolies of certain online platforms and create threats to media pluralism.

Media and 'hate speech'

The media play an important part in responding to 'hate speech' through promoting equality and non-discrimination, and the right to freedom of expression.

ARTICLE 19 has long argued that all forms of mass media should recognise that they have a moral and social responsibility to promote equality and non-discrimination. Equality and non-discrimination should apply to individuals with the broadest possible range of protected characteristics.

In respect of their own internal practices, mass media entities should take steps to:

- Ensure that their workforces are diverse, and representative of society as a whole;
- Address, as far as possible, issues of concern to all groups in society, in particular women, minorities and people from all parts of the community;
- Seek a multiplicity of sources and voices from within different communities, rather than representing communities as homogenous entities;
- Adhere to high standards of reporting that meet recognised professional and ethical standards; and
- Promulgate and effectively implement professional codes of conduct for the media and journalists that reflect equality principles.[59]

ARTICLE 19 has also repeatedly recommended that, in order to proactively combat discrimination, media entities should:

- Take care to report in context, and in a factual and sensitive manner;
- Ensure that acts of discrimination are brought to the attention of the public;
- Be alert to the danger of discrimination or negative stereotypes of individuals and groups being furthered by the media;
- Avoid unnecessary references to race, religion, gender, sexual orientation, gender identity and other group characteristics that may promote intolerance;
- Raise awareness of the harm caused by discrimination and negative stereotyping;

- Report on different groups or communities and give their members an opportunity to speak and to be heard in a way that promotes a better understanding of them, while at the same time reflecting the perspectives of those groups or communities; and

- Invest in and ensure access to professional development programmes that raise awareness about the role the media can play in promoting equality and the need to avoid negative stereotypes.

Public service broadcasters should be obliged to avoid negative stereotypes of individuals and groups, and their mandate should require them to promote inter-group understanding and foster a better understanding among the public of different communities and the issues they face.

Media self-regulation and 'hate speech'

ARTICLE 19 has also long argued that effective and independent self-regulatory mechanisms, with a comprehensive approach to developing and upholding media ethics, are always a preferable model to press regulation.

Independent self-regulatory bodies can then play an important role in responding to 'hate speech' in the media. Some activities that self-regulatory bodies can pursue in this area can include:

- The development of codes of conduct/ethics, which should also address 'hate speech' and issues of equality and non-discrimination.

  At a minimum, such codes of conduct/ethics should include, *inter alia,* a commitment to the following principles:

  - Respect for the public's right to know;
  - Accuracy in news gathering and reporting;
  - Non-discrimination in relation to race, ethnicity, religion, sex and sexual orientation;
  - Sensitivity in reporting on vulnerable groups such as children and victims of crime, as well as those groups that are a risk of discrimination;
  - Presumption of innocence in reporting on criminal procedures, including for those from minority groups; and
  - Duty to rectify published information found to be inaccurate or harmful.[60]

- Organising training and workshops for journalists on issues related to tolerance, equality and non-discrimination, rights of minorities, and reporting on vulnerable groups and the groups at risk;

- The establishment of equality council or a working group within the union to deal with the issue;

- Developing guidelines on reporting on minorities, gender, sexual orientation, race, ethnicity, migration, religious minorities, disability and other issues;

- Developing a specific charter or code of conduct for reporting on certain issues, such as minorities, gender, sexual orientation, race, ethnicity, migration, religious minorities, and disability;

- Initiating campaigns and organise debates among journalists, unions, publishers and civil societies;

- Developing space for dialogues with media organisations and media proprietors to defend ethical and quality journalism;

- Efforts to support public discussion on the work of journalists and, for example, media coverage of issues related to tolerance, equality, and non-discrimination, rights of minorities and vulnerable groups and groups at risk;

- The establishment of an Ethics Commission within self-regulatory bodies to discuss cases and review the code of ethics.

