

# FREEDOM OF SPEECH



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# INTRODUCTION

## FREEDOM OF SPEECH VS. HATE SPEECH

➔ Freedom of speech is a fundamental right in democratic societies.

➔ Hate speech challenges this right and raises questions about its limits.

➔ This presentation explores legal frameworks, case law, and ethical dilemmas.





# WHAT IS FREEDOM OF SPEECH?

- Right to express opinions without government censorship
- Includes spoken, written, artistic and symbolic expression



Protected by democratic  
constitutions and human rights  
treaties





# LEGAL FOUNDATIONS

## INTERNATIONAL LAW

International human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), recognizes freedom of expression as a human right.

However, both allow restrictions for reasons such as national security, public order, and the rights of others.



- **UDHR Article 19: global support for free speech**
- **ECHR Article 10: allows limits in democratic societies**
- **ICCPR Article 19: protects freedom of expression**



# FREEDOM OF SPEECH IN THE U.S.

- Protected by the First Amendment
- Exceptions: incitement, obscenity, defamation
- Strong legal tradition of protecting speech



- U.S. jurisprudence emphasizes content neutrality, meaning laws cannot favor or suppress speech based on its message or viewpoint.



# FREEDOM OF SPEECH EUROPE



- ECHR Article 10 protects speech
- Restrictions allowed for hate, order, dignity
- More regulated than in the U.S

European countries, under the guidance of the ECHR, recognize the importance of free speech but allow for broader limitations compared to the U.S. Speech can be restricted to protect the reputation or rights of others, ensure public safety, and prevent disorder.



# HATE SPEECH

## DEFINITION

■ Hate speech is typically defined as speech that attacks or incites hatred, violence, or discrimination against a person or group based on race, religion, ethnicity, sexual orientation, gender identity, or other characteristics.

■ The lack of a universally accepted legal definition complicates enforcement and policy-making, but most frameworks agree on its potential to cause real-world harm.







# EXAMPLES OF HATE SPEECH

Regulations often depend on historical context—for example, Europe's stricter laws stem from its experience with fascism and genocide.



Holocaust denial (criminalized in German)



