

KU Leuven
Faculty of Law

European Master's Programme in Human Rights and Democratisation
A.Y. 2021/2022

Political correctness: a threat to free speech or a tool to achieve equality?

An examination of whether political correctness is a justified
restriction to freedom of speech or not.

Author: Charoula Papastefanaki
Supervisor: Prof. Dr. Koen Lemmens

ABSTRACT

Political correctness is a prevalent phenomenon of the past decades that has sparked multiple controversies, as it aims to the advancement of equality of discriminated groups through restrictions of offensive speech, that are often seen as extremely extensive. This thesis aims to contribute to this heated debate with an analytical evaluation and a human-rights conceptual framework of political correctness. It does so by following a multidisciplinary approach, offering a mainly philosophical-moral analysis combined with legal perspectives and empirical data. Focusing on offence as a central notion of political correctness, it analyses the relevant case-law of the European Court of Human Rights under certain characteristics of offence that challenge its protection, like its subjective nature and the disregard of the intention behind it. Then, by critically analysing two moral theories, by Jeffrey H. Howard and Lars Binderup, it illustrates the diametrically opposite opinions that exist around the justifiability of restricting speech to advance equality and non-discrimination in a democracy and it points out an important division between the protection from offensive speech based on inherently discriminatory opinions and on certain beliefs and values that inevitably vary in multicultural societies. Lastly, it examines the effectiveness of political correctness and it presents empirical data and arguments in favour of the dynamic role language has in social change as well as counter-arguments that are claimed to be relevant to the debate, yet not challenging the idea of that dynamic role and thus of the effective results political correctness can have. In conclusion and based on the above, it presents certain criteria under which political correctness could be considered a justified restriction to freedom of speech.

TABLE OF CONTENTS

1. Introduction	1
2. Political correctness: its significant implications with free speech and its human rights based purposes	3
2.1 Definitions of Political Correctness and introduction to the phenomenon	3
2.2 Political Correctness as a restriction to freedom of speech: Different forms	6
a) The starting point: political correctness in academia.....	7
b) The role of political correctness in law & State regulations.....	9
c) Political correctness' impact on artistic freedom, comedy & humour.....	9
d) A step further: political correctness and cancel culture.....	11
e) Self-censorship and political correctness in everyday life.....	13
f) Concluding remarks.....	14
2.3 Importance of Freedom of Speech in a democratic society	14
2.4 Purposes of Political Correctness	16
2.5 Concluding remarks	18
3. Nature of offence & legal perspectives	19
3.1 Introduction: offence & its relation to political correctness and freedom of speech	19
a) Offence, political correctness and freedom of expression.....	19
b) Definition of offence.....	20
3.2 A legal perspective of offence & hate speech	21
a) Defining hate speech: are ideas that “ <i>offend, shock or disturb</i> ” protected afterall? ...	21
b) Critical remarks.....	27
3.3 To be or not to be offended? Arguments in favour and against protection from offence	28
a) Introduction to the nature of offence: What is offensive afterall?.....	28
b) The fluidity of offensive and incorrect terms.....	29
c) What about intention?.....	30
d) Has political correctness made us too sensitive?.....	31
e) Offence towards historically oppressed groups.....	34
f) Concluding remarks.....	36

4. The interrelation of offence, hate speech and freedom of expression: Two moral theories.....	37
4.1 Howard’s normative framework for hate speech regulation.....	37
a) Arguments in favour of free speech.....	38
b) Duties related to free speech restriction.....	43
c) Concluding remarks.....	45
4.2 Binderup’s Theory.....	46
a) A belief-based argument in favour of free speech.....	46
b) Analytical remarks of Binderup’s theory.....	47
5. The effectiveness of political correctness.....	49
5.1 The dynamic role of language in social change.....	49
5.2 Counter-arguments to the effectiveness of political correctness.....	52
a) The alleged superficiality of political correctness.....	52
b) Free speech and academic freedom as the effective ways to deal with discriminatory opinions.....	53
c) Censorship leads to extremism?	55
d) Socioeconomic policies as the way to achieve equality for discriminated groups.....	56
e) Concluding remarks.....	57
6. CONCLUSION.....	57

1. INTRODUCTION

Political correctness is a controversial phenomenon that has created numerous political and philosophical disputes over the past decades.¹ A lot of ink has been spilled, a lot of words have been spoken² and a lot of diverse opinions have been expressed on political correctness' role and effects in society. The controversies around political correctness are mostly related to the fact that it imposes restrictions on free speech that certain thinkers consider extensive and extreme. The rationale behind these restrictions is the protection of discriminated and disadvantaged groups through the elimination of offensive speech and the introduction of politically correct forms of expression that subsequently advance these groups' rights to equality and non-discrimination. Nevertheless, the extent to which free speech has been restricted and how far it should be allowed to go in the name of political correctness remains a serious bone of contention among scholars. In other words, this subject has generated a heated debate around the question: Is political correctness a justified restriction to freedom of speech?

The first chapter of this thesis further analyses the above-mentioned facts. Precisely because of the controversy surrounding political correctness, some fundamental starting points around the phenomenon must be further elaborated upon and established before continuing with the attempt to critically answer this research question. Firstly, after this introduction and more in-depth analysis of the concept of political correctness, the chapter illustrates exactly how it clashes with the human right of freedom of expression.³ Moreover, it argues that political correctness poses multiple and often alarming speech constraints in many areas of life. Secondly, the commonly known and widely accepted value of freedom of expression is introduced as a fundamental element of democracies. This serves to highlight the significance of these constraints and the seriousness around qualifying such speech restrictions as justified or not. Lastly, the first chapter demonstrates that political correctness' goals are inherently moral and rooted in human rights protection,⁴ carrying the significant burden of protecting historically oppressed groups from offence and promoting their rights to equality and non-discrimination in society.

¹ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of Does Political Correctness Make (Social) Sense? In *Social Cognition and Communication*. Psychology Press, p. 1.

² Lasson, Kenneth. 1996. Political Correctness Askew: Excesses in the Pursuit of Minds and Manners. *Tennessee Law Review*, 63 (3), p. 691.

³ "Freedom of expression" and "freedom of speech" will be used as synonyms in this thesis.

⁴ Hollander, Paul. 2002. Review of "Imagined Tyranny"? Political Correctness Reconsidered. In *Discontents: Postmodern and Postcommunist*. Transaction Publishers: 51-73, p. 55.

To enter more deeply into the debate on the justifiability of political correctness, the second chapter focuses on the concept of offence. Since political correctness' proclaimed tool and goal is the elimination of offensive speech, an isolated analysis of offence and whether protection from it should qualify as a speech restriction must be made. Firstly, this chapter offers an analytical presentation of the nature and the specific characteristics of offence to establish a deeper understanding of the term. Secondly, and on account of the high relevance of this debate in the case-law of the European Courts of Human Rights, this thesis will draw inspiration from the legal field with brief references to instruments of the United Nations. Indeed, the Strasbourg Court has produced rich jurisprudence on the topics of offence and hate speech that are useful to analyse as a starting point in order to draw certain conclusions regarding the definitions of the two concepts. Moreover this analysis is important to accurately reflect on the way the Court perceives the role of protection from offence as a restriction to freedom of expression in the context of its greatly appreciated and high-quality work in human rights protection. To this purpose, an indicative juxtaposition of landmark and yet controversial compared to each other cases of the European Court of Human Rights is presented and analysed.

The third chapter of this thesis moves to the moral and philosophical perspective of this debate, which is the main focus of this research. To facilitate this discussion, two moral theories around the importance of freedom of speech and its interrelation with offence and hate speech will be developed, one offered by Jeffrey H. Howard and one offered by Lars Binderup. After establishing a rigorous understanding of offence and the legal perspectives of its role in human rights protection in the previous chapter, these theories can be critically analysed under the lens of the prior conclusions which are complemented by the introduction of other relevant arguments and counter-arguments offered by other thinkers. This chapter is of significant importance for this thesis as it will critically illustrate the diametrically diverse understandings there are around the justifiability of restricting free speech in order to advance equality and non-discrimination in a democracy. Evidently, this is of most relevance to political correctness that aims, in short, to advance human rights by using the tool of speech restriction.

Lastly, the fourth chapter focuses on the effectiveness of political correctness, a neglected yet absolutely necessary discussion that must be had before answering the research question. To

begin with, the dynamic role of language in social change and, thus, in the advancement of human rights is illustrated with the aid of certain empirical data and studies made by other researchers arguing in favour of its effectiveness. Then, counter-arguments to the effectiveness of political correctness which notably remain theoretical and not empirical, are critically examined in light of the empirical findings. This chapter is an argument in itself as it supports the finding that the justifiability of free speech restriction in the name of political correctness must take into account its actual impact in promoting equality, non-discrimination and the rights of discriminated groups.

Overall, this thesis examines the phenomenon of political correctness from a rights-based perspective and even though this analysis is mainly a philosophical-moral one, legal perspectives are offered as well and empirical data which are used to facilitate the debate. This multidisciplinary approach is required to develop safe, substantial and analytical answers to the questions: “*Is political correctness a threat to free speech or a tool to achieve equality?*” and in this context “*Is political correctness a justified restriction to freedom of speech?*”. These answers, however, do not aim to be definitive in the sense of the one or the other or “*yes or no*”. Rather than that, this thesis aims to offer not only an evaluation on the justifiability of political correctness as a restriction to free speech, but also a thorough conceptualisation of the phenomenon and an analytical human rights framework of understanding and examining it by bringing forward all the necessary philosophical and legal aspects. Subsequently, this research aims to contribute towards defining to which limits and extents and under what criteria political correctness, in its attempt to promote equality and non-discrimination, should qualify as a justified restriction to freedom of speech.

2. Political correctness: its significant implications with free speech and its human rights based purposes

2.1 Definitions of Political Correctness and introduction to the phenomenon

The controversy around political correctness is obvious from the very beginning when one takes on the challenging attempt to offer an objective definition for it. In the rich literature on the topic, one can often comprehend from the definition given by each researcher whether they are opponents or not of the phenomenon based on their phrasing and/ or the specific elements and sides they focus on. This first part of this chapter will try to make a first

introduction to this controversy and to the different understandings of political correctness as well as offer a working definition of it after this process.

Advocates of political correctness usually define it as a restriction of speech for the most privileged, when this is necessary to ensure equality among all members of society.⁵ In their thinking of the phenomenon, the concept of repressive tolerance⁶ is central and the elimination of racist, sexist, homophobic, offensive and in general discriminatory forms of expression is a requirement for promoting equal freedom among the most and the least privileged groups of society. In this context, this restriction to freedom of speech is not seen as illiberal, rather than a liberating tool to fight against oppression and discrimination that marginalised groups face due to their group identity.⁷ Hence, from this point of view political correctness is a justified restriction to freedom of speech because without it underprivileged social groups would not be able to enjoy liberty and equality.

On the contrary, opponents of political correctness do not see this restriction of speech as justified and often highlight their disagreement towards political correctness with great vigour. For many, the reason is that political correctness backfired when it “*made the leap from pure ideology to policy with enforcement teeth*”⁸, meaning that its restrictive practical effects move to an extent that are not justified by its goals anymore. In the words of President Bush himself when talking about political correctness “*What began as a crusade for civility has soured into a cause of conflict and even censorship.*”⁹. Others believe that political correctness is a “*destruction of honest and rationale debates*”¹⁰ again insisting on the fact that it has gone too far and created an absurd censorship in speech that leads to a chilling of deep, rational and intellectual debates and of effective truth-seeking. For them, correction in language is superficial, hypocritical but also unable to offer actual social change and thus, political correctness appears as an overly exaggerated and irrational practice.¹¹

⁵ Marques, Joan F. 2009. “How Politically Correct Is Political Correctness?” *Business & Society* 48 (2): 257–66, p. 100.

⁶ Marcuse, H. (1965). *Repressive tolerance*. In R. P. Wolff & B. Moore (Eds.), *A critique of pure tolerance*. Boston: Beacon Press: 81-117.

⁷ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p. 101.

⁸ Kitrosser, Heidi. 2017. “Review of Free Speech, Higher Education, and the PC Narrative”. *Minnesota L.Rev* 101: 1987–2063, p. 2006.

⁹ *Ibid*, p. 2022.

¹⁰ Tsakalakis, Thomas. 2021. *Political Correctness : A Sociocultural Black Hole*. Abingdon, Oxon ; New York, Ny: Routledge, Introduction.

¹¹ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of *Does Political Correctness Make (Social) Sense?* In *Social Cognition and Communication*. Psychology Press, p. 3.

However, there are understandings of political correctness that include all the above thoughts. Political correctness is seen by many as a valid attempt to “*advance the legitimate interests of certain groups in the public sphere*”¹², that still entails threats that should not be neglected. In this heated debate, the dilemmas created around protecting freedom of speech as a cornerstone of democratic societies while ensuring the promotion of equality and the rights of minorities do not let everyone have a strong and clear opinion.¹³

Furthermore though, there are a lot of voices also supporting that political correctness is “*an implicit convention of restrained speech [that] is neither new nor unusual*”¹⁴. Using the words of George Orwell: “*At any given moment there is an orthodoxy, a body of ideas which is assumed that all right-thinking people will accept without question. It is not exactly forbidden to say this, that or the other, but it is ‘not done’ to say it, just as in mid-Victorian times it was ‘not done’ to mention trousers in the presence of a lad*”¹⁵. That means that in all times there are certain sensitivities, values and beliefs that gather general acceptance and are protected by the general public that self-restrict their freedom of speech to uphold these while inevitably alienating those who do not share this consensus.¹⁶ Here political correctness is not seen as a modern phenomenon or ideology, rather as an element of all societies of all times and more specifically as each society’s pattern of expression that showcases its specific values or in other words what its members consider “*correct*” and what “*incorrect*”.¹⁷ In close proximity to this opinion lies also the association many thinkers make between politeness and political correctness as they “*both govern communal life in every society*”¹⁸.

Even though we have not offered definition yet, one may have already understood what is at stake in this debate and how important that is. Understanding and evaluating political correctness entails deep philosophical and political questions when it comes to balancing freedom of speech with other significant endeavours related to responding to the needs and rights of different marginalised groups, accommodating and respecting different and diverse

¹² Hollander, Paul. 2002. Review of “Imagined Tyranny”? Political Correctness Reconsidered. In *Discontents: Postmodern and Postcommunist*. Transaction Publishers, p. 11.

¹³ Moller, Dan. 2019. “Dilemmas of Political Correctness.” *Governing Least*, January, 1-22, p. 11.

¹⁴ Lory, Glenn C. 1994. “Self-Censorship in Public Discourse.” *Rationality and Society* 6 (4): 1-34, p. 3.

¹⁵ Orwell, George. 1945. *Animal Farm*. Boston ; New York: Houghton Mifflin Harcourt, Corp.

¹⁶ *Ibid*.

¹⁷ Lory, Glenn C. 1994. “Self-Censorship in Public Discourse.” *Rationality and Society* 6 (4): 1-34, p. 8.

¹⁸ Klotz, Peter. 1999. “Politeness and Political Correctness.” *Ideologies of Politeness* 9 (1): 155–61, p. 156.

cultures in one society¹⁹ and promoting equality and non-discrimination. And the questions cannot help but multiplying: What should be prioritised: the individual's right to free speech or the sensibilities of a minority?^{20 21} Equality and avoiding offence or unrestricted robust discourses? And is there such a thing as unrestricted freedom of speech? Or further than that, is political correctness even relevant in this debate and actually capable of achieving what it promises? But all these are questions that we are going to dive into later on.

To sum it all up, this thesis will begin with the following widely accepted and neutral working definition: "*political correctness aims at preventing social discrimination by curtailing offensive speech and behaviour towards underprivileged groups of individuals*"²², as it somehow includes all the above understandings and offers the necessary objective grounds for an analytical research and a critical evaluation of the phenomenon, that will allow us to add further complexity and most importantly, to respond to the above challenging questions.

2.2 Political Correctness as a restriction to freedom of speech: Different forms

It has become obvious by now that the contention and the heated disputes around political correctness are mostly generated by these restrictions to free speech that it inevitably entails.²³ Even though it has been argued by some that political correctness is a phenomenon that always existed in all societies in the sense that speech restrictions are always in place according to specific values and beliefs, in this chapter it will be shown that the phenomenon has developed to further extents these past decades. This will be done by showcasing some forms of political correctness in academia, law, comedy and everyday life and how the speech restrictions imposed on these areas reveal more extensive restraints on freedom of speech than the ones that have always been usually observed in different societal contexts.

¹⁹ Marques, Joan F. 2009. "How Politically Correct Is Political Correctness?" *Business & Society* 48 (2): 257–66, p. 263.

²⁰ Lasson, Kenneth. 1996. *Political Correctness Askew: Excesses in the Pursuit of Minds and Manners*. *Tennessee Law Review*, 63 (3), p. 691.

²¹ Marques, Joan F. 2009. "How Politically Correct Is Political Correctness?" *Business & Society* 48 (2): 257–66, p. 263.

²² Dzenis, Sandra, and Filipe Nobre Faria. 2019. "Political Correctness: The Twofold Protection of Liberalism." *Philosophia*, June, p. 95.

²³ Hollander, Paul. 2002. Review of "Imagined Tyranny"? *Political Correctness Reconsidered*. In *Discontents: Postmodern and Postcommunist*. Transaction Publishers: 51-73, p. 56.

a. The starting point: political correctness in academia

Universities and colleges are, one could say, the birthplace of political correctness, as that is where the phenomenon started to appear during the 1960s in the United States of America²⁴ in the form of affirmative action programs, reforms in the academic curriculum, banning certain speakers and imposing speech codes. The goal was and still is to make the academic environment more inclusive and respectful of diversity, different cultures and underprivileged groups as well as to enhance sensitivity in these issues and avoid offence towards these specific groups.²⁵

This has been criticised by many as an exaggerated restraint in freedom of speech and academic freedom²⁶ that is indeed of great significance for the educational procedure. This is the reason why the discussions around political correctness often focus on its impact on universities and academic freedom.²⁷ Since a lot of topics are nowadays considered triggering and sensitive, it is indeed problematic for professors to elaborate on them and teach, as many ideas they will need to present and analyse will possibly be considered offensive, triggering and politically incorrect.²⁸ For example, professors nowadays seem very hesitant when it comes to teaching on topics concerning rape that are often avoided in the curriculums of Law schools (and not only) so as not to create distress.²⁹ Meanwhile, it has been the case many times and under different settings that professors get attacked or even charged for not following the rules of political correctness and creating an inappropriate, offensive or hostile environment in their class. Remaining in the same topic, in 1993 a group of students threatened to formally charge a professor for sexual harassment after a class he offered on men that were falsely accused of the crime of rape.³⁰ Examples like this have been a reality in universities and college campuses up until today. For instance, in 2015 a group of students of

²⁴ Hendley, W. Clark. 1996. "What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology." *The European Legacy* 1 (4): 1615–21, p. 1616.