Examples

The following examples of self-regulatory bodies efforts in this area are particularly illustrative:

- In Hungary, the Editors' Forum in 2015 created a system called Korrektor, which attempts to resolve disputes through cooperation rather than through legal means or official proceedings.[61]

  Any publication can be the subject of a complaint if a complainant considers the publication to have acted against the Ethical Guidelines; any person or legal body has a right to file a complaint and can do so for free. The Korrektor system has resulted in a faster, more flexible, and less costly solution for parties filing complaints.

  Eighteen complaints were filed in the first year of the system's existence. One of these concerned an anti-Semitic headline on an article published on the main online news portal in Hungary: Index.hu. Although the complaint was refused

by the Committee of Experts, the news portal voluntarily corrected the allegedly anti-Semitic headline.

- In Italy, the 2016 Journalists' Ethical Code of Conduct incorporates the Charter of Rome, which is a national code of conduct journalists who write on migration and refugee-related themes.[62]

- In the UK, the National Union of Journalists of the United Kingdom and Ireland established a Black Members' Council to campaign for race equality in the union and in the workplace, and to tackle racism in the media.

There have also been some initiatives to address 'hate speech' on social media through cooperation with the media and social media companies. For example:

- In Hungary, the Internet Hotline Service, operated by the National Media and Info-communications Authority creates a route for reporting "illegal and harmful content", including "online harassment, racism, and xenophobia."[63]

  Also, in 2014-2015, the Centre for Independent Journalism organised 'Get The Trolls Out!' monitored traditional and new media to identify "anti-Semitic conduct and speech" by journalists and public figures.[64] The Centre exposed the most emblematic cases, and also undertook activities, like writing letters to the editors, writing articles, creating cartoons and posters, and making official complaints to the Media Council.

  Additionally, the Action and Protection Foundation monitors online and offline 'hate speech' and reports all potentially anti-Semitic hate related incidents to the police. They also promote non-violent and inclusive public discourse.[65]

Mobilising society against 'hate speech'

Civil society plays a critical role in advancing the protection and promotion of human rights. Their activities can be central in responding to 'hate speech,' as they can provide the space for both formal and informal interactions between people of similar or diverse backgrounds, and platforms from which individuals can exercise their right to freedom of expression, and tackle inequality and discrimination.

At local, national, regional and international levels, civil society initiatives are among the most innovative and effective for monitoring and responding to incidents of intolerance and violence, as well as for countering 'hate speech.'

Civil society initiatives are often designed and implemented by the individuals and communities most affected by discrimination and violence, and provide unique possibilities for communicating positive messages and educating the public, as well as monitoring the nature and impact of discrimination. Ensuring a safe and enabling environment for civil society to operate is therefore also crucial.

Public information and education campaigns are essential to creating an environment in which the sharing of information is maximised, and critical discourse can flourish. This is particularly the case when discrimination is institutionalised. Priority areas in this respect may include schools, the medical profession, the armed forces, the police, the judiciary, the Bar, as well as in sport. However, this also requires NGOs, equality bodies, religious institutions, police, policymakers and international organisations to collaborate on tackling manifestations of intolerance and prejudice in society.

For example:

- Since 2012, the 'No Hate Speech Movement' project of the Council of Europe has provided a platform for sharing examples, projects, and best practices in civil society campaigns. These campaigns are aimed at reducing acceptance of 'hate speech' in the region through various means, such as promoting media and Internet literacy and youth participation, activities to counter 'hate speech, through human rights education, raising awareness of the risks of 'hate speech' for democracy and disseminating various resource materials.

