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Slipping in Spiral

Questioning Harm Caused by Hate Speech
and its Potentiality

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Abstract

The public debate is overwhelmed with discriminatory speech targeting vulnerable groups. Despite “hate speech” legislations, most of the malicious messages remain in the environment through the abuses of rhetoric. There are doctrinal disputes about how far should hate speech legislations go. Confusions seem to be about the interests we are protecting and the potentiality of the harm caused by hate speech. My ambition is firstly to shed light at the philosophical basis for the notions and concepts related to hate speech in order to reveal especially the seriousness of that harm. Both “American” and “European” doctrines will be briefly discussed for the latter, represented by case law of the European Court of Human Rights, be put under a detailed scrutiny. It will be argued that free speech is not a value as such as it is its particular content that counts and that in most cases a thorough contextual analysis will be necessary. The second task of the thesis is to determine contextual elements that influence the final harm of hate speech and the probability thereof. It will be argued that the both seriousness and the high probability of the harm caused to already stigmatised communities demand nuanced but stiff criminal restrictions.

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