²⁵ Lasson, Kenneth. 1996. *Political Correctness Askew: Excesses in the Pursuit of Minds and Manners*. Tennessee Law Review, 63 (3), p. 697.

²⁶ *Ibid*, p. 716-717.

²⁷ Cole, Jonathan R. 2016. Review of *The Chilling Effect of Fear at America's Colleges*. *The Atlantic*. June 9, 2016.

Lukianoff, Greg. 2014. *Unlearning Liberty : Campus Censorship and the End of American Debate*. New York: Encounter Books.

Kitrosser, Heidi. 2017. "Review of Free Speech, Higher Education, and the PC Narrative". *Minnesota L.Rev* 101: 1987–2063.

²⁸ Sgorbati, Barbara. 2021. "Political Correctness and the Law." *Undecidabilities and Law*, no. 1 (June): 147–160, p. 153.

²⁹ Suk Gersen, Jeannie. 15 December 2014. Review of *The Trouble with Teaching Rape Law*. *The New Yorker*.

³⁰ Lasson, Kenneth. 1996. *Political Correctness Askew: Excesses in the Pursuit of Minds and Manners*. Tennessee Law Review, 63 (3), p. 705.

Yale University wrote a warning email regarding the avoidance of inappropriate costumes to Halloween, to which the wife of the Head of the college replied supporting that Yale students should be free of choice on what they wear for Halloween and on the other side, that in the case of offence the offended students should engage in calm conversations on the topic; this resulted to a hostile verbal attack to the head of the college.³¹ Even more recently, a professor in Lund University was asked to modify part of his neurophysiology lecture, after a student complained that the topic of biological differences between men and women that was included in his lecture was not his expertise and should not be touched upon by him, accusing him in the same time for promoting his antifeminist opinions.³² These are just some indicative examples out of many sensitive topics and out of many real cases where political correctness has interfered with academic freedom. It is important to be noted that the same restrictions often apply to the students themselves, that may hold on to their opinions on politically charged issues and hence, not pose questions nor initiate a debate on these.^{33 34}

Examining political correctness in the context of academia is of great interest exactly because education as well as thorough research presupposes an extensive freedom of speech for both professors and students; if one is not allowed to elaborate on controversial topics and ideas, conducting critical analysis and hoping to reach conclusions are both seriously set in doubt. Thus, it has been supported that political correctness in academia is in fact incompatible with the fundamental idea of critical discourse.³⁵ Yet, many universities proceed to regulating speech and expression in general³⁶, a practice that appears to be growing and intensified as time goes by and thus, it seems like academia will remain a prevalent arena for the political correctness debate.³⁷

³¹ Mandelbaum, Michael. 2020. Political Correctness Threatens American Higher Education. *The American Interest*, February.

³² Myklebust, Jan Petter. 2018. Is Political Correctness Eroding Universities' Mission? *University World News*, September.

³³ Sgorbati, Barbara. 2021. "Political Correctness and the Law." *Undecidabilities and Law*, no. 1 (June): 147–160, p. 154.

³⁴ Self-censorship will be further elaborated on later in this chapter.

³⁵ Dzenis, Sandra, and Filipe Nobre Faria. 2019. "Political Correctness: The Twofold Protection of Liberalism." *Philosophia*, June, p 102.

³⁶ Lasson, Kenneth. 1996. Political Correctness Askew: Excesses in the Pursuit of Minds and Manners. *Tennessee Law Review*, 63 (3), p. 727.

³⁷ Hendley, W. Clark. 1996. "What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology." *The European Legacy* 1 (4): 1615–21, p.1617.

b. The role of political correctness in law & State regulations

Even though political correctness is to a large extent a social convention with non-legal implications, it is at the same time closely relevant to law and state regulations. Most states have created laws prohibiting harassment based on race, sex, religion or ethnicity³⁸, while offence as well as hate speech have been some legal topics that have gathered massive attention and great controversy around them on an international scale. Is it probably the most politically incorrect type of aggressive speech that would be argued as ought to be criminalised as hate speech? And the most politically incorrect types of offence that would be argued to justify legal restriction to freedom of speech? In fact, drawing a line between political correctness and these topics is not an easy endeavour as it will be further illustrated in the following chapter, and that is why law is also prominent in this debate and a legal perspective is included in this thesis. On the contrary, one would say that these discussions could and should not be separated if one seeks to reach general conclusions about how freedom of speech is positioned in modern society.

Furthermore, as in fact laws are made out of words, politically correct language has an impact on them in general³⁹, even if that impact does not always create implications with freedom of speech. Still, the challenges are many, from managing to offer adequate and simultaneous protection from discrimination on the one side and to freedom of speech to the other, to keeping legal definitions not offensive but still clear.⁴⁰ In this context, many States have been trying to produce more inclusive legal documents; for example when it comes to avoiding sexist patterns, many countries -where the language itself allows it- now include the feminine words for professions as well (for example in Spanish: “*profesores y profesoras*”) or tend to use neutral expressions (“*persons*”, “*professionals*”) or introduce a feminine version for a specific profession.

c. Political correctness’ impact on artistic freedom, comedy & humour

Political correctness may “*have its origins*” in universities and college campuses but as it will be shown it soon expanded to several areas including culture and art in general influencing

³⁸ Lasson, Kenneth. 1996. Political Correctness Askew: Excesses in the Pursuit of Minds and Manners. *Tennessee Law Review*, 63 (3), p. 726-727.

³⁹ Sgorbati, Barbara. 2021. “Political Correctness and the Law.” *Undecidabilities and Law*, no. 1 (June): 147–160, p. 148.

⁴⁰ *Ibid*, p. 148.

them in an equally intense manner.⁴¹ Art in all its forms has been subjected to political correctness criteria and several times movies, paintings and novels have been criticised as offensive, insensitive and in fact, politically incorrect. For example, at Pennsylvania university, the presence of the famous “*Naked Maja*” painting of Goya depicting a naked woman led to a professor claiming that she was being sexually harassed by its presence in the room and finally, to the removal of the painting.⁴² Moreover, it often happens that classical pieces of art from earlier or older ages make us uncomfortable with the ideas they contain or the language they use due to this sensibility that political correctness has established in the common mind.⁴³

The impact of political correctness on art is mostly obvious in comedy where offence and offensive language is often used as a tool to create laughter.⁴⁴ Comedy very often interplays with stereotypes and prejudices as that leads to the audience’s engagement, many times with politically incorrect jokes being quite successful.⁴⁵ It is obvious how a phenomenon aiming to eliminate offensive language is a great contrast to this reality. Here, the argument against those who see political correctness as an everexisting phenomenon and as a common societal restraint to freedom of speech is mostly obvious. Some years ago, offensive jokes⁴⁶ were not only present⁴⁷ but welcomed and one would say an inextricable element of comedy. One should only try watching sitcoms, comedies or even ads from the 1990s or even from the 2000s only to very soon realise how many things that were said would not “*pass*” today in a widespread climate of political correctness. Nowadays, comedians avoid jokes around race, ethnic origins, religion, sexual preference and so on and so forth.⁴⁸ So, as comedy has always entailed an element of offence in it throughout the years, it becomes obvious that political correctness has moved beyond usual restrictions to speech that derive from the values and beliefs of each society. The reason is probably that the speech restrictions that are imposed by

⁴¹ Hendley, W. Clark. 1996. “What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology.” *The European Legacy* 1 (4): 1615–21, p. 1620.

⁴² Lasson, Kenneth. 1996. *Political Correctness Askew: Excesses in the Pursuit of Minds and Manners*. Tennessee Law Review, 63 (3), p. 699.

⁴³ Hendley, W. Clark. 1996. “What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology.” *The European Legacy* 1 (4): 1615–21, p. 1615.

⁴⁴ Zecchetti, Giorgia. 2022. Review of *How Political Correctness and Cancel Culture Are Killing Comedy*. Università Degli Studenti di Modena e Reggio Emilia, Abstract.

⁴⁵ Ibid.

⁴⁶ The examples are numerous: jokes about Jewish people and Holocaust’ survivors, about people with disabilities, the so called “blond” jokes, jokes about women drivers, jokes containing stereotypes about certain nationalities and the list goes on.

⁴⁷ Hendley, W. Clark. 1996. “What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology.” *The European Legacy* 1 (4): 1615–21, p. 1620.

⁴⁸ Ibid.

political correctness aim, apart from avoiding offence, to create a society more inclusive and respectful of diversity, while speech constraints as the ones mentioned above derive from already established societal values.

But apart from this short parenthese, questions still arise when it comes to restricting artistic freedom and freedom of speech in humour and comedy. Should we denounce any effort towards making comedy and art more inclusive?⁴⁹ Should all jokes and works of art be allowed and not filtered at all no matter how racial or sexist they are?⁵⁰ This thesis will not specifically focus on art and humour and their relation to political correctness as this could be a research work of its own due to the specific characteristics and the different limits that are (or should be) recognised in these areas. Still, what needs to be established here is that political correctness has also imposed serious restrictions on these areas of expression as well, which are seen as extreme or even absurd by many. One could of course argue that there is a clear difference between excluding a very racist joke from a stand up comedy show to removing a classic masterpiece from a university's wall. What is common in both cases though is that artistic freedom that is in general given broader limits in terms of offence is being restricted and it seems critical to find the right checks and balances in such limitations.

d. A step further: political correctness and cancel culture

A further step when it comes to restricting artistic freedom but also freedom of speech in general is what is called “*cancel culture*”. Largely facilitated by social media and the Internet, cancel culture initially targeted celebrities that were found to act or talk in a politically incorrect way⁵¹, that were then boycotted as personalities because of these specific “*wrong, oppressive or inappropriate*”⁵² opinions. Indeed, cancelling is the fear of many artists and public figures as the phenomenon gets intensified⁵³ and the cases of cancel culture are multiplying in this general atmosphere of online shaming and boycotting what is not politically correct. One of the goals of the phenomenon is again constraining non-inclusive

⁴⁹ Wagg, Stephen. 1998. *Because I Tell a Joke or Two : Comedy, Politics, and Social Difference*. London ; New York: Routledge, p. 191.

⁵⁰ *Ibid*, p. 192

⁵¹ Bromwich, Jonah E. 28 June 2018. *Everyone is Canceled*. The New York Times.

⁵² Lee, F. 15 September 2017. ‘Excommunicate me from the church of social justice’: An activist’s plea for change. The Sunday Magazine.

⁵³ Zecchetti, Giorgia. 2022. *Review of How Political Correctness and Cancel Culture Are Killing Comedy*. Università Degli Studenti di Modena e Reggio Emilia, Abstract.

and offensive speech and “*paradoxically cancelling what liberal voices consider politically incorrect discourse*”⁵⁴ in the name of promoting equality.

The implications with freedom of expression are intensively obvious in this specific form of political correctness, that affects not only ideas -which is still of great significance- but actual people and their lives, leading to what has been described by some as “*social murder*”⁵⁵. It has in fact been observed by many that the implementation of cancelling often overpasses the lines and is misused.⁵⁶ Cancelling a public figure based on an online comment or one single statement⁵⁷ or a hypothesis without previous examination of intention or any sort of hearing of that figure, let alone before a Court’s judgement, is indeed problematic according to the rules of rationality and fairness in such processes. Additionally, cancel culture creates implications that go beyond the person that is getting cancelled. For instance, boycotting all the movies and TV shows one specific actor has played in, for example by not including them in relevant online platforms or by not screening them on TV, also affects to a great level the rest of the professionals that had worked on the same projects.

A current example of how cancel culture can create concern and reach certain levels of absurdity is the current and very famous case of Johnny Depp and Amber Heard.⁵⁸ Johnny Depp was alleged of being a perpetrator of domestic abuse against his ex-wife Amber Heard⁵⁹ and because of that, he faced “*cancellation*” some years ago by losing large parts of his audience, by facing the boycott of his previous work and by getting banned from starring in movies and participating in very profitable projects. However, during the last defamation trial between Johnny Depp and Amber Heard, which gathered massive attention by social platforms and was available online and in real time on Youtube, the public opinion towards him seemed to have largely swifited and many were now supporting Johnny Depp and seeing

⁵⁴ Bansale, Myra. 2021. Review of Cancel Culture: A Look at the Benefits and Dangers of Public Discipline. Korb Blog. November 4, 2021, p. 11.

⁵⁵ Greenspan, Rachel E. 2020. Review of How “Cancel Culture” Quickly Became One of the Buzziest and Most Controversial Ideas on the Internet. Insider, August.

⁵⁶ Bansale, Myra. 2021. Review of Cancel Culture: A Look at the Benefits and Dangers of Public Discipline. Korb Blog. November 4, 2021.

⁵⁷ In many cases, these would also be statements taken out of their context or even statements made decades ago during periods that were not as influenced by political correctness as current times are.

⁵⁸ It may seem overly ambitious or riskful to mention such a controversial example in an academic piece of writing, but the point that will be made is irrelevant to the actual controversial facts of the case, and yet very clearly shown and understood under this specific and famous case.

⁵⁹ Even though this “cancel culture” example is not connected to the use of politically incorrect speech, it is still a very helpful one as it illustrates distinctly the effects and certain absurdities of the phenomenon.

him as the victim.⁶⁰ ⁶¹ What is of interest and significance in this context is not if he was actually a perpetrator of any sort of violence or not, but how the general public and social media can so easily cancel a public figure and damage their lives to a great extent to only change their minds some years later. In Johnny Depp's own words: "*This cancel culture, this instant rush to judgement is so far out of hand. No one is safe. It's not just me that this has happened to, it's happened to a lot of people. Sadly at a certain point they begin to think that it's normal. When it's not.*"⁶².

e. Self-censorship and political correctness in everyday life

Eventually, political correctness has expanded to all the areas of our lives⁶³; it has gone beyond campuses and academia to affect the way we communicate in all settings and its effects are also to be found in public speaking, in law, in art, in the professional environment and even in casual conversations with acquaintances and friends. Hence, political correctness has become a part of daily life and being politically correct is a concern one carries in their everyday interactions.

Regardless one's own opinion on political correctness, nowadays almost everyone is attentive in how they express themselves⁶⁴ in order to avoid politically incorrect phrasing and wording. And this is another important form and effect of political correctness: the self-censorship it causes, as it is in fact "*a form of censorship without a censor, we impose it on ourselves*"⁶⁵. Most probably many have experienced anxiously wondering if they should say something⁶⁶, if they should phrase it one way or find an alternative, so as it sounds "*okay*", politically correct and not offensive to anyone. This self-censorship is quite concerning in the context of freedom of expression as it may withhold one from expressing their opinions and preferences in the fear of being accused of being offensive and

⁶⁰ Rosenblatt, Kalhan. 2022. Review of Male Domestic Violence Survivors Say They Feel the Depp-Heard Trial Is a Turning Point. NBC News, April.

⁶¹ Dockterman, Eliana. 2022. Review of The Depp-Heard Trial Perpetuates the Myth of the Perfect Victim. Time, June.

⁶² Bansale, Myra. 2021. Review of Cancel Culture: A Look at the Benefits and Dangers of Public Discipline. Korb Blog. November 4, 2021.

⁶³ Hendley, W. Clark. 1996. "What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology." *The European Legacy* 1 (4): 1615–21, p. 1617.

⁶⁴ Sgorbati, Barbara. 2021. "Political Correctness and the Law." *Undecidabilities and Law*, no. 1 (June): 147–160, p. 148.

⁶⁵ Tsakalakis, Thomas. 2021. *Political Correctness : A Sociocultural Black Hole*. Abingdon, Oxon ; New York, Ny: Routledge, p. 4.

⁶⁶ Hendley, W. Clark. 1996. "What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology." *The European Legacy* 1 (4): 1615–21, p. 1619.

insensitive.⁶⁷ Thus, it often feels difficult or even impossible to debate over certain issues⁶⁸ and it is argued that there is a great risk that discussions and communication remain thus exclusively to a superficial or even to a hypocritical level.⁶⁹ In Loury's words "*It is not the iron fist of repression, but the velvet glove of seduction, that is the real problem*".⁷⁰

f. Concluding remarks

The goal of this chapter was two-fold: **i)** to present different forms and examples of political correctness illustrating how the phenomenon has gained great space in all aspects of our lives and **ii)** to establish that political correctness imposes important restrictions to freedom of speech. In this procedure the main research questions and debates of this thesis were inevitably present and have probably started puzzling the reader already. Nevertheless, before answering these, it is of great methodological significance that the following are established as facts for now: **Political correctness has a great impact in most areas of our lives like academia, law, art and culture and everyday human interactions and specifically, this is a great impact in the sense that it restricts freedom of speech in extensive levels.**

2.3 Importance of Freedom of Speech in a democratic society

Freedom of speech or freedom of expression is a universally accepted human right and thus, legally protected by numerous international and European instruments, like Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, Article 10 of the European Convention of Human Rights and Article 11 of the Charter of Fundamental Rights of the European Union, as well as by most national Constitutions, one of the most famous being the First Amendment of the US Constitution.

This right to free speech is indeed seen as a fundamental element of liberal democracies and as essential "*for the discovery of truth and the full expression of individual autonomy*".⁷¹ As reiterated by the European Court of Human Rights it "*constitutes one of the essential*

⁶⁷ Marques, Joan F. 2009. "How Politically Correct Is Political Correctness?" *Business & Society* 48 (2): 257–66, p.261.