- In Italy:
    - Prism project (Preventing, Redressing and Inhibiting Hate Speech in New Media) is a joint initiative of Italian civil society and UNAR, together with four other European countries (France, Spain, Romania, and UK), funded

by the EU Fundamental Rights and Citizenship Programme.[66] The project is based on an interdisciplinary strategy and combines research, best practice, and training activities targeted at law enforcement, lawyers, journalists, bloggers, social networks, young people, teachers, and youth workers;

- The Young People Combating Hate Speech Online – No Hate Speech Movement, campaign, under the auspices of the Youth and Civil Service Department of the Presidency of the Council of Ministers and funded by the Council of Europe, aimed to counter online expressions of racism and discrimination by producing educational toolkits and running online campaigns aimes at young people and youth organisations;[67]

- The 'Intolerance Map' is a project of the Italian NGO VOX–Osservatorio sui diritti in partnership with three universities in Rome, Milan, and Bari. It consists of drafting a map to identify the insults and discriminatory messages targeting women, people with disabilities, LGBTQI people, and religious minorities posted through Twitter in Italy. The mapping exercise is 'sentiment-based': it consists of identifying the use of specific terms and how often they are 'virally' shared.[68]

- In Poland, 'Project HejtStop' is a user-friendly website for reporting online 'hate speech' and incitement to hatred cases, with extremely simple requirements for reporting incidents.[69] A legal analysis of the content or incident is carried out by the Project, and notifications of unlawful action can be filed to the relevant law enforcement authorities. The project has achieved great popularity in Poland thanks to successful public information campaigns by major Polish media.

- In the UK:

  - Stop Hate UK[70] provides independent, confidential and accessible reporting and support for victims of hate crimes and 'hate speech,' witnesses and third parties. It also provides alternatives for people who do not wish to report hate crimes to the police or other statutory agencies. It runs the Stop Learning Disability Hate Crime Line (a service for England and Wales) which provides support to people affected by learning disability hate crime; and the Stop Lesbian, Gay, Bisexual and Transgender Hate Crime Line which provides information, advice, support and telephone-based advocacy to LGBTQI[71] people who are experiencing discrimination or incidents of 'hate speech' as a result of their identity or perceived identity.

  - Stop Funding Hate campaign[72] is a campaign which aims to stop major companies (for example Aldi, Asda, Barclays, British Airways, Co-op UK, Gillette, Iceland, John Lewis, Marks & Spencer, Morrisons, Lego, Virgin Media and Waitrose), from advertising in certain newspapers, primarily tabloids *Daily Mail, The Sun* and *Daily Express,* which are described by

the campaign as spreading 'hate' *or discriminatory views.* In 2016, the campaign reported that Specsavers (a British optical retail chain) withdrew an advert from the *Daily Express,* as it considered the newspaper to be fueling "fear and division."[73] Also, in January 2018, the campaign reported Virgin Trains has stopped offering the Daily Mail on its trains due concerns over the newspaper's editorial position on issues including immigration, LGBTQI rights and individuals who are unemployed.[74]

Endnotes

[1] For more information about the effectiveness of the state responses to 'hate speech' in six EU countries, see, ARTICLE 19, Responding to 'hate speech': Comparative overview of six EU countries, 2018, available from https://bit.ly/2JtHQm4.

[2] Rabat Plan of action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility of violence, A/HRC/22/17/Add.4, 5 October 2012.

[3] See Article 19 of the Universal Declaration of Human Rights (UDHR), Article 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 9 of the African (Banjul) Charter on Human and Peoples' Rights (ACHPR); Article 13 of the American Convention on Human Rights (AmCHR), and Article 10 of the European Convention on Human Rights (European Convention).

[4] See Article 1 of the UDHR and Articles 2(1) and Article 26 of the ICCPR. At the regional level, for example, freedom of expression is protected in Articles 2 and 19 of the ACHPR, Articles 1(1) and 24 of the AmCHR and Article 14 of ECHR and in Protocol 12 to the European Convention.

[5] *Op.cit.*

[6] See, e.g. HR Committee, General Comment No. 18, 1989, para 6. The principle of non-discrimination is understood as any distinction, exclusion, restriction or preference against a person, based on a protected characteristic recognised under international human rights law, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

[7] Many responses and prohibitions to 'hate speech' are also justified on the basis of protecting national security, public order, or public morals. However, where these aims are conflated with the aim of protecting individuals from discrimination, responses that limit expression can easily become overbroad and subject to abuse.