⁶⁸ Moller, Dan. 2019. "Dilemmas of Political Correctness." *Governing Least*, January, 1-22, p. 12.

⁶⁹ Marques, Joan F. 2009. "How Politically Correct Is Political Correctness?" *Business & Society* 48 (2): 257–66, p.261.

⁷⁰ Loury, Glenn C. 1994. "Self-Censorship in Public Discourse." *Rationality and Society* 6 (4): 1-34, p. 1.

⁷¹ Dawood, Yasmin. 2013. "Democracy and the Freedom of Speech: Rethinking the Conflict between Liberty and Equality." *Canadian Journal of Law & Jurisprudence* 26 (2): 293–311, p. 293.

*foundations of a democratic society, one of the basic conditions for its progress and for the development of every man*⁷². It is true that protecting freedom of expression is of critical importance as it is seen as a prerequisite for the research of truth⁷³ and because of its role in promoting democracy, uncovering abuses as well as advancing development in many fields, like politics, science and art. In this context, the European Court of Human Rights has famously ruled that “*Article 10 is not only applicable 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. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society*”⁷⁴.

Nevertheless, from a legal perspective, the right to freedom of expression is not absolute nor limitless and forms of expression that amount to hate speech and often offence are not protected at least by the European Convention of Human Rights and have caused extremely controversial debates. Moreover, the Strasbourg Court has also highlighted the importance of freedom of expression for minorities and that democracy needs to strike a balance that ensures their fair and equal treatment and avoidance of any abuse towards them.⁷⁵ However, regardless of these limitations, in the second paragraph of Article 10 the famous triple test shows an initial intention of the Convention to strictly “*limit the limitations*” to freedom of expression, as restrictions are only allowed when: i. they are prescribed by law, ii. they pursue a legitimate aim (an exhaustive list is provided in the Article) and iii. they are necessary in a democratic society.⁷⁶ Restrictions of course exist but the European Convention of Human Rights and the European Court of Human Rights have seemed to try to ensure that they would not overpass certain lines and that freedom of expression is still prioritised and held upon.

A more thorough legal analysis of freedom of expression and concepts as hate speech and offence will be offered in the following chapter where these topics will be further elaborated

⁷² Handyside v. The United Kingdom, Application no. 5493/72, European Court of Human Rights, 7 December 1976, para. 48.

⁷³ Dawood, Yasmin. 2013. “Democracy and the Freedom of Speech: Rethinking the Conflict between Liberty and Equality.” *Canadian Journal of Law & Jurisprudence* 26 (2): 293–311, p. 293.

⁷⁴ Handyside v. The United Kingdom, Application no. 5493/72, European Court of Human Rights, 7 December 1976, para. 48.

⁷⁵ Voorhoof, Dirk, and Hannes Cannie. 2010. “Freedom of Expression and Information in a Democratic Society.” *International Communication Gazette* 72 (4-5): 407–23, p. 414.

⁷⁶ *Ibid*, p. 409.

on, from a legal and a philosophical perspective. At this point, it is the fact that freedom of expression is morally and legally recognized as a fundamental element of democratic liberal societies that needs to be established, or maybe better reminded, taking into account the amount of ink that has been spilled over its significance. It is true that this was shown mostly from a legal point of view in this small part of the thesis as it is indeed the most tangible way to do so, yet this legal perspective is not at all disconnected from philosophy and political science, from the lens of which the significance of free speech remains equally undisputed. Indeed, freedom of speech is necessary for the development of ideas and opinions, for democratic debating, for fearless criticism of governments and people in power and for free and open self-expression and autonomy.

Hence, it is safely argued that restricting freedom of expression should be allowed only when not crossing certain lines and when it is absolutely obligatory. It is exactly because of this reality that there is this great difficulty of determining which rights, interests and causes actually benefit democracy and would qualify as allowed limitations to freedom of expression and which not.⁷⁷ And exactly because of the significance of freedom of speech in democratic societies, speech restrictions should be thoroughly and carefully examined before passing as justified, legally and morally speaking.

2.4 Purposes of Political Correctness

After all these, the question that might naturally come to mind is the following: could the objectives and purposes behind political correctness justify restrictions to freedom of speech? But before that, which are exactly these objectives and purposes? In the very first pages of this thesis the following definition that briefly answers this latter question was offered: “*political correctness aims at preventing social discrimination by curtailing offensive speech and behaviour towards underprivileged groups of individuals*”⁷⁸. In this chapter, the rationale behind political correctness and the aims and motivations it has been built upon will be more clearly illustrated.

⁷⁷ Ibid, p. 408.

⁷⁸ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p. 95.

First of all, one needs to begin from a very basic statement or better, fact. There are certain groups in society that are marginalised and face different forms of discrimination on various grounds like race, sex, ethnicity, religion, sexual orientation or other status. Fighting discrimination and promoting equality -two sides of the same coin- among all groups in society is a human rights issue of great significance that needs to be transformed into actual and efficient policies in order to ensure the effective protection of the rights of these minorities and groups in general. So, the basic beginning of the following analysis is that there is racism, sexism, homophobia and other forms of severe discrimination in society and it is a human rights issue of major and critical importance to tackle them and fight against them.

So, political correctness aims at preventing these discriminations by eliminating offensive forms of expression towards underprivileged groups⁷⁹, since it is argued that unrestricted speech that is discriminatory sets the liberty of these groups in risk⁸⁰. Thus, the rationale behind political correctness is theoretically based on liberal values. In this sense, the restrictions to freedom of speech seem legitimate because they promote the liberties of certain individuals that belong in minority groups because they enhance their positive freedom.⁸¹ As reiterated, some contemporary social scientists call this “*repressive tolerance*”⁸², meaning the idea that speech restrictions applied to privileged groups are required for ensuring equal freedom for all the members of society.⁸³

Based on the idea that granting the same rights and rules to the most and least powerful would always lead to the winning of the former and the oppression of the latter⁸⁴, political correctness aims towards establishing the right not to be offended and towards realising social ideals on equality and non-discrimination.⁸⁵ Its goal is to enhance the power of the

⁷⁹ Ibid.

⁸⁰ Delgado, R. 1982. Words that wound: A tort action for racial insults, epithets, and name calling. *Harvard Civil Rights-Civil Liberties Law Review*, 17, 133 & Matsuda, M. 1989. Public response to racist speech: Considering the victim's story. *Michigan Law Review*, 87(8), 2320–2381 & Parekh, B. 2017. Limits of free speech. *Philosophia*, 45(3), 931–935.

⁸¹ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p 101.

⁸² Delgado, R. 1982. Words that wound: A tort action for racial insults, epithets, and name calling. *Harvard Civil Rights-Civil Liberties Law Review*, 17, 133 & Matsuda, M. 1989. Public response to racist speech: Considering the victim's story. *Michigan Law Review*, 87(8), 2320–2381 & Parekh, B. 2017. Limits of free speech. *Philosophia*, 45(3), 931–935.

⁸³ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p 100.

⁸⁴ Marcuse, H. (1965). *Repressive tolerance*. In R. P. Wolff & B. Moore (Eds.), *A critique of pure tolerance*. Boston: Beacon Press: 81-117.

⁸⁵ Hollander, Paul. 2002. Review of “Imagined Tyranny”? Political Correctness Reconsidered. In *Discontents: Postmodern and Postcommunist*. Transaction Publishers: 51-73, p. 69.

underprivileged groups in the public debate with the long-term goal of changing how these groups and the discrimination against them are perceived.⁸⁶ By setting a “*high barrier of entry to those wishing to enter public discourse*”⁸⁷, political correctness seeks to protect and promote the interests of these groups that have been historically oppressed.⁸⁸ And there are some thinkers that completely align with the thought that individuals from these groups “*should not be insulted or subjected to discourse threatening to undermine their status*”⁸⁹, but even those that would contradict that statement do agree that these are in fact the goals and objectives of political correctness.

To conclude, regardless the general controversial atmosphere around political correctness and its actual effectiveness, both its opponents and supporters perceive it as an attempt to change the way public debating and discourses are done so as to protect the least privileged from offence, to advance their rights⁹⁰ and to bring actual social change.⁹¹

2.5 Concluding remarks

In the previous chapters, some fundamental starting points around the controversial phenomenon of political correctness were established, that shall allow to fully articulate this thesis’ research questions and then to continue with the attempt to critically answer them. First of all, political correctness’ goals are inherently moral and human rights based⁹² carrying the significant burden of protecting historically oppressed groups from offence and promoting their rights aiming towards equality and non-discrimination in society. Nevertheless, it was also thoroughly illustrated how political correctness clashes with another significant human right, the freedom of expression as it poses constraints on it in multiple areas and forms. It is commonly accepted -legally and philosophically speaking- that freedom of expression can and should be restricted under certain specific circumstances, but as a fundamental element of democracies, few restrictions would qualify as justified. **This thesis**

⁸⁶ Tsakalakis, Thomas. 2021. *Political Correctness : A Sociocultural Black Hole*. Abingdon, Oxon ; New York, Ny: Routledge, p. 120.

⁸⁷ Moller, Dan. 2019. “Dilemmas of Political Correctness.” *Governing Least*, January, 1-22, p. 7.

⁸⁸ *Ibid*, p. 7.

⁸⁹ *Ibid*, p. 10.

⁹⁰ *Ibid*, p. 1.

⁹¹ Fairclough, Norman. 2003. “Political Correctness’: The Politics of Culture and Language.” *Discourse & Society* 14 (1): 17–28, p. 22.

⁹² Hollander, Paul. 2002. Review of “Imagined Tyranny”? Political Correctness Reconsidered. In *Discontents: Postmodern and Postcommunist*. Transaction Publishers: 51-73, p. 55.

will examine if the above-mentioned purposes and inevitably the extent to which they are being met are worthy of this restriction through a rights-based approach, and essentially answer to the following question: Is political correctness a threat to free speech, a tool to achieve equality and afterall, a justified reason for restricting freedom of expression?

3. Nature of offence & legal perspectives

3.1 Introduction: offence & its relation to political correctness and freedom of speech

a. Offence, political correctness and freedom of expression

In the previous chapter, the following definition for political correctness was offered: “*political correctness aims at preventing social discrimination by curtailing offensive speech and behaviour towards underprivileged groups of individuals*”⁹³. So, offence is simultaneously a goal and a means for political correctness, as the latter aims at eliminating offensive speech in order to promote equality and non-discrimination for unprivileged groups. Thus, the examination of whether political correctness is a justified restriction to freedom of expression or not entails asking the same question for offence and answering if protection from offence should or should not be granted.

The debate around protection from offence is as intense and controversial as the debate around political correctness as that was illustrated in Chapter I. For some, “*giving and taking offence are simply the price of living in a democratic society*”⁹⁴ and in this point of view, putting constraints on freedom of speech on the grounds of protection from offence and respecting the liberal democratic values are incompatible. On the contrary, others believe that protecting historically oppressed or marginalised groups from offence is something completely fair and correct and thus, see protection from offence as a legitimate speech restriction.⁹⁵ In their eyes, upholding democracy and liberalism entails promoting equality and the liberty of these groups and ensuring that they are protected from offence is a way to do so.

⁹³ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p. 95.

⁹⁴ Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 9.

⁹⁵ Moller, Dan. 2019. “Dilemmas of Political Correctness.” *Governing Least*, January, 1-22, p. 10.

Indeed, the legal and moral problem of dealing with offensive speech -that can at times be outrageous or even dangerous in the sense that it may incite violence- while protecting freedom of speech is a great one.⁹⁶ In the era of social media and the Internet, the problem has been exaggerated as people interact and engage in debating in a relatively unregulated space where there are multiple opportunities both to offend and to get offended.⁹⁷

In this context, questions around legal regulations and moral condemnation of offence seem to pose the great dilemmas political correctness poses. The problem of protecting the democratic right to freedom of speech while protecting minorities from offensive speech⁹⁸ reflects clearly the debate around political correctness and this thesis' research question. Political correctness, offence and the right to freedom of expression interplay in this discussion and examining the tension between free speech and offence will be a big first step for this research that looks into the tension between free speech and political correctness.

To this purpose, after a short introduction to the concept of offence, this chapter will present a legal perspective of offence and the inextricable yet inadequately defined notion of hate speech as restrictions to freedom of expression and more specifically, it will mostly focus on the case-law of the European Court of Human Rights to do so. It is true that the Court does not speak specifically of political correctness, but its reading of offence and hate speech is very relevant to the understanding of political correctness, because of the above mentioned inextricable connections between the notions. From this analysis, this thesis seeks an inspirational starting point deriving from the legal arguments of the Strasbourg Court to move on to critically illustrating legal and moral arguments in favour and against protection from offence. This will be done in the last part of this chapter by critically analysing the specific characteristics offence and hence political correctness have in combination with the valuable and prior to that presented legal perspectives.

b. Definition of offence

Offence or insult is an act of expression, that not necessarily involves speech, that is directed to a specific person or group of people "*in respect of something to which the other[s] bear[s]*

⁹⁶ DeCew, Judith Wagner. 2004. "FREE SPEECH and OFFENSIVE EXPRESSION." *Social Philosophy and Policy* 21 (2): 81–103, p. 81.

⁹⁷ Fearon, Clare. 2015. "Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness." *Theses.ncl.ac.uk*. 2015, p. 190.

⁹⁸ Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 9.

*a possessive relation (a belief, a bodily attribute, an achievement, a job, a family and so on)*⁹⁹. Indeed, offence can take various forms, from the use of specific words to a gesture and from a joke to a provocative piece of art and this can be done on the basis of various characteristics, from one's identity (like one's sex, gender, ethnicity, race, sexual orientation) to one's beliefs and values (like one's religion).

Offensive speech often causes sentiments of mental and emotional distress¹⁰⁰ or in general negative sentiments of pain¹⁰¹ to the person or people that receive it and on the other side, it often aims to “*denigrate, humiliate, diminish, dishonour, or disrespect the other*”¹⁰² and in fact, cause the above-mentioned emotions. However, this is not always the case. Sometimes, a certain act of expression can cause offence unintentionally¹⁰³ while other times an offence can be intended but fail to be given.¹⁰⁴ For example, using the wrong term to describe someone's sexual orientation because of ignorance for the right terminology can lead to offence without intention. On the other hand, trying to insult someone by using a specific adjective or word that is offensive according to the speaker can lead to not taking this intentioned offence, because the receiver does not consider that wording insulting. This is the reason why many make a distinction between the taking and giving of offence and insulting and feeling insulted¹⁰⁵, as the two do not always come together.

3.2 A legal perspective of offence & hate speech

a. Defining hate speech: are ideas that “*offend, shock or disturb*” protected afterall?

In order to extract a legal perspective of hate speech and offence, this chapter will mostly focus on the case-law of the European Court of Human Rights with a reference to the United Nations' understanding of it. As reiterated in the previous chapter, the European Court of Human Rights has many times highlighted that Article 10 of the European Convention of Human Rights is applicable also to ideas that “*offend, shock or disturb*”¹⁰⁶. Nevertheless, as it

⁹⁹ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 129.

¹⁰⁰ Ibid, p. 131.

¹⁰¹ Ibid, p. 127.

¹⁰² Ibid.

¹⁰³ Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 4.

¹⁰⁴ Ibid, p. 131.

¹⁰⁵ Ibid.

¹⁰⁶ *Handyside v. The United Kingdom*, Application no. 5493/72, European Court of Human Rights, 7 December 1976, para. 49.

will be illustrated below, in the late years the Court has not fully lived up to this statement as it has produced inconsistent case-law on hate speech and offence that often shows an opposite perspective of freedom of expression, which might be a reflection of the inherent controversies around political correctness.

To begin with, hate speech can be seen as a form of offensive speech in the sense that all forms of hate speech are perceived as offensive but not all forms of offensive speech are hateful.¹⁰⁷ This is the reason why hate speech is critical for this research; understanding when the protection of freedom of expression stops and hate speech as an excessive form of offensive speech starts is a great guidance for the discussion around offence and political correctness. However, as it will be shown, the lines are not at all clear for the European Court of Human Rights. In fact, defining hate speech itself is a contentious topic in the literature and the opinions vary¹⁰⁸, while the Court itself has not offered a clear definition of it either. What has been observed though is a tendency to “*widen the concept*”¹⁰⁹ and allow for more restriction to freedom of expression¹¹⁰, that challenges the very fact that ideas that offend, shock or disturb are protected under Article 10. This will be now shown by an indicative juxtaposition of landmark case-law that the European Court of Human Rights throughout its history. Some more and some less famous cases are chosen to be presented in this chapter with the aim to cover the whole spectrum of different and inconsistent understandings of the Strasbourg Court on the balance between free speech on the one hand and protection from offence and hate speech on the other.

Ibragim Ibragimov and Others v. Russia

¹⁰⁷ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 127.

¹⁰⁸ Matsuda, Mari J. 1989. “Public Response to Racist Speech: Considering the Victim’s Story.” *Michigan Law Review* 87 (8): 2320.

Brison, Susan J. 1998. “The Autonomy Defense of Free Speech.” *Ethics* 108 (2): 312–39.

Quong, Jonathan. 2010. *Liberalism without Perfection*. Oxford Scholarship Online.

Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press.

Brown, Alexander. 2016. “The ‘Who?’ Question in the Hate Speech Debate: Part 1: Consistency, Practical, and Formal Approaches.” *Canadian Journal of Law & Jurisprudence* 29 (2): 275–320.

¹⁰⁹ Lemmens, Koen. 2018. “‘Irreligious’ Cartoons and Freedom of Expression: A Critical Reassessment.” *Human Rights Law Review* 18 (1): 89–109, p. 106.

¹¹⁰ “On average, free speech restrictions have been upheld in just over one out of three hate speech cases” according to Mchangama and Alkiviadou in Mchangama, Jacob, and Natalie Alkiviadou. 2021. *Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb?* Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

This first case refers to a Muslim scholar, Said Nursi that was banned because his book was allegedly constituting extremist literature. The Court a violation of Article 10 and the freedom of expression, because the book did not depict a violent nor extreme understanding of Islam:

*“merely because a remark may be perceived as **offensive or insulting** by particular individuals or groups does not mean that it constitutes “hate speech.” Whilst such sentiments are understandable, they alone cannot set the limits of freedom of expression. The key issue in the present case is thus whether the statements in question, when read as a whole and in their context, could be seen as **promoting violence, hatred or intolerance**”¹¹¹*

As it seems here, the promotion of violence, hatred or intolerance should be examined in the context of each case when read as a whole and is critical for the Court to consider a form of expression hate speech and allow speech restrictions. However, the reference to offence and insult the Court made is already seen by some as concerning, since it constitutes a “*low threshold*”¹¹² with regards to speech restriction. This means that offence or insult could in fact constitute hate speech and would be sufficient to restrict freedom of expression, when in a specific case and context “*read as a whole*”, they could promote violence, hatred or intolerance.

Atamanchuk v. Russia

In this case, a journalist-politician was convicted for statements he made against non-Russians, calling them criminals, yet not inciting any form of violence towards them. According to the Court:

*“inciting hatred **does not necessarily involve an explicit call for an act of violence, or other criminal acts. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favour combating xenophobic or otherwise discriminatory speech in the face of freedom of expression exercised in an irresponsible manner**”¹¹³*

¹¹¹ Ibragim Ibragimov and Others v. Russia, Applications no. 1413/08 and 28621/11, European Court of Human Rights, 28 August 2018, para. 115.

¹¹² Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. Human Rights Law Review 21 (4): 1008–42.

¹¹³ Atamanchuk v. Russia, Application no. 4493/11, European Court of Human Rights, 11 February 2020, para. 52.

Here, the notion of insult (in other words, offence) is reiterated as a sufficient form of expression for the authorities to restrict free speech, when this form of expression is exercised in an irresponsible manner, without necessarily involving a call for violence. In this case, it is highlighted that combatting speech that is xenophobic or discriminatory is allowed and can be pursued through restricting freedom of expression without any implications with the European Convention on Human Rights.

Drawing our focus away from the Strasbourg Court for a moment, it should be mentioned that this opposes the understanding of hate speech by the **UN International Convention on Civil and Political Rights**; according to Article 20, “*1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*”. This article essentially defines hate speech for the Covenant, including into the definition the element of incitement, that does not appear to always be the case for the Strasbourg Court. Nevertheless, the United Nations as well show a similar inconsistency when it comes to hate speech. More specifically, the **United Nations Strategy and Plan of Action on Hate Speech** defines the latter as “*any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.*”. In this more hate speech focused soft law document, the element of incitement is not included at all and the threshold for what constitutes hate speech falls in fact much lower.

Gündüz v. Turkey

Moving on with more case-law, here the applicant, a member of an Islamic sect faced criminal proceedings for statements against democracy and for calling for Sharia law during a debate that was broadcasted on television. Even though the Court found a violation of Article 10 and his right to freedom of expression, it included the following statement in its rationale:

“Tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. That being so, as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression

*that spread, incite, promote or justify hatred based on intolerance (including religious intolerance), provided that any formalities, conditions, restrictions or penalties imposed are proportionate to the legitimate aim pursued*¹¹⁴

What is of interest here is that the Court affirmatively stated that restriction to freedom of speech can be justified even by forms of expression that merely justify, and not necessarily incite, spread or promote, hatred based on intolerance.

Lilliendahl v. Iceland

In this case, the applicant was convicted and penalized by the State because of a homophobic comment he made under an online article in favour of strengthening education on LGBT+ matters in school education. The comment used a strong language of disgust towards these groups but did not call for any act of violence and the Court did not find any interference with Article 10 of the European Convention of Human Rights. The Court in its effort to define this form of expression as hate speech or not, adopted a dual hierarchical categorisation of hate speech¹¹⁵, the first being the “*gravest forms of hate speech*”¹¹⁶ and the second “*the less grave forms of hate speech*”¹¹⁷, which include the applicants comments that were “*serious, severely hurtful and prejudicial*”¹¹⁸ without a “*reasonable purpose*”¹¹⁹. As for the first category, these forms of speech are to be examined under Article 17 (the prohibition of abuse of rights) and are entirely excluded from Article 10. The applicant’s comments did not fall under this category because it was “*not immediately clear that they aimed at **inciting violence and hatred or destroying the rights and freedoms protected by the Convention***”¹²⁰. However, they fell under the second category and the Court found that as forms of expression that promoted intolerance towards homosexuals they constituted hate speech.

A clearer definition of hate speech is offered by the Court through these two categories of hate speech, that are both justified speech restrictions under the European Convention of Human Rights: **i)** There is a grave form of hate speech that includes the element of inciting

¹¹⁴ Gündüz v. Turkey, Application no. 35071/97, European Court of Human Rights, 4 December 2003, para. 40.

¹¹⁵ Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. Human Rights Law Review 21 (4): 1008–42.

¹¹⁶ Lilliendahl v. Iceland, Application no. 29297/18, European Court of Human Rights, 12 May 2020, para. 34.

¹¹⁷ Ibid, para. 35.

¹¹⁸ Ibid, para. 26.

¹¹⁹ Ibid.

¹²⁰ Ibid.

violence and hatred and that is dealt with exclusively with Article 17 of the Convention, and ii) there is a less grave form of hate speech that can be constituted without any call for violence, which includes insults, ridicule and slander¹²¹ and the protection against it aims at combatting “*prejudicial speech within the context of permitted restrictions on freedom of expression*”¹²² and hence, is examined under Article 10.¹²³

Garaudy v. France

This is one of the most famous case regarding the denial of Holocaust, where the applicant published a book that rejected the fact that the Holocaust actually happened. The Court examined the case under Article 17 and did not find that the domestic convictions Garaudy faced were a breach to the Convention and to his right to freedom of expression. The Court held that:

*“The real purpose of such a work was to rehabilitate the National-Socialist regime and, as a consequence, to accuse the victims of the Holocaust of falsifying history. Disputing the existence of crimes against humanity was, therefore, one of the most severe forms of racial defamation and of incitement to hatred of Jews”*¹²⁴

Hence, according to the categorisation in *Lilliendahl v. Iceland* this form of speech falls in the category of “*the gravest forms of hate speech*” that incites hatred and is thus dealt with by Article 17 of the Convention.

M’Bala M’Bala v. France

In this also famous case, the applicant that was a comedian invited in the scene an academic, Robert Faurisson, know for his Holocaust negationist opinions. Robert Faurisson was offered a prize for “*unfreuentability and insolence*” from another actor that wore a pair of striped

¹²¹ Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

¹²² *Lilliendahl v. Iceland*, Application no. 29297/18, European Court of Human Rights, 12 May 2020, para. 36.

¹²³ For reasons of accuracy, completeness and clarity, it must be reminded that justified restrictions to freedom of speech must pass the 3-step-test, as they must: i) be prescribed by law, ii) pursue a legitimate aim, iii) be necessary in a democratic society.# The legitimate aims are in fact included in Article 10 and are the following: national security, territorial disorder or crime, the protection of health or morals, the protection of the reputation or rights of others, preventing the disclosure of information received in confidence, or maintaining the authority and impartiality of the judiciary.

¹²⁴ *Garaudy v. France*, Application no. 65596/17, European Court of Human Rights, 7 July 2003, para. 23.

pyjamas and a yellow star with the word “Jew” on it. The Court again dismissed the case under Article 17, yet observed:

*“the Court is of the view that this was a **demonstration of hatred and anti-Semitism**, supportive of Holocaust denial. It is unable to accept that the expression of an ideology which is at odds with the basic values of the Convention, as expressed in its Preamble, namely justice and peace, can be assimilated to a form of entertainment, however satirical or provocative, which would be afforded protection by Article 10 of the Convention”*¹²⁵

This form of satirical speech seems to also fall under the first category of the gravest forms of hate speech according to the Court. However, what can be problematic here is the absence of serious incitement to violence or hatred, as a “*demonstration of hatred and antisemitism*” was sufficient for the Court to include it in this first category or at least, to resolve the case in a same way. This is also connected to the concerns raised in the first chapter regarding political correctness’ restrictive role in comedy and artistic forms of expression, which by nature allow for broader freedom in this context.

b. Critical remarks

As it was shown by this indicative choice of case-law and the short analysis of each case, it is still not completely clear which types of offensive are protected by the European Convention of Human Rights and which constitute hate speech and thus, are not. In fact, there is no clear definition of hate speech itself, with the closest the Court ever been to that being the dual categorisation between the gravest and the less grave forms of expression.¹²⁶ The latter are the most problematic as the element of inciting hatred or violence is not a requirement for considering them hate speech and in fact, mere insults may and have been considered as hate speech by the Court. Yet, what is of interest is that the Court perceives the restriction of these as also and -one could say- equally significant in human rights protection.

Isn’t that completely opposite to the famous statement that ideas that offend, shock or disturb are protected by the European Convention of Human Rights and the Strasbourg Court?

¹²⁵ M’Bala M’Bala v. France, Application no. 25239/13, European Court of Human Rights, 20 October 2015, para. 39.

¹²⁶ Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. Human Rights Law Review 21 (4): 1008–42.

Indeed, it seems that the widening of the concept of hate speech challenges this principle¹²⁷ and thus, allows to characterise the position and the case-law of the Court inconsistent when it comes to what is protected free speech, what is hate speech and what is the role of offence between these two.

Nevertheless, it should be pointed out that the intention of the Court when it rules pro the restriction of freedom of expression seems to be a genuine effort towards the protection of vulnerable groups.¹²⁸ As one can see from the above cases, it was forms of expression that were considered xenophobic, homophobic, racist or in general connected to systematic forms of discrimination that allowed restrictions. Where are the lines drawn though? The case-by-case approach that has been adopted by the Court does not let one distract an answer to this question. On the opposite, it has created high levels of legal uncertainty for Europeans and a coherent position that offers “*clear normative guidance*”¹²⁹ is basically absent. Hence, Howard is most probably right when he states that “*a satisfying treatment of this dispute should aspire to do more than recommend ad hoc balancing*”¹³⁰. But besides these questions of fundamental legal importance, the critical observation here is that a Court whose expertise work is devoted to upholding human rights in Europe often perceives offensive speech as a risk to their protection and is willing to restrict freedom of expression in an effort to not allow this.

3.3 To be or not to be offended? Arguments in favour and against protection from offence

a. Introduction to the nature of offence: What is offensive afterall?

As reiterated above, offence is by nature connected to causing a sort of harm to its receiver(s) and in this sense, it has been argued that it is in fact wrong.¹³¹ As Feinberg puts it, to be

¹²⁷Lemmens, Koen. 2018. “‘Irreligious’ Cartoons and Freedom of Expression: A Critical Reassessment.” *Human Rights Law Review* 18 (1): 89–109, p. 106.

¹²⁸ Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

¹²⁹ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 94.

¹³⁰ Ibid.

¹³¹ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 131.

offended is a “*disagreeable experience*”, “*an unpleasant inconvenience, and hence an evil*”¹³² and based on that thought, Cohen Almagor argues that in this sense offence is analogous to physical harm.¹³³ Indeed, the mental and emotional distress an offence can inflict can be equally real, painful and serious as physical harm, which leads many to the argument that it should be morally condemned and even legally restricted.¹³⁴

It is true that one should not ignore the serious negative effects an offence can bring with it just because they are psychological and not physical and thus, as obvious and as tangible. Nevertheless, offence is also contextual by nature as “*almost anything (and nothing) can be offensive or offend someone in a particular context*”¹³⁵. It is true that this intangibility of offence makes it difficult at times to speculate if something one does or says is offensive and if the other party/ parties shall take it as such. This is one of the main reasons why many argue against the politicisation and the regulation of offence, simply because it is so hard to detect it. As a matter of fact, the taking of an offence is very closely related to the values and the beliefs of the offended party that vary from person to person.¹³⁶

b. The fluidity of offensive and incorrect terms

Another common characteristic of offence that proves its contextual nature is its fluidity, something that has also been exaggerated by the continuous efforts for finding the least offensive terms in the era of political correctness. This fluidity around what is offensive and thereby politically incorrect is a reality that is greatly illustrated by the following example offered by Morrice:

“I am not quite old enough to remember the time when ‘nigger’ was considered, by polite white society at least, an acceptable term of racial identification, but I do recall the common use of the term ‘negro’. This term was, in its tum, largely replaced by the supposedly more neutral and respectful, but in fact less precise, ‘coloured’. In the late 1960s the term ‘black’ was rescued for nonprejudicial use by demonstrations and proclamations of black pride and black power. Later, and in keeping with a greater awareness of history and heritage, ‘black’

¹³² Feinberg, Joel. 1987. *Offense to Others*. New York, N.Y. Oxford University Press, p. 49.

¹³³ Cohen-Almagor, Raphael. 1993. “Harm Principle, Offence Principle, and the Skokie Affair.” *Political Studies* 41 (3): 453–70.

¹³⁴ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 131.

¹³⁵ Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 6.

¹³⁶ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 131.

gave way to 'Ah-Caribbean'. Now the term 'nigger' has been recovered and put to fashionable positive use, as witnessed by the militant rap group Niggers With Attitude."¹³⁷

It is true and not easily denied that what is accepted in this sense often changes quickly over time with the politically correct term defining black people changing in a perfect circle according to the example above. Even though this example does not examine the fact that the use of some words and phrases as self-identification by a group or an individual from a group is often seen as not offensive nor politically incorrect, it is still true that the politically correct terms and manners change rapidly. This can happen to an extent that it might get hard to keep up with what is offensive and what is not in terms of political correctness.

c. What about intention?

A special yet not so uncommon category of offence is the unintentional offence, something pivotal to the political correctness debate. Offence has been characterised as "*slippery*"¹³⁸, since it can happen inadvertently, as reiterated above. Yoffe has pointed out that when it comes to hate speech and discrimination, the examination of whether there was intent or not is often disregarded which leads to what he calls "*a double feeling of injustice*"¹³⁹, as the one party feels "*unjustly offended*"¹⁴⁰ and experiences the negative feelings offence often entails and the other feels "*unjustly disciplined*"¹⁴¹ for saying or doing something that meant no insults whatsoever.

This is also quite present in the context of political correctness that has expanded in such a way that examination of intention is often dismissed. Hence, people often experience legal implications and/ or moral condemnation for using politically incorrect words unintentionally and without prescribing to the ideologies they are accused of. Graefer uses the following example:

"A case in point would be Kendall Jenner's appearance in a controversial Pepsi advertisement. In the advert, Jenner leaves a photoshoot to join protesters calling for love and peace, before handing a can to police as a peace offering. The officer smiles and the

¹³⁷ Morrice, David. 1993. "Philosophical Errors of Political Correctness." *Politics* 13 (2): 32–37, p. 34.

¹³⁸ Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 1.

¹³⁹ Yoffe in Sgorbati, Barbara. 2021. "Political Correctness and the Law." *Undecidabilities and Law*, no. 1 (June): 147–60, p. 149-150.

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

*crowd cheers. This was criticised for undermining the Black Lives Matter movement and painting a privileged, white model as a peacemaker between civil rights activists and police.*¹⁴²

This is one of the many cases that celebrities or non-celebrities had to deal with the implications of their unintentional expressions or actions due to political correctness. As shown in the case-law above, intention is not present in the discussions of the Court when regulating speech and defining hate speech. The Court seems to focus more on the possibility of taking offence, rather than the intention of giving it. In legal terms, the existence of *dolus malus* behind the offensive speech and reversely, the *good faith* of the person that offends most of the times seem irrelevant and remain unexamined by the Court. Nevertheless, it seems unfair that one may be affected legally or even be accused of being sexist or homophobic or racist, for example, for using politically incorrect and offensive speech without having such an intention and without holding such beliefs. The avoidance of this exact kind of unfairness is the rationale behind the development and the great significance behind the notions of *good faith* and *dolus* in the legal field. More to that, considering the fluidity of politically correct and offensive terms and ways of expressing oneself as presented above, this unfairness seems bigger and this reality appears to be over-demanding for rational human standards.

d. Has political correctness made us too sensitive?

Furthermore, focusing on the taking of offence to determine an expressive act as politically incorrect actually means the characteristic of subjectivity acquires a very significant role, since in this sense, the emotions and the specific sensitivities of others play a crucial role in the choice of restricting speech or not. Archard argues that “*holding agents morally hostage to the sensibilities of others, however bizarre these might be*”¹⁴³ would be a mistake. It is true that the sensibility to offence is a very personal issue and hence the level and the content of this sensibility varies and differs almost from person to person. It has been argued that political correctness has increased these sensibilities and people’s “*willingness to take offence*”¹⁴⁴. Lasson points out that the supporters of political correctness ignore the

¹⁴² Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 4.

¹⁴³ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 137.

¹⁴⁴ Fearon, Clare. 2015. “Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness.” *Theses.ncl.ac.uk*. 2015, p. 2.

contextuality of offence and can characterise a sort of expression as politically incorrect, just because this sort of expression could have been offensive under some other circumstances or so.¹⁴⁵ Indeed, many thinkers highlight that political correctness has blurred the lines between what is inherently offensive and what is not.¹⁴⁶ It is surely not easily denied that one's ears nowadays are more trained or tempted to detect offensive terms, phrases or gestures; people have been defining more and more expressive acts as incorrect and inevitably the reality of spotting them and feeling uncomfortable around them has been exaggerated. One would say that our sensitivity to incorrect forms of speech has been as a matter of fact increased and in consequence, so have been the cases where speech restrictions are considered morally or legally allowed.

Many voices argue against the protection of offence specifically on the grounds of this specific fact, meaning that particular sensitivities should not be protected. From a legal perspective, Langer argues that "*as a universally applicable norm system, international law is not suited to protect... particularist sensibilities*"¹⁴⁷. Lemmens, elaborating specifically on ideological sensitivities and on the case of cartoons that were seen as blasphemy, argues that they are not sufficient to restrict freedom of speech as long as we as a society agree on willing to maintain a strong protection of freedom of expression.¹⁴⁸ He uses the following example to make his argument clearer:

"I suppose that many of the cartoons about Donald Trump must have hurt the sensitivities of his followers, but I suppose this is not a reason to call into question the right to deride the figure and his ideology."