[8] See, e.g., European Court, *The Sunday Times v. UK,* Application No. 6538/7426 Judgment of April 1979, para. 49.

[9] See Article 19(3) of the ICCPR and the regional treaties.

[10] ICCPR and Rabat Plan, op.cit.

[11] HRC Resolution 16/18 on 'Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief,' adopted by consensus on 24 March 2011.

[12] Principles relating to the Status of National Institutions (The Paris Principles), adopted by General Assembly resolution 48/134 of 20 December 1993, available from https://bit.ly/1SGrPXt.

[13] Beirut Declaration and its 18 commitments on "faith for rights," OHCHR, 2016, available from http://bit.ly/2v5Y8dk.

[14] UN Office on Genocide Prevention and the Responsibility to Protect, Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes, 14 July 2017, available from http://bit.ly/2oAK7IT.

[15] Recommendation No R(97)20 of the Committee of Ministers to Member States on 'Hate Speech,' adopted by the Committee of Ministers on 30 October 1997 at the

607th meeting of the Ministers' Deputies.

[16] Explanatory Memorandum to Recommendation No. R (97) 21, para 16.

[17] *Ibid.*

[18] Recommendation No. R(97)21 on the Media and the Promotion of a Culture of Tolerance, adopted by the Committee of Ministers on 30 October 1997 at the 607th meeting of the Ministers' Deputies.

[19] Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, adopted in the framework of Recommendation CM/Rec(2010)7, adopted by the Committee of Ministers of the Council of Europe on 11 May 2010, p. 3.

[20] *Ibid.,* Section 3, Relationship between education for democratic citizenship and human rights education, p.7.

[21] *Ibid.*, p.9.

[22] The Camden Principles on Freedom of Expression and Equality, ARTICLE 19, 2009, available from http://bit.ly/1XfMDrL. The Principles were developed with the participation of a high-level group of UN officials and representatives from other intergovernmental organisations. They set recommendations to promote greater consensus about the proper relationship between respect for freedom of expression and the promotion of equality, including through positive measures; see also e.g. ARTICLE 19's 'Hate Speech Explained' Toolkit, December 2015, available from https://bit.ly/2F3ZKxs.

[23] For information on No Hate Parliament Alliance, see https://bit.ly/2ErrEOG.

[24] Charter of commitments for membership in the No Hate Parliamentary Alliance, adopted on 29 January 2015, available from https://bit.ly/1TKE47n.

[25] Code of Conduct for Political Parties, 8 May 2008, available from https://bit.ly/2Eu6kbu. For example, nine political parties in Georgia adopted the Code of Conduct for Political Parties which called on political parties to 'to reject hate speech and refuse to use provocative, slanderous, degrading, xenophobic, threatening or any other types of statements that provoke violence; see the Code of Conduct for Political Parties, 8 May 2008, available from https://bit.ly/2Eu6kbu.

[26] For example, from a comparative perspective, a number of Tunisian political candidates prior to 2014 elections in Tunisia signed 'My pledge for Tunisia' in which they declared that they stand for a society that is free from discrimination and prejudices based on gender, religion and belief, race, ethnicity or nationality or on any other identity grounds and recognise the important role they play in promoting positive expression and debate. All signatories committed, *inter alia* to, take positive action to 'create an inclusive and diverse environment' in the country, reflect on how they speech and actions "affect others, especially the treatment of marginalised individuals and groups; challenge hate speech directed to marginalised groups and ensure that no individuals, groups or communities are targeted; keep violence, discrimination and hostility against marginalised groups out of all political debates and take steps to discourage such speech; uphold protection of human rights, especially freedom of expression, freedom of religion, and protection against discrimination, and to maintain Tunisia's commitment to the domestic and international protection of these rights; and support equality and integration to ensure all individuals and groups in society are granted equality of opportunities." For the full text of the pledge, see https://bit.ly/2IzoBXa.