It is true that protecting certain beliefs or ideologies through speech restrictions, only because their supporters' emotions get invoked seems absurd, problematic or even dangerous when one comes across an example like that. Here, one division should be already made between offence based on one's beliefs and offence based on one's entitled characteristics, at this point

¹⁴⁵ Lasson, Kenneth. 1996. Political Correctness Askew: Excesses in the Pursuit of Minds and Manners. *Tennessee Law Review*, 63 (3), p. 706.

¹⁴⁶ Barrow, Robin. 2005. "On the Duty of Not Taking Offence." *Journal of Moral Education* 34 (3): 265–75, p. 270.

¹⁴⁷Langer, Lorenz. 2014. Review of *In Religious Offence and Human Rights: The Implications of Defamation of Religions*. In *Religious Offence and Human Rights*. Cambridge Studies in International and Comparative Law. p. 377-378.

¹⁴⁸ Lemmens, Koen. 2018. "'Irreligious' Cartoons and Freedom of Expression: A Critical Reassessment." *Human Rights Law Review* 18 (1): 89–109, p. 104.

only to clarify that this argument serves against protecting belief-based offence. Nevertheless, there are still strong voices in favour of protection from offence and of hate speech regulation and restriction.¹⁴⁹ Meanwhile, more mediocre opinions support that certain kinds of offence should be morally condemned, yet that does not mean they should be legally regulated.¹⁵⁰

Archard is one of the supporters of this latter opinion and at this point of the analysis, it is interesting to examine his concept of reasonable offence that is worthy of moral condemnation.¹⁵¹ According to him, an offence is reasonable if it fulfils the following criteria: Firstly, a reasonable person that holds beliefs that the offence is based on takes that as an offence.¹⁵² Secondly, these beliefs are themselves reasonable, meaning that they are “*the result of a conscientious and sincere exercise of reason construed minimally*”¹⁵³. He also connects this idea to Rawls’s belief in “*reasonable pluralism*” as a significant element of modern liberal societies.¹⁵⁴ Thirdly, the manner -rather than the offence alone- in which the offence is communicated and hence the aim behind the expressive act is also of critical importance.¹⁵⁵ Lastly, the costs of avoiding the offence should not be unreasonable.¹⁵⁶ Feinberg in his “*offence principle*” theory would probably not agree with such a process, as Archard points out, as this would require a judgement over the emotions and sensibilities connected to beliefs and ideological questions that should be left open to discussion.¹⁵⁷ For him, the extent of the offence felt should be the sole criterion as searching for reasonability entails taking an official stand on these discussions.¹⁵⁸ However, Archard’s “*reasonable offence*” theory offers a more thorough normative framework to work on, that would resolve to a certain level the problems around lack of intention as well as the possibility of so easily restricting free speech that Feinberg’s theory entails.

¹⁴⁹ Delgado, R. 1982. Words that wound: A tort action for racial insults, epithets, and name calling. *Harvard Civil Rights-Civil Liberties Law Review*, 17, 133.

Matsuda, M. 1989. Public response to racist speech: Considering the victim's story. *Michigan Law Review*, 87(8), 2320–2381

Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press.

¹⁵⁰ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 129.

¹⁵¹ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 134 onwards.

¹⁵² *Ibid*, p. 134.

¹⁵³ *Ibid*.

¹⁵⁴ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p. 134.

¹⁵⁵ Archard, David. 2013. “Insults, Free Speech and Offensiveness.” *Journal of Applied Philosophy* 31 (2): 127–41, p. 135.

¹⁵⁶ *Ibid*.

¹⁵⁷ Feinberg, Joel. 1987. *Offense to Others*. New York, N.Y. Oxford University Press, p. 135.

¹⁵⁸ *Ibid*.

For example, Lemmens' argument in the case of the cartoons that were accused to be offensive against Islam is strongly related to Archard's fourth criterion. Even though he does not elaborate on the reasonability of the beliefs (Islam as a religion), the offended parties and the manner of the offensive act (the cartoons), he argues that a robust protection of freedom of speech is at stake and hence, the offence cannot be considered reasonable and thus, worthy of protection.

However, Archard's model is not perfect as it can also be read differently by different readers. However, it is an honest effort that compromises many arguments of this debate that probably results in it not being extremely protectful of very particular sensitivities. Under this filter of reasonability, part of expressive acts that are seen as politically incorrect and offensive would not probably qualify for protection and therefore speech restriction. To the extent that political correctness protects very particular individual sensibilities (that would not fulfil the first and/or the second criterion) or does not examine the intention of those who offend (that would not fulfil the third criterion) or suppresses their freedom of expression in an unbalanced way (that would not fulfil the fourth criterion), it should not be morally neither legally welcomed according to Archard's theory.

e. Offence towards historically oppressed groups

Analysing offence in abstracto has helped so far in perceiving more clearly its nature and some specific elements one needs to take into account in the discussion around speech restriction in its name. However, this already heated debate gets even more complex when it comes to offence towards minorities, marginalised groups or groups that have been historically oppressed for one reason or another, namely what political correctness aspires to eliminate. Moller argues that "*there is nothing wrong with promoting a presumption that historically oppressed or marginalised groups should not be insulted or subjected to discourse threatening to undermine their status*"¹⁵⁹ and he highlights how political correctness opponents often disregard this legitimate end of speech restriction. Hate speech and offensive speech cause harm by nature, but this harm affects these groups disproportionately¹⁶⁰ as the stereotypes, the misconceptions and the negative feelings towards them are of course more intense; that is the reason they have been marginalised or oppressed

¹⁵⁹ Moller, Dan. 2019. "Dilemmas of Political Correctness." *Governing Least*, January, 1-22, p. 10.

¹⁶⁰ Mchangama, Jacob, and Natalie Alkiviadou. 2021. *Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb?* Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

in the first place. It is true that this oppression creates an additional vulnerability and sensitivity to offence that can be more easily seen as somewhat objective rather than completely contextual and subjective. For example, possibly everyone could easily think of specific words or phrases -probably in every language- used for black people, LGBT+ individuals, women and other groups that are inherently offensive and diminishing, without being able to easily argue for their contextuality or lack of intention to offend when they are used, or to go even further, without being able to argue against a certain -at least moral- incorrectness in their use even if they are not intended as offensive. These forms of expression can be more easily seen as morally wrong or even worthy of legal regulation as they create a hostile environment for already “*vulnerable*” groups and as such they can be also defined more easily as a justified restriction to free speech. Waldron’s idea of “*collective historical memory*” is very relevant to this debate, as groups that have endured or still endure discrimination are the ones that should be protected through hate speech regulations.¹⁶¹

Nevertheless, there are still arguments in favour of an individualised understanding of offence. More specifically, Fearon argues that shaping the dispute of offence around specific groups “*may also obscure the diversity of opinion and experience within each group or amongst these who share a common identity*”¹⁶². Accurately enough and as reiterated, taking an offence and finding something insulting is in the end a personal matter. For example, it may actually happen that a specific LGBT+ individual does not get offended by the use of a politically incorrect/ offensive word for their sexual orientation or a specific woman does not get offended by a politically incorrect patriarchic joke. For this reason, Fearon highlights the importance of exploring the diversity of points of view that exists in these groups and their different perspectives on what is offensive and what is not.¹⁶³ It is very interesting to see what Waldron would reply to that, as for him hate speech is a great moral concern not because of the offence towards an individual herself/ himself, but because of its effects to certain groups; the misconceptions and the stereotyping that it (re)generates in a certain social context.¹⁶⁴ Tthesis agrees with that point of view and finds himself equally preoccupied with the idea that hate speech “*initiates, perpetuates and aggravates socially accepted misrepresentation about outgroups*”. In this opinion, a politically incorrect offence that targets a certain individual

¹⁶¹ Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press.

¹⁶² Fearon, Clare. 2015. “Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness.” *Theses.ncl.ac.uk*. 2015, p. 102-104 & 153.

¹⁶³ Fearon, Clare. 2015. “Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness.” *Theses.ncl.ac.uk*. 2015, p. 191-192.

¹⁶⁴ Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press, p. 166.

actually affects the whole understanding of the group this individual belongs to in the public discourse and this is the reason offence and hate speech must be regulated. This understanding also explains why offending people in power is not instinctively seen the same as offending the less powerful and the less privileged, with the latter being perceived problematic and the former as normal or even liberating¹⁶⁵ and needed. In this sense, the debate around political correctness is also a debate about language's role on representation of these groups and on "*who has power in society*"¹⁶⁶.

f. Concluding remarks

The above thoughts are probably not far from the rationale behind the offence and hate speech related case-law of the European Court of Human Rights, that seeks to uphold equality, non-discrimination and the human rights of the less privileged groups. Specifically, the idea of historical memory is mostly obvious in the way the Court has dealt with the Holocaust denial cases and the significance it attributes in restricting such forms of expression. Of course, it has also granted protection to many other groups that have been or are being discriminated against on the grounds of ethnicity, sex, religion, sexual orientation or other status. Meanwhile, this protection seeks not only to restrict speech that initiates or incites violence and hatred, but also any kind of offensive or one could say politically incorrect speech, possibly because of these less tangible effects it has been argued to have in influencing the common understanding of specific groups by disseminating insults, misconceptions and stereotypes. Nevertheless, the debates around the subjectivity of offence, the need to examine the intentions behind it and the fear of over increasing sensitivities in society are all very relevant here. Specifically from a legal point of view lines should be drawn more strictly when it comes to freedom of expression. The European Court of Human Rights has, at some point in its history at least, aspired to do so by protecting shocking, offensive and disturbing ideas, something that has been clearly albeit inconsistently overturned in the past decades, since some of these allegedly protected forms of expressions are now being interpreted as hate speech.

Moreover, from a philosophical perspective and when examined under Archard's moral theory, offence towards these groups could be seen as reasonable as so seem the offended

¹⁶⁵ Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan, p. 3-4.

¹⁶⁶ Fearon, Clare. 2015. "Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness." *Theses.ncl.ac.uk*. 2015, p. 191-192.

parties and their beliefs, because of the above-mentioned reasons. However, political correctness' effects reveal a problematic blurriness to the importance paid to the intentions and manners of the offence as well. Most importantly though, it is still not clear if the costs of restricting freedom of speech is a cost worth taking in the context of political correctness and elimination of offence.

After offering a more thorough understanding of what offence is and how it seen from a legal and moral perspective especially when addressed to historically oppressed and discriminated groups, this thesis will move to analysing two different theories of freedom of speech under the light of the above research outcomes, that will be critical to the question of whether offensive and politically incorrect speech and hence, freedom of expression should or should not be restricted.

4. The interrelation of offence, hate speech and freedom of expression: Two moral theories

In this fourth chapter, two moral theories on the debate around freedom of expression and protection from offence will be presented and analysed to facilitate this complex research debate: **i)** Firstly, Jeffrey H. Howard's theory¹⁶⁷ aspires to offer discrete analytical stages and a specific framework on how to systematically think of the necessity behind hate speech regulations, concluded by seemingly taking a position against them. **ii)** Secondly, Lars Binderup's¹⁶⁸ theory highlights the importance of freedom of expression in diverse and multicultural society and in the context of belief-based offence, he argues in favour of free speech not just from a legal, but also from a moral perspective. These theories will be enriched with more arguments and counter-arguments and help as visualise the whole debate around this controversy.

4.1 Howard's normative framework for hate speech regulation

Howard's theory is based on his effort to create a normative framework of thinking when it comes to balancing the conflict between free speech and other normative commitments, as he

¹⁶⁷ Howard, Jeffrey W. 2019. "Free Speech and Hate Speech." *Annual Review of Political Science* 22 (1): 93–109.

¹⁶⁸ Binderup, Lars. 2007. Review of Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15.

calls them, like “*social equality, dignity, or security of historically marginalised groups*”¹⁶⁹. This is because for him, a satisfying resolution to this dispute should strive for more than a case-by-case balancing and offer clearer normative guidance.¹⁷⁰ Howard’s theory will be presented in two main parts (that will be enriched with more literature and points of view): **i)** the arguments in favour of freedom of expression, and **ii)** the types of the potential moral duty to refrain from hate speech.

First of all, his arguments in favour of free speech are the following. The first is the “*argument from listener autonomy*”¹⁷¹ that suggests that a person should be autonomous and independent in the sense of being able to be subjected to all opinions and to choose for one's self subscribing or not in each of them. As Dworkin puts it “*Government insults its citizens, and denies their moral responsibility, when it decrees that they cannot be trusted to hear opinions that might persuade them to dangerous or offensive convictions.*”¹⁷². According to this, it could be argued that hate speech bans should not be morally or legally accepted, even when the element of inciting violence is present and prominent. This argument seems weak as the protection of groups that are in danger of facing that violence through eliminating forms of speech that inspire it is also a justified requirement that autonomous, democratic citizens should have from their governments. However, when it comes to offensive or politically incorrect speech that does not incite violence, it could be more easily argued that people should be able to be exposed to different opinions. On the other side, the autonomy of a listener that belongs to a discriminated group might also face great risks when she or he is exposed to offensive and discriminatory points of view.

a. Arguments in favour of free speech

Secondly, “*the argument from speaker autonomy*”¹⁷³ suggests that free speech is vital for the autonomy and the development of one’s self. As Mill argues, without free speech, individuals are not able to pursue their own particular version of what constitutes for them a good life¹⁷⁴. Nevertheless, a strong counter-argument would be that the right to that autonomy

¹⁶⁹ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 94.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*, p. 96-97.

¹⁷² Dworkin, Ronald. 1996. *Freedom’s Law : The Moral Reading of the American Constitution*. Oxford: Oxford University Press, p. 200.

¹⁷³ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 97-98.

¹⁷⁴ Mill, John Stuart. 1859. *On Liberty*. S.L.: Arcturus Publishing Ltd.

stops there where it is used for the wrong reasons and goals.¹⁷⁵ According to Mill, opinions should be stopped from being heard “*when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act*”¹⁷⁶. Nevertheless, Howard argues that free speech entails equally respecting views that are incorrect. According to the latter argument, hateful and offensive views should be permitted just because they depict the speaker’s views and values¹⁷⁷, while according to the former they should not be permitted as they entail great risks for the offended parties. The same argument of the protection that autonomous, democratic citizens are entitled to could also be applied here and indicate that hate speech that incites violence against marginalised groups should be not only morally condemned but also legally regulated. Nevertheless, when it comes to other forms of offence and politically incorrect expression that lack this element, giving a clear answer is not as easy, since free speech is not in conflict with an as strong counter risk. In other words, it seems more clearly reasonable to restrict freedom of expression in the case of offensive speech that entails risks of violence rather than in the case of offensive speech that doesn’t. The analysis of the following argument will take the endeavour of critically looking into the different and diverse answers for the second category too.

“The argument from democracy”¹⁷⁸ is seen as the strongest and most influential one in favour of freedom of speech according to Howard. In one understanding of it, democracy entails the acceptance of multiple opinions and points of view. In the words of Post “*democracy serves the value of self-determination by establishing a communicative structure within which the varying perspectives of individuals can be reconciled through reason*”¹⁷⁹ Heinze argues that imposing limits on public discourse and on what can be said and discussed “*encroaches upon the elements that make the state a democracy*”¹⁸⁰. In short, according to these opinions a robust form of freedom of speech and allowing all the voices and opinions to be heard is a cornerstone of democracies. Additionally, there is also an intense fear, one that

¹⁷⁵ Raz, Joseph. 1991. “Free Expression and Personal Identification.” *Oxford Journal of Legal Studies* 11 (3): 303–24, p. 319.

Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press, p. 146-147.

¹⁷⁶ J.S. Mill. *On liberty* (1859) in Collini, Stefan. 1989. *J. S. Mill : On Liberty and Other Writings*. Cambridge: Cambridge University Press. Chapter 3, par. 1.

¹⁷⁷ Baker, C. Edwin. 2009. “Autonomy and Hate Speech.” *Extreme Speech and Democracy*, February, 139–57, p. 143.

Schauer, Frederick. 2014. “Free Speech on Tuesdays.” *SSRN Electronic Journal* 34 (1): 119-140, p. 128.

¹⁷⁸ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 98-100.

¹⁷⁹ Post, Robert. 1991. “Racist Speech, Democracy, and the First Amendment.” *Faculty Scholarship Series*, January, p. 290.

¹⁸⁰ Heinze, Eric. 2016. *Hate Speech and Democratic Citizenship*. Oxford Oxford University Press, p. 5.

Howard highlights as well¹⁸¹, that regulating speech on what is offensive and what is not allows great liberty and force to those in power with which they should not be trusted. These arguments go further by pointing out that populist and aggressive nationalist agendas are more eager to develop and expand in an era of political correctness and censorship, either because certain groups might aggressively request such protection for their own interests¹⁸² or because certain groups' ideas that are being suppressed are in the end expressed radically in the form of "*violent underground extremism*"¹⁸³. In this sense, it is being supported that dealing with certain controversial debates openly or allowing a "*valuably cathartic legal outlet for... rage*"¹⁸⁴ rather than restricting freedom of speech can preempt the development of extreme, radical and violent movements.¹⁸⁵ In short, even though there is no doubt about the need to tackle hatred and to promote equality especially for the less privileged groups, taking into account the above reasons and risks, it is argued that the very existence of a democracy requires that this goal is not being pursued with the cost of restricting freedom of speech.¹⁸⁶

Nonetheless, there are different understandings of democracy too. As Howard highlights, those who see democracy instrumentally, as a system that promotes just results would be in favour of speech restrictions when they align with the goal of achieving them.¹⁸⁷ In other words, since hate speech regulations aim at stopping the spread of xenophobic, racist, homophobic and other types of discriminatory and unjust opinions they are not just welcome but also compatible with democratic values.¹⁸⁸ Boler, in fact, argues that limiting

¹⁸¹ Howard, Jeffrey W. 2019. "Free Speech and Hate Speech." *Annual Review of Political Science* 22 (1): 93–109, p. 105.

¹⁸² Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

¹⁸³ Binderup, Lars. 2007. Review of Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15, p. 409.

¹⁸⁴ Howard, Jeffrey W. 2019. "Free Speech and Hate Speech." *Annual Review of Political Science* 22 (1): 93–109, p. 105.