[27] Common Ethical Principles for Members of Parliament, released in 2015, available from https://bit.ly/2GHekro,

[28] The Labour Party Rule Book, 2018, Chapter 2, Clause 1 para 8, available

from https://bit.ly/2EqXgE2,

[29] Report, The Shami Chakrabarti Inquiry, 30 June 2016, available from https://bit.ly/2IyhxtG,

[30] The Commission is an independent board at the Federal Ministry for Women, Media and Civil Service; for more information, see https://bit.ly/2v4WL39.

[31] The Ombud is a federal institution for the implementation of the equal treatment principle; there are three types of bodies: the Ombud for Equal Employment Opportunities for equal treatment of women and men at the workplace, the Ombud for discrimination on the basis of race, ethnic origin, religion, age and sexual orientation in relation to employment and the Ombud for discrimination on the basis of race, ethnic origin, religion, age and sexual orientation outside the working environment; for more information, see https://bit.ly/2H6wk1D.

[32] For more information, see https://bit.ly/2GGeCTv.

[33] For more information about the Federal Agency, see https://bit.ly/2GGEyhz.

[34] For more information about the Commissioner, see https://bit.ly/2HhPaAz; for more information about the mandate, see https://bit.ly/2GHJfb4.

[35] See the Hungarian Act CXXV of 2003 on equal treatment and on ensuring equal opportunities (ETA), available from http://bit.ly/2nWuIMg.

[36] The Hungarian Act CXXV of 2003 on equal treatment and on ensuring equal opportunities (ETA); Article 7, available from http://bit.ly/2nWuIMg.

[37] See the Hungarian Act CXI of 2011 on the Commissioner for Fundamental Rights.

[38] *Ibid.* For example, the Commissioner can address a recommendation to the supervisory organ of the authority subject to inquiry, may initiate redress of the impropriety by the head of the authority subject to inquiry, may initiate proceedings for the supervision of legality by the competent prosecutor through the Prosecutor General, initiate criminate proceedings in the matter or if the case is caused by to the lack or deficiency of the legal regulation of the given matter, the Commissioner may propose that the organ authorised to make law or to issue a public law instrument for the regulation of organisations modify, repeal or issue the legal rule or the public law instrument for the regulation of organisations, or propose that the organ in charge of preparing legal rules prepare a legal rule.

[39] Report of the Commissioner for Fundamental Rights, AJB-1199/2013, available from http://bit.ly/2sTzxXa.

[40] See, ARTICLE 19, Hungary: Responding to 'hate speech,' 2018, p. 35 – 36.

[41] Article 7 Legislative Decree No. 125 of 9 July 2003.

[42] For more information, see https://bit.ly/2u0HWwa.

[43] For more information, see https://bit.ly/2t1YcJa.

[44] For more information, see https://bit.ly/2t1Yjoa.

[45] Equality mandate issued to the Commissioner for Citizens' Rights, 1 January 2011.

[46] For more information on the office, see https://bit.ly/2Eygh7O

[47] For more information, see https://bit.ly/1UeOHB1. In addition, the UN have accredited the Scottish Human Rights Commission in Scotland and the Northern Ireland Human Rights Commission in Northern Ireland. In 2016, the EHRC published two reports containing information about hate crime which included sections on 'hate speech.' The first report, '*Causes and motivation of*

hate crime,' included a section on '*Online (cyber hate) hate crime perpetrators*' analysing amongst other things the characteristic profiles of cyber offenders; see the Commission, Research report 102: Causes and motivations of hate crime, 29 July 2016, available from https://bit.ly/2am17H6. The second report, '*Prejudice and unlawful behaviour, exploring levers for change*,' referred to trigger events for online hate speech based on incidents reported by TellMAMA, a charity supporting victims of anti-Muslim hate; see Research Report Prejudice and unlawful behaviour, exploring levers for change, 29 July 2016, available from https://bit.ly/2avZuG4.

[48] The Commission, Freedom of Expression Legal Framework, 1 February 2015, pp. 11–15, 18–19 and 24–26, available from https://bit.ly/2qcB0Zw.

[49] *Ibid.,* pp. 24–25; also see 'You can report hate speech online,' available from https://bit.ly/2GIbMsV.

[50] The Commission refers to the "duty to make enquiries" in a reference to Sections 31 and 32 of the Equality Act, 2006. Section 31 of the Equality Act, 2006 provides in essence that the EHRC may assess the extent to which or the manner in which a public authority or body exercising public functions has complied with the Public Service Equality Duty.

[51] The Commission, Freedom of Expression Legal Framework, *op.cit.*, pp. 25–26.

[52] The Commission, Gypsy Travellers in Scotland - a resource for the media, Spring 2013, available from https://bit.ly/2qkQYlp.

[53] European Communities, Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach, 2009.

[54] Camden Principles, *op. cit.,* Principle 5.

[55] See Ofcom, Equality and diversity hub, available from https://bit.ly/2qniUVD.

[56] AGCOM Board Commissioner's video interview with newspaper La Repubblica, 31 October 2016, available from http://bit.ly/2f2lUCq.

[57] These policies should also address doubts about the capacity of the Internet-based media in particular, to offer an alternative, even a corrective to traditional media.

[58] Digital literacy includes the development of the technical skills and abilities required to use digital technologies, as well as the knowledge and abilities needed to find, analyse, evaluate and interpret specific media texts, to create media messages, and to recognise their social and political influence. Multiple and complementary literacies are seen as essential for the exercise of rights and responsibilities in regard to communications; see UNESCO, World Trends in Freedom of Expression and Media Development: Special Digital Focus, 2015, available from https://bit.ly/20mQeXT..

[59] Based on the Camden Principles, *op. cit.;* and ARTICLE 19, Media Diversity Institute and the European Federation of Journalists, Getting the facts right: reporting ethnicity and religion, 2012, available from https://bit.ly/1spL1Q6.

[60] *Ibid.*

[61] Founded in 2012, the Forum brings together 44 editors from all the major electronic, print, and online media in Hungary, who together outline ethical standards and values of journalism, such as impartiality, thoroughness, rules for obtaining and handling information, the prohibition of conflict of interest, the relationship between editorial content and advertisers, as well as human rights and human dignity. The Ethical Guidelines of the Editor's Forum are available from http://bit.ly/2tFl2bC; see also the self-regulatory body of the Editor's Forum available from http://bit.ly/2tUmCsR.

[62] Charter of Rome, The Code of Conduct regarding asylum seekers, refugees,

victims of trafficking and migrants, available from https://bit.ly/2GUhS9T.

[63] Internet Hotline, operated by the National Media and Info-communications Authority, see http://bit.ly/2ttgAhO.

[64] 'Get the Trolls Out!' project led by the Media Diversity Institute, see http://bit.ly/2uCqyvL.

[65] Possibilities to Counter Extremist Discourse, Research project of the Action and Protection Foundation, April 2016, available from http://bit.ly/2tUbxI0.

[66] See www.prismproject.eu/the-prism-project.

[67] See www.nohatespeech.it.

[68] See www.voxdiritti.it/vox-lancia-la-prima-mappa-dellintolleranza.

[69] For more information, see http://hejtstop.pl/.

[70] See https://www.stophateuk.org.

[71] LGBTQI stands for "Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Intersex."

[72] See https://stopfundinghate.org.uk/.

[73] Huffington Post, Specsavers Apologises And Pulls Daily Express Advert After Customers' Revolt, 15 September 2016, available from https://bit.ly/2GYLnqU.

[74] See IBTimes, Virgin Trains stops carrying Daily Mail over paper's stance on LGBT issues and immigration, 9 January 2018, available from https://bit.ly/2JJOFQW.