¹⁸⁵ Binderup, Lars. 2007. Review of Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15, p. 409.

¹⁸⁶ Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

¹⁸⁷ Arneson, Richard J. 2004. "Democracy Is Not Intrinsically Just." *Justice and Democracy*, August, 40–58.

Estlund, David M. 2008. *Democratic Authority : A Philosophical Framework*. Princeton, Nj: Princeton University Press.

Hélène Landemore. 2017. *Democratic Reason Politics, Collective Intelligence, and the Rule of the Many*. Princeton, Nj Oxford Princeton University Press.

¹⁸⁸ Howard, Jeffrey W. 2019. "Free Speech and Hate Speech." *Annual Review of Political Science* 22 (1): 93–109, p. 99.

freedom of speech is at times a prerequisite of a free a democratic society.¹⁸⁹ This understanding of the role of free speech in democracies reveals a central issue in the debate around hate speech, offence and political correctness; that is the paradox that based on them the liberal democratic aim of equality and anti-discrimination entails the need to restrict hateful, offensive and politically incorrect forms of speech, a practice that seems -to a certain extent that varies according to one's understanding of the issue- incompatible with liberalism.¹⁹⁰ Of course, though, at least from a legal perspective freedom of expression is not a limitless right; to the contrary, there are numerous restrictions to it that are recognized as justified by the European Convention of Human Rights itself, while that is also the case for other international instruments and national Constitutions and laws. Moreover, it is very interesting to make a parallelism of this paradox with another controversy that has been pointed out, the one between democracy and the protection of human rights. Human rights are nowadays universally accepted as fundamental principles and as inherent to every human being regardless of race, sex, nationality, ethnicity, language, religion or any other status. However, there have been some discussions over the tension between "*popular democracy and fundamental rights protection*"¹⁹¹. Habermas rejects the existence of such tension arguing that these two values "*exist in a mutually reinforcing reciprocal relation*"¹⁹². More specifically, he argues that human rights are an essential guarantee for democracy, as they ensure that its "*outcomes are the results of free democratic communication rather than strategic power and influence*"¹⁹³. In this sense, human rights are especially necessary for the autonomy and the effective participation of groups that are being discriminated against in the democratic process. In his words: "*Citizens can make adequate use of their public autonomy only if, on the basis of their equally protected private autonomy, they are sufficiently independent; on the other hand, they can arrive at a consensual regulation of their private autonomy only if they make adequate use of their political autonomy as enfranchised citizens*"¹⁹⁴. One can easily see the common core behind Habermas' argument and the

¹⁸⁹ Boler, Megan. "All Speech Is Not Free: The Ethics of 'Affirmative Action Pedagogy.'" *Counterpoints* 240 (2004): 3–13.

¹⁹⁰ Fearon, Clare. 2015. "Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness." *Theses.ncl.ac.uk*. 2015, p. 177

¹⁹¹ "Critiquing and Theorising the Governance of EU Fundamental Rights." 2017. *The Governance of EU Fundamental Rights*, February, 18–46, p. 29-30.

¹⁹² Habermas, Jürgen. 1995. "On the Internal Relation between the Rule of Law and Democracy." *European Journal of Philosophy* 3 (1): 12–20.

In "Critiquing and Theorising the Governance of EU Fundamental Rights." 2017. *The Governance of EU Fundamental Rights*, February, 18–46, p. 30.

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.*

rationale behind political correctness and regulation of hate speech regulations. As illustrated above, the supporters of the latter also focus their arguments in favour of speech restrictions exactly on a free of discrimination and offence and thus meaningful, free and equal participation of the these groups in the public discourse. Hence, this paradox is also seen by some as a necessary prerequisite of democracy, as inciting hatred or violence on the one hand and regenerating stereotypes through offensive and politically incorrect speech on the other threaten the meaningful and democratic participation of those discriminated against. It should be noted that despite the fact that Habermas' thoughts are placed here where it seems mostly relevant, they also have significant argumental value in the "*autonomy arguments*" of this theory.

Lastly, the "*thinker-based argument*"¹⁹⁵ that focuses on freedom of speech as a precondition for substantive human interaction and for understanding each other's beliefs and values. In Shiffrin's words, free speech "*provides the only precise mechanism by which one's mental contents may be conveyed to another mind, with all their subtlety and detail*"¹⁹⁶. Thus, restricting freedom of speech would impede this process and would not allow for meaningful exchange of opinions between people and as such, it should not be allowed. Nevertheless, the same argument regarding the need to protect certain groups from violent behaviours that is clearly compatible with democratic values cannot be ignored in this case either. In general, one could conclude already that restricting speech that incites and promotes violence is in fact reasonable, as freedom of expression no matter its great significance in a democracy cannot easily prevail when aggravating violence against discriminated and marginalised groups is at the other side of the weight. When the risk stops being as clear, the lines begin to blur as illustrated above. The thinker-based argument is probably closer to the argument that it is basically through discussions and engaging in dialogues against offensive and politically incorrect opinions that one can hope to achieve change in human mindsets and the elimination of racist, homophobic or misogynistic views.¹⁹⁷ However, this discussion is mostly related to the effectiveness of political correctness, and even though it has already been initiated in this chapter, it is going to be more thoroughly addressed in the next one.

¹⁹⁵ Howard, Jeffrey W. 2019. "Free Speech and Hate Speech." *Annual Review of Political Science* 22 (1): 93–109, p. 100.

¹⁹⁶ Seana Valentine Shiffrin. 2015. *Speech Matters: On Lying, Morality, and the Law on Lying, Morality, and the Law*. Princeton University Press, p. 100.

¹⁹⁷ Sunstein, Cass R. 2018. "*#Republic: Divided Democracy in the Age of Social Media*," Princeton, NJ: Princeton University Press, p. 248.

b. Duties related to free speech restriction

Howard then moves on to presenting the specific duties not to engage in hate speech, that for him should be understood exactly as duties, if they are to justifiably restrict speech and be enforced by the state¹⁹⁸: “*the duty not to threaten*”¹⁹⁹, “*the duty not to harass*”²⁰⁰, “*the duty not to offend*”²⁰¹, “*the duty not to defame*”²⁰² and “*the duty not to incite wrongdoing*”²⁰³.

The first is linked to ensuring the safety of the receivers of hate speech that seems reasonably threatened and to the protection from intimidation these forms of expression can have. The second is connected to the idea that hate speech is a form of harassment highlighting the “*deleterious effects*”²⁰⁴ it can have. As Howard points out, these two duties are in general legally recognised as they constitute criminal acts and are penalised anyways regardless of their containing an element of hatred towards discriminated groups.²⁰⁵

The third, the duty not to offend is the one that has been extensively elaborated on in this chapter. Howard analyses the conceptualisation of offence by Feinberg as he is one of the greatest supporters of the protection from it due to the psychological distress it creates as illustrated above. He presents the counter-arguments around the subjectivity of offence arguing that causing psychological distress is not sufficient for speech restriction, as this also requires an act that is “*objectively wrongful*”²⁰⁶, while he also highlights the inevitability of offence, for example in cases of religious disagreement.²⁰⁷ Lastly, he makes the following interesting argument that will enrich this debate. If one, Howard says, reacts negatively to offensive forms of speech because of one’s conviction that these are based on wrongful facts or opinions, then this wrongness is viewed by the offended party as the reason for banning these forms of speech, and not the offence as a feeling itself.²⁰⁸ In this sense, the question is not about the protection of this psychological distress, rather than the protection against this wrongness, that brings us to great unanswered questions of legal philosophy on whether

¹⁹⁸ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 101.

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid.*, p. 102.

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ *Ibid.*, p. 104.

²⁰⁴ *Ibid.*, p. 102.

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*, p. 103

²⁰⁷ Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press, p. 131.

²⁰⁸ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 103.

harmful wrongs should only be penalised or alternatively all wrongs should be penalised regardless of their causing actual harm.²⁰⁹ Applying this thought on political correctness, one could hold that it is often the case that one finds an expressive act offensive and politically incorrect because it is based on a racist, homophobic, sexist or in any way wrong opinion. Of course it may happen that an offence can also cause intense bad emotions, but quite often the previous statement holds true. This is especially obvious when one proclaims something as offensive without being a member of the group that the offensive statement is directed or related to and hence would inflict negative feelings on. This would mean that political correctness, to the extent that it is based on eliminating wrongful opinions because of their wrongfulness, cannot benefit from arguments established on the negative emotions offence is able to generate. Nevertheless, drawing from Waldron's thoughts that were pointed out above, the harm and the important point here might not be the psychological effect an offensive or politically incorrect form of expression can have, rather than the dissemination of stereotypes and misconceptions that enforce the discrimination against certain groups. This will be more clearly shown in the paragraph below.

The duty not to defame is based on the view that as an individual is at risk of being defamed, as are historically marginalised groups and thus, the same reasons should drive their legal protection through speech restriction.²¹⁰ As repeated above, this is closely related to questions around the misconceptions and the stereotypes that hate speech and politically incorrect speech are regenerating. Howard asserts that hate speech regulation can only succeed in hiding the existence of these opinions rather than eliminating them and he uses Simpson's words to highlight that: "*what we want is a social milieu in which people know that they will not be discriminated against, humiliated, or terrorised on account of their identity, because, as a matter of fact, it is actually the case they will not be discriminated against, humiliated, or terrorised on account of their identity*"²¹¹. However, apart from the unrealistic idealism behind that thought, the argument fails to convince as the same could stand for individual defamation that is anyways still a justified restriction to freedom of expression. Secondly, it is not only about eliminating the holding of discriminatory opinions by one individual but also about avoiding their dissemination and their effects on the general public.

²⁰⁹ Duff, R. A. 2012. "Towards a Modest Legal Moralism." *Criminal Law and Philosophy* 8 (1): 217–35.
Simester, A P, and Andrew Von Hirsch. 2014. *Crimes, Harms, and Wrongs : On the Principles of Criminalisation*. Oxford: Hart Publishing.

Tadros, Victor. 2016. *Wrongs and Crimes*. Oxford, United Kingdom: Oxford University Press.

²¹⁰ Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press, p. 81.

²¹¹ Simpson, Robert Mark. 2013. Dignity, Harm, and Hate speech. *Law and Philosophy* 32 (6): 701–28.

Lastly, the “*duty not to incite wrongdoing*”²¹² which unlike the other ones is, as Howard accurately points out, not related to the direct effects of hate speech towards the groups that receive it and hence, it is not entirely based on the offence it inflicts. More specifically, the duty not to incite wrongdoing is connected to the idea of banning forms of speech that motivate others to initiate violence towards these groups; in this sense, it seeks to eliminate the risk of wrongdoing, not the offence itself. The arguments against this duty, somewhat connected to the listener’s autonomy argument illustrated above, hold that all listeners are responsible for their own actions.²¹³ Yet, as Howard shows, that idea is in general rejected since that responsibility lies simultaneously with the inciter and the listener and blaming the one does not equal not blaming the other at all. This duty is also the one behind the “*gravest forms of hate speech*” concept of the European Court of Human Rights and the one that has been argued in this thesis to be a justified reason to restrict free speech. Nevertheless, it has become obvious that being quite distant from offence in its rationale, it doesn’t have a great value on the debate around political correctness.

c. Concluding remarks

To conclude, the analysis of Howard’s theory illustrates first of all the reasonability and need of restricting forms of speech that initiate and incite violence. Indeed, the need to protect -specifically discriminated groups that are already at greater risk- from violence seems to outweigh the need to protect free speech. Hence, these recognised as the gravest forms of hate speech by the European Court of Human Rights are rightfully legally regulated as well as morally condemned. More into the context of political correctness, Howard’s theory has helped in showing that the protection from offence that political correctness entails is more closely linked to the protection from disseminating stereotypes and wrongful opinions regarding discriminated groups rather than the protection of their emotions. Most importantly though, the analysis of this theory included the analysis of the paradoxical for some perception of democracy and equality behind political correctness, that has been mentioned before too. In political correctness’ logic, restricting freedom of speech for promoting non-discrimination and equality is not illiberal rather than necessary for ensuring democratic values and equal participation of these discriminated against. Nevertheless, the correctness of

²¹² Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 104.

²¹³ Howard, Jeffrey W. 2019. “Free Speech and Hate Speech.” *Annual Review of Political Science* 22 (1): 93–109, p. 104.

this statement is to a large extent dependent on the effectiveness of political correctness on which the next chapter will focus.

4.2 Binderup's Theory

a. A belief-based argument in favour of free speech

Binderup's theory takes a clearer stand in favour of freedom of expression, which will help in the further development of the above arguments. From the perspective of a liberal egalitarian, he argues that the protection of freedom of expression should morally prevail over the restriction of free speech on the grounds of belief-based offence in a multicultural democratic society. In his words, in such a society there is unsteady a "*necessity of a civic norm of tolerance - a duty to develop thick skin... meaning an ability to endure even offensive criticism of one's most cherished beliefs*"²¹⁴. He is doing so by also presenting arguments in favour of freedom of speech that to a certain extent overlap with Howard's arguments and these are namely, the "*promotion of overall welfare*"²¹⁵, "*autonomy*"²¹⁶ and "*equality*"²¹⁷.

Exactly because of this overlap, there is no need to separately elaborate on each of these arguments and this thesis will now focus on the additional value and clarifications one could take from Binderup's theory. Firstly, focusing on the subjectivity of offence he makes a strong point against protecting emotions on public discourse as he holds that this would lead to it becoming "*a competition about who can take offence and feign anger most readily*"²¹⁸. This is linked to the increase of sensitivities that political correctness has brought with it as discussed above. Binderup observes that the protection from belief-based offence will create irresolvable disputes and controversies and he uses the following example that clearly illustrates that: "*If religious people get offended and allegedly hurt by public criticism and ridicule, then the atheists will perhaps start claiming to be hurt and offended by public displays of religious practice*"²¹⁹. It seems true that as beliefs and values vary and as offence can be inflicted on anyone, it would not be reasonable nor liberal to offer protection to all offended parties.

²¹⁴ Binderup, Lars. 2007. Review of Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15, p. 416.

²¹⁵ *Ibid*, p. 406-411.

²¹⁶ *Ibid*, p. 412-413.

²¹⁷ *Ibid*, p. 413-415.

²¹⁸ *Ibid*, p. 411.

²¹⁹ *Ibid*.

Secondly, he includes equality as one of the reasons pro freedom of expression on the argument of equal and fair pluralism it ensures, while he also presents the multiculturalist opinion, as he calls it, that discriminated groups should get advanced protection and thus preferential treatment is excused.²²⁰ For Binderup, however, the advancement of minority rights cannot be achieved by speech bans of any kind, rather than actual socioeconomic policies.²²¹ This brings again the question of the effectiveness of political correctness that is the missing piece of that puzzle and that will be analysed soon. Last but not least, Binderup highlights how belief-based offence should be perceived as a criticism towards the belief and not the individual and even argues that criticism towards beliefs might also be understood as respect for their holder as it shows “*honest critical attention to this person’s beliefs*”²²². It is also true though that expressive acts can be too insulting for being able to easily detect respect behind them; however, Binderup carefully chooses the words “*honest critical attention*” that is probably the case for someone shaping such intense statements towards a certain belief.

b. Analytical remarks of Binderup’s theory

To conclude, Binderup insists that the diversity of opinions and values that different groups may even hold very deeply is an inevitable reality in multicultural societies. He highlights that there is no such thing as respecting different beliefs when one’s own beliefs contradict them; to the contrary, there is respect for the right to hold beliefs even if one perceives them as wrong.²²³ For these reasons, he believes that a “*virtue of tolerance*”²²⁴ -to an extent opposite to the concept of “*repressive tolerance*” analysed in Chapter 2- must be developed according to the principles of liberalism, which is only intolerant of illiberal beliefs that demand restrictions to rights such as the freedom of expression.

What does this mean about political correctness though? His approach to offence is a belief-based one so could this be an a contrario argument in favour of speech restrictions when one expresses in an offensive, intolerant and hence probably politically incorrect way based on someone’s inherent characteristics like one’s race, sex, gender or sexual

²²⁰ Ibid, p. 414.

²²¹ Ibid, p. 415.

²²² Ibid, p. 416.

²²³ Ibid.

²²⁴ Ibid, p. 417.

orientation? Or could racism, sexism and homophobia qualify as protected beliefs under his theory? Regardless of what Binderup would answer, an important division could be extracted from his theory. Restricting speech that is politically incorrect because it offends and generates stereotypes on inherent and natural characteristics of discriminated groups seems more reasonable and more qualified than restricting speech that is politically incorrect because it contradicts certain values and beliefs of these groups that are controversial and many points of view around them seem valid. For example, a politically incorrect comment that offends a woman because she is a woman and generates patriarchal and false stereotypes seems more worthy of restriction than a politically incorrect comment that offends one's religion or one's atheistic opinions. Nonetheless, it could also be argued that when offence towards a belief or value based on which a stereotypical and discriminatory behaviour directed to a specific group and seen as an inherent characteristic of that group holds strong, then the above moral and equality-related arguments in favour political correctness could be brought forward again. However, there is a difference of critical importance that argues for a greater need for protection from the first form of politically incorrect speech. When it comes to beliefs and values, as Binderup accurately argues, the existence of various diametrically contradictory opinions is inevitable and these opinions can easily cause offence to one another and hence, can often be perceived as discriminatory when in fact are solely albeit utterly opposite to one another. For example, offence on the grounds of religion is inevitable when, since freedom to choose one's religion is rightfully established on the grounds of respect to different values and beliefs in this context. In this sense, this is a rightful and allowed inevitability, as all these opinions on beliefs and values should be protected. On the other side, when it comes to an inherent characteristic like one's sex or one's ethnicity, the human rights values of equality and non-discrimination strictly don't allow a wide spectrum of opinions, as there is not or should not be such thing as accepting the opinion that a woman is inferior to a man or a white person is superior to a black person. It might be inevitable that opinions like that exist as well, yet there is not a strong -or even at all- justifiability in protecting them.

To conclude this chapter, these lines are not always clear but Binderup's theory has helped a lot in showcasing that this is still a division that could improve the debate around the protection of free speech vs. political correctness: the "*virtue of tolerance*" that should be developed when it comes to different beliefs and values, and the "*repressive tolerance*" that should apply when it comes to inherent characteristics. But before making final conclusions,

an important part of this research is missing; the one that will examine to what extent restricting speech and hence changing the way one expresses one's self is effective and substantial in bringing social change and advancing the rights of discriminated groups.

5. The effectiveness of political correctness

To begin with this significant last part of the analysis on the effectiveness of political correctness and the role of language in striving towards equality and non-discrimination, it must be observed that this topic is often neglected in the debates around the phenomenon.²²⁵ Especially in relation to the amount of ink that has been spilled over the controversies that have been analysed above, the comparison shows a great disanalogy.²²⁶ It must be clarified that the implications political correctness has with freedom of expression are of great importance and the plethora of diverse and heated debates surrounding it is more than justified and in fact, this is the reason why this thesis has attributed a great amount of space and significance to them. Nevertheless, in a world that pays great importance to human rights protection and specifically, to the protection of the rights of historically marginalised and discriminated groups and in short in societies that value and prioritise the promotion of equality and non-discrimination, this missing piece of the puzzle cannot be overlooked. On the contrary, the impact of political correctness and its ability or not to serve these objectives is a critical element for this research and for taking a stand in favour or against the phenomenon.

5.1 The dynamic role of language in social change

In fact, there are multiple voices that argue in favour of political correctness' power in achieving its goals. Political correctness is closely related to social constructionism theories that hold that discourses shape social life, beliefs and understanding of everything that one is surrounded by.²²⁷ In this sense, intervening in these discourses seems a valid attempt to bring

²²⁵ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of Does Political Correctness Make (Social) Sense? In *Social Cognition and Communication*. Psychology Press, Abstract.

²²⁶ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of Does Political Correctness Make (Social) Sense? In *Social Cognition and Communication*. Psychology Press, p. 18.

²²⁷ Fairclough, Norman. 2003. "Political Correctness': The Politics of Culture and Language." *Discourse & Society* 14 (1): 17–28, p. 20.

change to these beliefs and understandings and in the examined case, change towards the promotion of equality and non-discrimination.²²⁸

It is indeed a common ground in human and social sciences that “*our language structures our thought, which in turn structures our behaviour*”²²⁹. In this sense, discourses and the specific use of language might conceal an already constructed system of values and beliefs²³⁰ and based on this thought, one can easily make the argument that change in language is a prerequisite in promoting certain behaviours and values. Besides, political correctness seeks to tackle discriminatory opinions and behaviours that have been constantly and systematically present in human and societal mindsets like racism, sexism or homophobia and an effort to change these entails taking as systematic measures. In this effort, by defining forms of speech as politically incorrect it is revealed that the latter are connected to deeply rooted discriminatory ideologies that might not be noticed otherwise²³¹, yet they need to be in order to be eliminated. Moreover, Fairclough holds that discourses, or in other words the ways a society as a whole expresses itself, do not only include representations of the reality as it is but also representations of how it could be and hence, changing the way discourses are being held has a strong dynamic and an ability to change perceptions and to move towards “*new ways of being*”²³². Thus, political correctness does not only have impact negatively by marking concealed discriminatory elements in human communication, but also positively by creating new politically correct terms, that help in removing the stigma from those discriminated against and subsequently in improving the way they are being treated and perceived by society.²³³

Bruckmuller et al. would agree with the above as they support that political correctness has successful impact²³⁴, while they also highlight how often the research of these actual impacts has been neglected.²³⁵ In their opinion, there are several linguistic bias that contribute not only in regenerating stereotypes around certain groups about also in legitimating them and

²²⁸ Ibid.

²²⁹ Morrice, David. 1993. “Philosophical Errors of Political Correctness.” *Politics* 13 (2): 32–37, p. 33.

²³⁰ Pratt, Vernon. 2015. *The Philosophy of the Social Sciences*. London ; New York: Routledge, p. 48-49.

²³¹ Morrice, David. 1993. “Philosophical Errors of Political Correctness.” *Politics* 13 (2): 32–37, p. 33.

²³² Fairclough, Norman. 2003. “Political Correctness’: The Politics of Culture and Language.” *Discourse & Society* 14 (1): 17–28, p. 23.

²³³ Morrice, David. 1993. “Philosophical Errors of Political Correctness.” *Politics* 13 (2): 32–37, p. 33.

²³⁴ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of *Does Political Correctness Make (Social) Sense?* In *Social Cognition and Communication*. Psychology Press, p. 5.

²³⁵ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of *Does Political Correctness Make (Social) Sense?* In *Social Cognition and Communication*. Psychology Press, Abstract.

strengthening “*the status quo*”²³⁶. In accumulation of all these points, language has three very important characteristics: **i)** an ability to regenerate established beliefs, **ii)** an ability to strengthen their prevalence and **iii)** an ability to change them if it is changed itself. And this as a tool offers the perfect grounds for political correctness aspirations to promote the rights of historically oppressed and discriminated groups. At this point, it is very interesting to present certain examples that Bruckmuller et al. highlight in their research, that shall serve as indicative empirical proof of the effectiveness of political correctness.

Firstly, based on a research of Stahlberg, Sczesny, and Braun in Germany²³⁷ where participants were asked to name their favourite writer, actor or other public figure, the differentiation in the linguistic form revealed that the use of inclusive gendering in the question (that included not only the masculine) resulted in the naming of more women. That showcases how the human subconscious is stimulated and automatically brings up more female public figures to the conscious when inclusive and politically correct language is used.²³⁸ Secondly, according to the findings of the research of Prewitt-Freilino, Caswell and Laasko²³⁹ gender inequality rates are bigger in countries with grammatical gender languages compared to others with different systems. Moreover, according to the studies Carnaghi & Maass²⁴⁰ in general the exposure to offensive and politically incorrect speech has been observed to be linked to more discriminatory and negative attitudes towards targeted groups when compared to the exposure to politically correct language. Lastly, based on a research around the linguistic use of nouns it has been concluded that they “*are the grammatical form used to indicate objects and hence their application to human beings may promote an object-like perception*”²⁴¹. Hence, their use for a person intensifies the essential and permanent status of the meaning of the noun and creates a more solid and inextractible relation to this meaning. This is mostly relevant to examples like the politically correct term

²³⁶ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of Does Political Correctness Make (Social) Sense? In *Social Cognition and Communication*. Psychology Press, p. 14.

²³⁷ Stahlberg, Dagmar, Friederike Braun, Lisa Irmen, Sabine Sczesny, Dagmar Stahlberg, Friederike Braun, Lisa Irmen, Sabine Sczesny, and Klaus Fiedler. 2007. “Representation of the Sexes in Language.” Edited by Klaus Fiedler. Boris.unibe.ch. Hove, UK: Psychology Press. 2007.

²³⁸ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of Does Political Correctness Make (Social) Sense? In *Social Cognition and Communication*. Psychology Press, p. 7.

²³⁹ Prewitt-Freilino, Jennifer L., T. Andrew Caswell, and Emmi K. Laakso. 2011. “The Gendering of Language: A Comparison of Gender Equality in Countries with Gendered, Natural Gender, and Genderless Languages.” *Sex Roles* 66 (3-4): 268–81.

²⁴⁰ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of Does Political Correctness Make (Social) Sense? In *Social Cognition and Communication*. Psychology Press, p. 14.

²⁴¹ *Ibid*, p. 9.

“*people with disabilities*” that has prevailed and replaced other nouns used, such as “*the disabled*”.

This indicative presentation of empirical research proves the strength language has on the perception of the world and the different people and groups one is surrounded by as well as its power to even subconsciously alter our ways of thinking and acting. This in combination with their argument that people are able of adapting in changes in language that seem automatic and natural after a certain period of time and practice²⁴² leads Bruckmuller et al. to the conclusion that the use of inclusive and political correct language is a worthy tool for achieving higher standards of equality and inclusivity.²⁴³ There are even more opinions echoing the above and highlighting the benefits political correctness has had on the status of discriminated groups while criticising that its opponents have mistakenly not recognised them.²⁴⁴ In these points of view and under this understanding of language as a reflection and a channel of thought²⁴⁵, democracies that protect non-discrimination must hold on that principle also when it comes to speech and acts of expression.

5.2 Counter-arguments to the effectiveness of political correctness

On the other side the effectiveness of political correctness has also been questioned on many grounds and with the use of many arguments that are presented below. Even though there are no serious doubts nor attacks towards the above or other empirical data in the literature, some still disagree with the dynamic role of language as presented or argue in favour of other more efficient measures that must be taken for the advancement of equality and non-discrimination.

a. The alleged superficiality of political correctness

First of all, political correctness has been many times accused and criticised because of its alleged superficiality. In the words of Morrice, “*it might be thought to be no more than a matter of surface appearances, incompetent or unwilling to deal with underlying reality. As such, political correctness might be dismissed as irrelevance and impotence*”²⁴⁶. Tsakalakis

²⁴² Ibid, p. 19

²⁴³ Ibid.

²⁴⁴ Moller, Dan. 2019. “Dilemmas of Political Correctness.” *Governing Least*, January, 1-22, p. 8.

²⁴⁵ Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of *Does Political Correctness Make (Social) Sense?* In *Social Cognition and Communication*. Psychology Press, p. 4.

²⁴⁶ Morrice, David. 1993. “Philosophical Errors of Political Correctness.” *Politics* 13 (2): 32–37, p. 34.

would agree with that as he sees political correctness as a hypocritical, exaggerated and irrational practice that is incompetent to achieve its goals of promoting equality²⁴⁷. Meanwhile, more mediocre opinions point out that the censorship that follows from political correctness silences many voices in discussions and public discourses, while the underlying thoughts and points of views remain the same regardless of the fact that they were not expressed²⁴⁸. The extremity and irrationality that political correctness has reached at some points, for example by protecting very particular sensibilities and by not examining intentions, have been recognized before in this thesis and might be the reason for such opinions to a certain extent. Nevertheless, it is also evident that these arguments ignore the theories and empirical data offered in favour of the dynamic role of language in social change. Even though they are categorically in contrast with them contentwise, they do not seem to directly attack them as they do not express any disagreements with the role of language in the human mindset, rather than ignore it. In any case, it would also be irrational to expect immediate results and change of opinions from this dynamic character of language use, but that is different than not recognising this dynamic role at all.

b. Free speech and academic freedom as the effective ways to deal with discriminatory opinions

In addition and somehow in relation to the first counter-argument, it is asserted that the effective way to deal with discriminatory opinions is by allowing them the entrance to public discourse. As Rauch holds, to actually correct them would not mean to silence or to punish them, rather than hear them and attempt to amend them.²⁴⁹ In this sense, it is freedom of expression and not its restriction through political correctness that is more efficient in tackling discrimination. This argument is prevalent and mostly lighted under the debate of political correctness in academia, as it is strongly argued that especially in educational contexts ideas and realities such as inequality should be addressed directly through increasing free speech. Pinker argues in favour of academic free speech as the exposure to many controversial views and facts will eventually help in avoiding dangerous illiberal

²⁴⁷ Tsakalakis, Thomas. 2021. *Political Correctness : A Sociocultural Black Hole*. Abingdon, Oxon ; New York, Ny: Routledge, p. 5.

²⁴⁸ Marques, Joan F. 2009. "How Politically Correct Is Political Correctness?" *Business & Society* 48 (2): 257–66, p. 262.

²⁴⁹ Dzenis, Sandra, and Filipe Nobre Faria. 2019. "Political Correctness: The Twofold Protection of Liberalism." *Philosophia*, June, p. 106.

conclusions.²⁵⁰ This is based on the conviction, which thinkers like Pinker and Rauch share, that reason would never reach illiberal conclusions.²⁵¹

These values of reason and liberalism are being contested by critical theories developed by the Frankfurt school and post-modernists like Foucault, that hold -in short- that truth is relative. In the words of Foucault, “*truth is to be understood as a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements. Truth is linked in a circular relation with systems of power which produce and sustain it, and to effects of power which it induces and which extend it*”²⁵². For these thinkers and based on their idea that words are perceived as able to shape reality²⁵³, seeking an objective truth means only perpetuating already existent power societal structures.²⁵⁴ Williams interestingly bases his rejection to the value of reason on the experience of the Holocaust, that was perceived by many as a rational and scientific effort of shaping the society²⁵⁵ and yet caused shocking atrocities and major human rights violations.

One could say that political correctness is close to these latter ideas on the power of words and language and their aid in perpetuating social structures and stereotypes and that is why it seeks to enforce different ways of expression. Nevertheless, the argument in favour of free speech in academia does not yet lose its value completely. This is because communication and exchange of opinions have a certain utility in shaping one’s point of view as it is through human interaction or exposure to diverse ideas that our opinions are challenged and changed. In this sense, openly and freely addressing certain stereotypical and discriminatory opinions to their root and trying to alter them is necessary especially in academia.

However, this does not mean at all that political correctness should not have any role in education. To the contrary, it has already managed to affect universities in the sense that a diversity of perspectives coming from disadvantaged and discriminated groups is more and

²⁵⁰ Pinker, Steven. 2017. Review of Is Political Correctness Why Trump Won? Spiked Magazine, December.

²⁵¹ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p. 106.

²⁵² Foucault, Michel. 1980. *Power/Knowledge : Selected Interviews and Other Writings, 1972-1977*. Edited by Colin Gordon. New York: Pantheon Books.

²⁵³ Williams, Joanna. 2016. *Academic Freedom in an Age of Conformity : Confronting the Fear of Knowledge*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, p. 133.

²⁵⁴ Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June, p. 102.

²⁵⁵ Williams, Joanna. 2016. *Academic Freedom in an Age of Conformity : Confronting the Fear of Knowledge*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, p. 63.

more included in the curricula, something quite positive in terms of the advancement of equality, while classic liberal values are losing the primacy they once had.²⁵⁶ A use of political correct language in combination with discussions under conditions of free speech to address discriminatory opinions and misconceptions could in fact be more effective than choosing the one or the other. In this context, it should be seen as an extremity of political correctness that there is often an attempt for total exclusion and rejection of certain ideas and theories just because they were developed by white males; for Morrice that is a critical mistake as “*authors and texts can rise above their context, and it is, or should be, one of the aims of higher education to equip students to disengage from their context so as to engage in critical appreciation of the wider world*”²⁵⁷. But apart from that, even if these authors’ pieces include hidden and unintentional nuances that reveal power structures connected to discrimination, it can still be useful, in terms of changing the preconceived ideas behind them, to critically discuss and deconstruct them with a political correctness lens rather than ignore and completely exclude them.

c. Censorship leads to extremism?

Furthermore, the effectiveness of political correctness has also been doubted on the basis of the argument that it achieves the exact opposite, something that was briefly mentioned in the previous chapter too. Indeed, it was presented how some perceive that oppressed extreme opinions may result in even more extremist behaviours²⁵⁸ and thus, political correctness is not just seen as inefficient but also as riskful and dangerous. Nevertheless, it is possible that making absolute and categorical claims is not that helpful in revealing the whole spectrum of effects political correctness can have. As a phenomenon that can possibly entail high levels of language censorship and can reach levels of extremity and irrationality having high expectations from the participants of public discourse, it is rational to claim that it might be those extreme sides of it that are capable of causing such results. Binderup’s theory in favour of tolerance towards different beliefs and values is of relevance here as well, showcasing once more the importance of the division between inevitably different opinions that stem from different belief systems and inherent characteristics. The ingrained controversy between the first can more easily spark extreme and radical behaviours if solely one belief system is

²⁵⁶ Scott, Peter. 2017. “‘Free Speech’ and ‘Offensive’ Speech on Campus.” *International Higher Education*, no. 91 (September): 3-5, p. 4.

²⁵⁷ Morrice, David. 1993. “Philosophical Errors of Political Correctness.” *Politics* 13 (2): 32–37, p. 36.

²⁵⁸ Binderup, Lars. 2007. Review of *Global Freedom of Speech*. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15, p. 409.

protected through restricting the others' free speech and opinions on it. Evidently, speech censorship that avoids such extremities can still benefit the promotion of equality and non-discrimination, as it was argued above and in short, this arguments that seems controversial at first sight might not be that incompatible with the argument in favour of political correctness' effectiveness after all.

d. Socioeconomic policies as the way to achieve equality for discriminated groups

Last but not least, Binderup's theory that was analysed in the previous chapter also holds that "*moral lectures, political correctness or legal sanctions*"²⁵⁹ are not an efficient way to create respect towards discriminated groups. He believes that this can be achieved only through policies of social and economic integration, that include the ensuring of education and equal professional opportunities as well as general redistribution in favour of the less advantaged groups.²⁶⁰ For him, the problem of discrimination and lack of equality is primarily linked to exactly these social and economic inequalities and should not be dealt with policies such as the protection from offensive and politically incorrect speech.²⁶¹ Even more, Barry argues that the latter are not only are ineffective but they draw the attention from the effective policies that should be applied²⁶² or as Binderup puts it "*a (cheap) policy of respecting culture can become a smokescreen for not taking on the real root causes of minority disadvantage, namely educational, social and economical disadvantage*"²⁶³. One could not easily deny the critical role integration policies play for tackling discrimination against certain groups; in fact, they are nothing more than absolutely necessary for the advancement of their rights and hence, a moral duty and a legal obligation for states that have pledged to human rights protection. Nonetheless, this does not mean that political correctness policies are not relevant and useful as well, especially when they have proved to be effective and capable of bringing social change. The argument that they should be complementary to socioeconomic integration strategies and not be expected to be effective when isolated²⁶⁴ is more rational in this sense and surely something that should not be forgotten under any circumstances.

²⁵⁹ Binderup, Lars. 2007. Review of Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15, p. 415.

²⁶⁰ Ibid.

²⁶¹ Ibid.

²⁶² *Culture and Equality : An Egalitarian Critique of Multiculturalism*. 2001. Oxford: Wiley, p. 1 & 317-328.

²⁶³ Binderup, Lars. 2007. Review of Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15, p. 415.

²⁶⁴ Fairclough, Norman. 2003. "Political Correctness': The Politics of Culture and Language." *Discourse & Society* 14 (1): 17–28, p. 25.

e. Concluding remarks

As reiterated, this chapter is an argument in itself as it underlines that the exact role and power language has in shaping one's beliefs and way of thinking must be taken into account and possibly be further explored in the debates around political correctness. As illustrated this role can be very dynamic and indeed contribute to the advancement of rights of discriminated groups. The counter-arguments there were presented though served to draw some lines in the restrictions that should be allowed. Firstly, the role of free speech used to openly address and change discriminatory beliefs is a valuable tool as well. Secondly, extensive forms of speech censorship can also cause opposite effects than the ones political correctness aspires to deliver, connected to extreme and violent behaviours deriving from overly suppressed opinions. Lastly, political correctness should be seen as a valuable yet complementary way of achieving more equality and non-discrimination included in a broader framework of implementing socioeconomic and distributional policies in favour of discriminated groups.

6. CONCLUSION

This thesis has focused on political correctness from a rights-based perspective that examined its role in the promotion of equality and non-discrimination as well as its function as a justified or not restriction to freedom of speech. As mentioned previously and proven during the analysis process, the multiple and complex debates around the topic do not allow for a definitive “*yes or no*” answer to this question. Nevertheless, this research aimed to contribute to better conceptualising of all these discussions, while also offering a normative human rights framework around political correctness and reaching conclusions that can contribute to a further understanding but also a better use of political correctness.

As a per se controversial topic, this thesis started by illustrating the various forms political correctness can take and by establishing the great extent to which they affect freedom of speech through legal restrictions, moral condemnation in the form of a de facto exclusion from public discourse and self-censorship in many areas of life. The rationale behind political correctness was also thoroughly established in the beginning of the research, by showcasing the moral and human rights-based purposes of political correctness that are related to the advancement of equality and non-discrimination for the less privileged and systematically and historically oppressed groups in society. This early revealed the clash between different

human rights of great significance that lies at the core of the debates around political correctness.

The research then moved specifically to the notion of offence as restricting offensive speech is simultaneously a political correctness goal and a tool to reach its above-mentioned purposes. At this point, the legal perspective that was offered focused on the European Court of Human Rights and illustrated the blurred lines and the inconsistency of the Court when dealing with offence, hate speech and freedom of expression. This paper affirmatively concluded and argued that forms of speech that incite violence are rightfully prohibited. Regarding the offensive forms of speech that lack this element, it was observed that in its recent case-law the Strasbourg Court shares the same rationale with political correctness to some levels, as it considers the elimination of offensive speech important in its mission to protect human rights and uphold equality and non-discrimination in Europe.

In order to critically analyse this idea, the notion and the specific nature and characteristics of offence were examined next. In doing so, important factors related to offence were showcased, such as its subjective and often fluid nature that frequently leads to the protection of very particular sensitivities, which can be often characterised as an irrationality and an extremity. It was also shown that in reality political correctness is mostly connected to the wrongfulness of the opinions behind the specific forms of expression it seeks to restrict, rather than on the emotions of distress they may create. In other words, it is mostly the dissemination of stereotypes and discriminatory opinions that it aims, or at least should aim, to avoid, rather than the protection of particular sensibilities and feelings, that is to a great extent impossible. Moreover, another irrationality observed in the process of evaluating political correctness is that the importance of intention is often and not rightfully disregarded and in this case too, the restrictive effects of political correctness can be criticised as extreme.

The moral and main perspective -which is inevitably intertwined with the legal- on political correctness followed this analysis, through the theories of Archard, Howard and Binderup, in chapters 3 and 4, examining the benefits deriving from free speech in relation to reasonable offence, political correctness and the need to advance the rights of discriminated groups in the name of equality. Through Archard's concept of "*reasonable offence*" not only were certain irrationalities of political correctness drawn more clearly, but it was also shown that discriminated groups hold further grounds to qualify as reasonably offended compared to

others. Around this point and during the analysis of Howard's theory, it became clear that there are two different understandings of the relation between free speech and equality: one that favours and very highly values freedom of speech as a nearly untouchable cornerstone of democracy and another that perceives equality as entailing the need to eliminate discriminatory and, hence, offensive and politically incorrect speech to ensure the meaningful democratic participation of the affected groups in public discourse. Furthermore, an important division that had already started to appear became clearer with Binderup's belief-based theory: the legitimacy of protection -through political correctness- of beliefs on the one hand and misconceptions and stereotypes about inherent characteristics of certain groups on the other, with the former seeming less worthy of protection because of the inevitable diversity that is linked to multicultural societies.

To better conceptualise these two contrasting concepts of democracy, this thesis made the case that the actual effectiveness of political correctness is a central yet neglected point in the otherwise heated and rich debates around this topic. In other words, it was argued already that one can subscribe to one of the two understandings of democracy in the context of political correctness only after fully grasping the role of language in society and that this needs to be further explored in research. However, it was still shown that politically correct language can in fact have multiple positive effects towards the elimination of regenerating stereotypes and the promotion of non-discrimination and equality in favour of historically oppressed and discriminated groups. Nevertheless, counter-arguments related to the superficiality of political correctness and the extremism to which censorship can lead highlighted the negative impact that excessive forms of political correctness that ignore intentions while hyperfixating on any particular sensibility can have. Such arguments also revealed a need for higher tolerance of free speech in academic and educational settings, where politically correct values are still useful, but at the same time, stereotypical and discriminatory ideas should be addressed and tackled more directly and openly. The division between beliefs and inherent characteristics or evidently discriminatory and wrongful opinions was quite relevant here too. Lastly, the arguments in favour of other forms of advancing the rights of discriminated groups such as socioeconomic integration and distribution policies did not make a convincing case against political correctness, yet they underlined the fact that it can only constitute one part of the solution.

Is political correctness a threat to free speech or a tool to achieve equality after all? As reiterated, a definitive answer cannot be given. However, this thesis offered an analytical evaluation and a stricter framework of conceptualisation for political correctness, mostly by presenting the different forms of the phenomenon of diverse areas of life, by illustrating the specific characteristics of offence and subsequently certain irrationalities behind the protection from offence, by developing the different democratic theories in the context of the role of speech restriction in the protection of discriminated groups and by examining the effectiveness language can have in shaping beliefs and in bringing social change. By mainly following a philosophical approach combined with legal perspectives and empirical data, it analysed and structured all the necessary elements, data, theories and arguments that should be taken into account for the examination of whether, when and which free speech restrictions are justified or not in the name of political correctness. Despite the thin lines there are around this, it is concluded that a political correctness: **i.** free of extremities related to overprotection of sensibilities, **ii.** protective of inherently discriminatory opinions, stereotypes and misconceptions and not beliefs that inevitably vary in diverse societies, **iii.** free of irrationalities connected to the non-examination of intention when legally or morally condemning the speaker, **iv.** deeply understanding of the value of free speech in general but more specifically of its increased importance in educational and academic settings, **v.** included in a more extensive toolbox of socioeconomic integration, redistribution, and educational policies, could have a positive impact on the advancement of equality and non-discrimination in favour of historically oppressed groups and could qualify as a moral and at times legal restriction to freedom of expression. In a reality where political correctness has moved to certain extreme and irrational extents that threaten free speech, the fulfilment and the further development of these criteria are of critical importance to guarantee its coexistence with a robust form of freedom of expression that needs to be ensured in modern democracies.

BIBLIOGRAPHY

Bansale, Myra. 2021. Review of Cancel Culture: A Look at the Benefits and Dangers of Public Discipline. Korb Blog. November 4, 2021.

Baker, C. Edwin. 2009. Autonomy and Hate Speech. *Extreme Speech and Democracy*, February, 139–57.

Barrow, Robin. 2005. On the Duty of Not Taking Offence. *Journal of Moral Education* 34 (3): 265–75, p. 270.

Binderup, Lars. 2007. Global Freedom of Speech. *Trames Journal of the Humanities and Social Sciences* 11 (4): 405–15.

Brison, Susan J. 1998. The Autonomy Defense of Free Speech. *Ethics* 108 (2): 312–39.

Bromwich, Jonah E. 28 June 2018. Everyone is Canceled. *The New York Times*.

Brown, Alexander. 2016. “The ‘Who?’ Question in the Hate Speech Debate: Part 1: Consistency, Practical, and Formal Approaches.” *Canadian Journal of Law & Jurisprudence* 29 (2): 275–320.

Bruckmüller, Susanne, Peter Hegarty, and Andrea E. Abele. 2011. Framing Gender Differences: Linguistic Normativity Affects Perceptions of Power and Gender Stereotypes. *European Journal of Social Psychology* 42 (2): 210–18.

Cole, Jonathan R. 2016. Review of *The Chilling Effect of Fear at America’s Colleges*. *The Atlantic*. June 9, 2016.

Collini, Stefan. 1989. *J. S. Mill : On Liberty and Other Writings*. Cambridge: Cambridge University Press.

Dawood, Yasmin. 2013. Democracy and the Freedom of Speech: Rethinking the Conflict between Liberty and Equality. *Canadian Journal of Law & Jurisprudence* 26 (2): 293–311, p. 293.

DeCew, Judith Wagner. 2004. Free speech and offensive expression. *Social Philosophy and Policy* 21 (2): 81–103.

Delgado, R. 1982. Words that wound: A tort action for racial insults, epithets, and name calling. *Harvard Civil Rights-Civil Liberties Law Review*, 17, 133.

Dockterman, Eliana. 2022. Review of The Depp-Heard Trial Perpetuates the Myth of the Perfect Victim. *Time*, June.

Duff, R. A. 2012. “Towards a Modest Legal Moralism.” *Criminal Law and Philosophy* 8 (1): 217–35.

Duque, Richard B., Robert Rivera, and E.J. LeBlanc. 2020. The Active Shooter Paradox: Why the Rise of Cancel Culture, ‘Me Too’, ANTIFA and Black Lives Matter... Matters. *Aggression and Violent Behavior* 60 (December): 101544.

Dupuis-Deri, Francis. 2001. Review of *Le Totalitarisme “Politically Correct” : Mythe Ou Réalité ?* *Argument Revue* 4 (1).

Dzenis, Sandra, and Filipe Nobre Faria. 2019. “Political Correctness: The Twofold Protection of Liberalism.” *Philosophia*, June.

Dworkin, Ronald. 1996. *Freedom’s Law : The Moral Reading of the American Constitution*. Oxford: Oxford University Press.

Ely, Robin J., Debra Meyerson, and Martin Davidson. 2006. Review of *Rethinking Political Correctness*. *Harvard Business Review* 84 (9): 78–87.

Fairclough, Norman. 2003. ‘Political Correctness’: The Politics of Culture and Language. *Discourse & Society* 14 (1): 17–28.

Fearon, Clare. 2015. *Disputes of Offence : Making Sense of the Discursive Construction of Political Correctness*. Theses.ncl.ac.uk. 2015.

Feinberg, Joel. 1987. *Offense to Others*. New York, N.Y. Oxford University Press.
Cohen-Almagor, Raphael. 1993. "Harm Principle, Offence Principle, and the Skokie Affair." *Political Studies* 41 (3): 453–70.

Graefer, Anne. 2019. *Media and the Politics of Offence*. Cham, Switzerland: Palgrave Macmillan.

Greenspan, Rachel E. 2020. Review of How "Cancel Culture" Quickly Became One of the Buzziest and Most Controversial Ideas on the Internet. *Insider*, August.

Heinze, Eric. 2016. *Hate Speech and Democratic Citizenship*. Oxford Oxford University Press.

Hendley, W. Clark. 1996. What Is Political Correctness? Shifting Understandings as the Media Define a New Ideology. *The European Legacy* 1 (4): 1615–21.

Hollander, Paul. 2002. Review of "Imagined Tyranny"? Political Correctness Reconsidered. In *Discontents: Postmodern and Postcommunist*. Transaction Publishers.

Howard, Jeffrey W. 2019. Free Speech and Hate Speech. *Annual Review of Political Science* 22 (1): 93–109.

Kitrosser, Heidi. 2017. Review of Free Speech, Higher Education, and the PC Narrative. *Minnesota L.Rev* 101: 1987–2063.

Klotz, Peter. 1999. Politeness and Political Correctness. *Ideologies of Politeness* 9 (1): 155–61.

Langer, Lorenz. 2014. Review of *In Religious Offence and Human Rights: The Implications of Defamation of Religions*. In *Religious Offence and Human Rights*. Cambridge Studies in International and Comparative Law.

Lasson, Kenneth. 1996. Political Correctness Askew: Excesses in the Pursuit of Minds and Manners. *Tennessee Law Review*, 63 (3).

Lee, F. 15 September 2017. 'Excommunicate me from the church of social justice': An activist's plea for change. *The Sunday Magazine*.

Lemmens, Koen. 2018. 'Irreligious' Cartoons and Freedom of Expression: A Critical Reassessment. *Human Rights Law Review* 18 (1): 89–109.

Loury, Glenn C. 1994. Self-Censorship in Public Discourse. *Rationality and Society* 6 (4): 1-34.

Lukianoff, Greg. 2014. *Unlearning Liberty : Campus Censorship and the End of American Debate*. New York: Encounter Books.

Mandelbaum, Michael. 2020. Political Correctness Threatens American Higher Education. *The American Interest*, February.

Marcuse, H. (1965). Repressive tolerance. In R. P. Wolff & B. Moore (Eds.), *A critique of pure tolerance*. Boston: Beacon Press: 81-117.

Marques, Joan F. 2009. How Politically Correct Is Political Correctness? *Business & Society* 48 (2): 257–66.

Mass, Anne, Caterina Suitner, and Elisa Merkel. 2014. Review of *Does Political Correctness Make (Social) Sense?* In *Social Cognition and Communication*. Psychology Press.

Matsuda, M. 1989. Public response to racist speech: Considering the victim's story. *Michigan Law Review*, 87(8), 2320–2381.

Mill, John Stuart. 1859. *On Liberty*. S.L.: Arcturus Publishing Ltd.

Mchangama, Jacob, and Natalie Alkiviadou. 2021. Review of Hate Speech and the European Court of Human Rights: Whatever Happened to the Right to Offend, Shock or Disturb? Get Access Arrow. *Human Rights Law Review* 21 (4): 1008–42.

Moller, Dan. 2019. Dilemmas of Political Correctness. *Governing Least*, January, 1-22.

Morrice, David. 1993. Philosophical Errors of Political Correctness. *Politics* 13 (2): 32–37.

Myklebust, Jan Petter. 2018. Is Political Correctness Eroding Universities' Mission? *University World News*, September.

Parekh, B. 2017. Limits of free speech. *Philosophia*, 45(3), 931–935.

Quong, Jonathan. 2010. Liberalism without Perfection. *Oxford Scholarship Online*.

Rainey, Bernadette, Elizabeth Wicks, Clare Ovey, Francis Geoffrey Jacobs, and Robin C A White. 2017. *The European Convention on Human Rights*. Oxford Oxford University Press.

Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press.

Raz, Joseph. 1991. Free Expression and Personal Identification. *Oxford Journal of Legal Studies* 11 (3): 303–24.

Rosenblatt, Kalhan. 2022. Review of Male Domestic Violence Survivors Say They Feel the Depp-Heard Trial Is a Turning Point. *NBC News*, April.

Schauer, Frederick. 2014. Free Speech on Tuesdays. *SSRN Electronic Journal* 34 (1): 119-140.

Scott, Peter. 2017. 'Free Speech' and 'Offensive' Speech on Campus. *International Higher Education*, no. 91 (September): 3-5.

Sgorbati, Barbara. 2021. Political Correctness and the Law. *Undecidabilities and Law*, no. 1 (June): 147–60.

Simester, A P, and Andrew Von Hirsch. 2014. *Crimes, Harms, and Wrongs : On the Principles of Criminalisation*. Oxford: Hart Publishing.

Simpson, Robert Mark. 2013. Dignity, Harm, and Hate speech. *Law and Philosophy* 32 (6): 701–28.

Spencer, Martin E. 1994. Multiculturalism, 'Political Correctness,' And the Politics of Identity. *Sociological Forum* 9 (4): 547–67.

Suk Gersen, Jeannie. 15 December 2014. Review of *The Trouble with Teaching Rape Law*. *The New Yorker*.

Tadros, Victor. 2016. *Wrongs and Crimes*. Oxford, United Kingdom: Oxford University Press.

Thiele, Martina. 2021. Review of *Political Correctness and Cancel Culture - a Question of Power!* *Journalism Research* 4 (1): 50–57.

Tsakalakis, Thomas. 2021. *Political Correctness : A Sociocultural Black Hole*. Abingdon, Oxon ; New York, Ny: Routledge.

Voorhoof, Dirk, and Hannes Cannie. 2010. Freedom of Expression and Information in a Democratic Society. *International Communication Gazette* 72 (4-5): 407–23.

Wagg, Stephen. 1998. *Because I Tell a Joke or Two : Comedy, Politics, and Social Difference*. London ; New York: Routledge.

Waldron, Jeremy. 2014. *The Harm in Hate Speech*. Cambridge, Mass.: Harvard University Press.

William, Michael. 2016. *The Genesis of Political Correctness : The Basis of a False Morality*. United States: Createspace.

Zecchetti, Giorgia. 2022. Review of How Political Correctness and Cancel Culture Are Killing Comedy. Università Degli Studenti di Modena e Reggio Emilia.

CASE-LAW

Atamanchuk v. Russia, Application no. 4493/11, European Court of Human Rights, 11 February 2020.

Garaudy v. France, Application no. 65596/17, European Court of Human Rights, 7 July 2003.

Gündüz v. Turkey, Application no. 35071/97, European Court of Human Rights, 4 December 2003.

Handyside v. The United Kingdom, Application no. 5493/72, European Court of Human Rights, 7 December 1976.

Ibragim Ibragimov and Others v. Russia, Applications no. 1413/08 and 28621/11, European Court of Human Rights, 28 August 2018.

Lilliendahl v. Iceland, Application no. 29297/18, European Court of Human Rights, 12 May 2020.

M'Bala M'Bala v. France, Application no. 25239/13, European Court of Human Rights, 20 October 2015.