online abuse targetting marginalized groups



hate-filled political propaganda



public statements advocating violence or exclusion



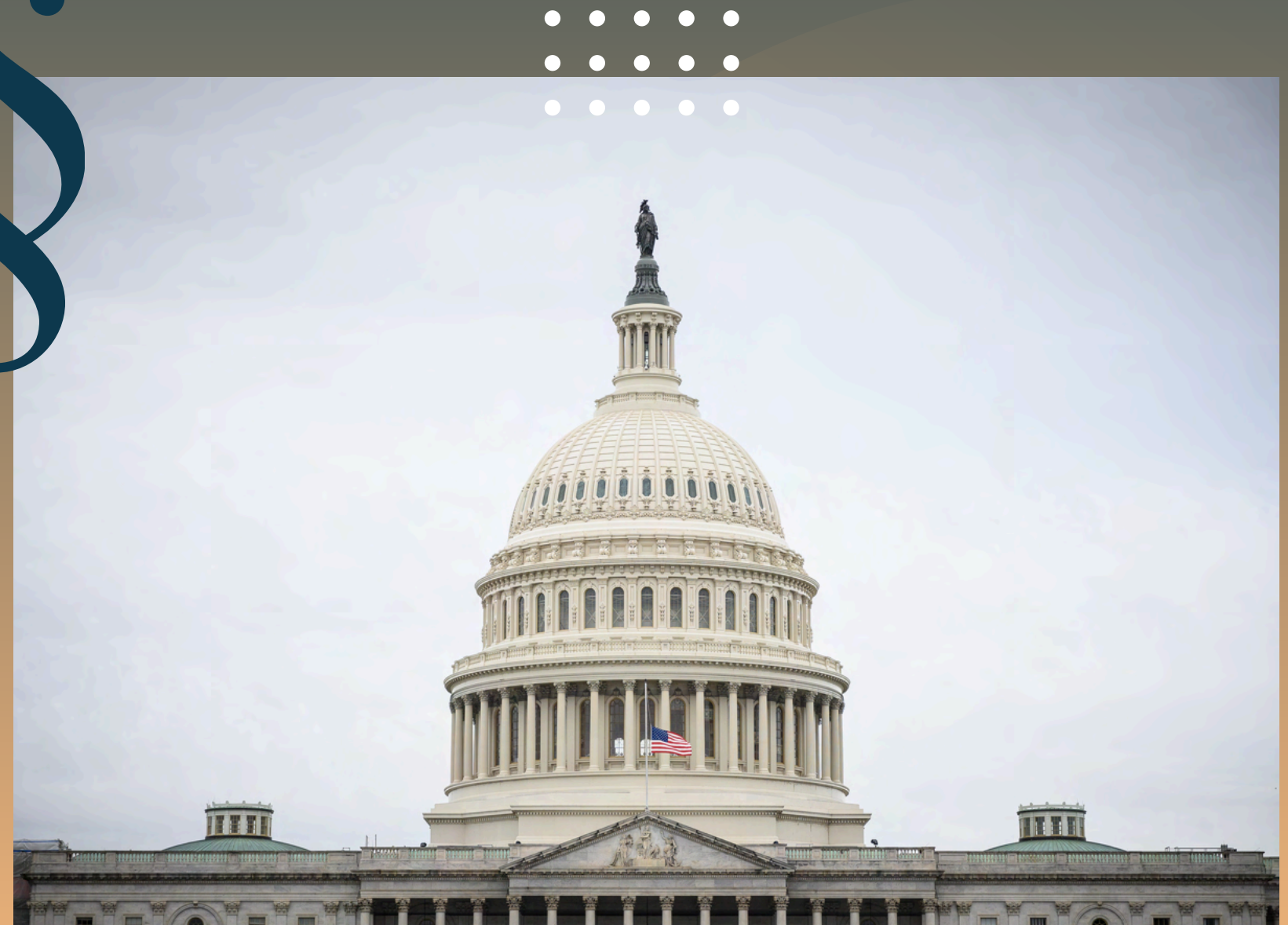


# HATE SPEECH AND THE LAW - U.S.

U.S. offers the strongest protection for free speech. Under the First Amendment, even offensive and hateful speech is generally protected unless it directly incites “imminent lawless action”

## Examples

- Neo-Nazi rallies and hate groups may express their views legally, as long as they don't provoke immediate violence.
- There are no general hate speech laws at the federal level.







# FRANCE

## PENAL CODE



France criminalizes hate speech under its Penal Code, particularly through provisions that prohibit speech inciting discrimination, hatred, or violence based on race, religion, ethnicity, gender, sexual orientation, or disability.



### **DIEUDONNÉ M'BALA M'BALA CASE**

In 2020, controversial comedian Dieudonné M'bala M'bala was sentenced for multiple offenses, including hate speech, Holocaust denial, and antisemitic performances. He has repeatedly faced fines and bans on his shows.

### **POLITICAL ACCOUNTABILITY**

Public figures, politicians, and media personalities have also been fined or convicted for racist, xenophobic, or anti-Muslim remarks (e.g., Éric Zemmour was convicted in 2011 and 2018).





# UNITED KINGDOM

## PUBLIC ORDER ACT 1986

This act criminalizes the use of threatening, abusive, or insulting words or behavior, especially when intended to stir up racial or religious hatred. It applies to:

- Public demonstrations
- Written materials and online publications
- Spoken words in person or via broadcast

The Act does not require actual violence to occur—speech that is likely to incite hatred is enough to trigger liability.



### Public Order Act 1986

CHAPTER 64

#### ARRANGEMENT OF SECTIONS

##### PART I

##### NEW OFFENCES

###### Section

1. Riot.
2. Violent disorder.
3. Affray.
4. Fear or provocation of violence.
5. Harassment, alarm or distress.
6. Mental element: miscellaneous.
7. Procedure: miscellaneous.
8. Interpretation.
9. Offences abolished.
10. Construction of other instruments.

##### PART II

##### PROCESSIONS AND ASSEMBLIES

11. Advance notice of public processions.
12. Imposing conditions on public processions.
13. Prohibiting public processions.
14. Imposing conditions on public assemblies.
15. Delegation.
16. Interpretation.

##### PART III

##### RACIAL HATRED

##### *Meaning of "racial hatred"*

17. Meaning of "racial hatred".

##### *Acts intended or likely to stir up racial hatred*

18. Use of words or behaviour or display of written material.
19. Publishing or distributing written material.
20. Public performance of play.

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# SOCIAL MEDIA AND FREE SPEECH



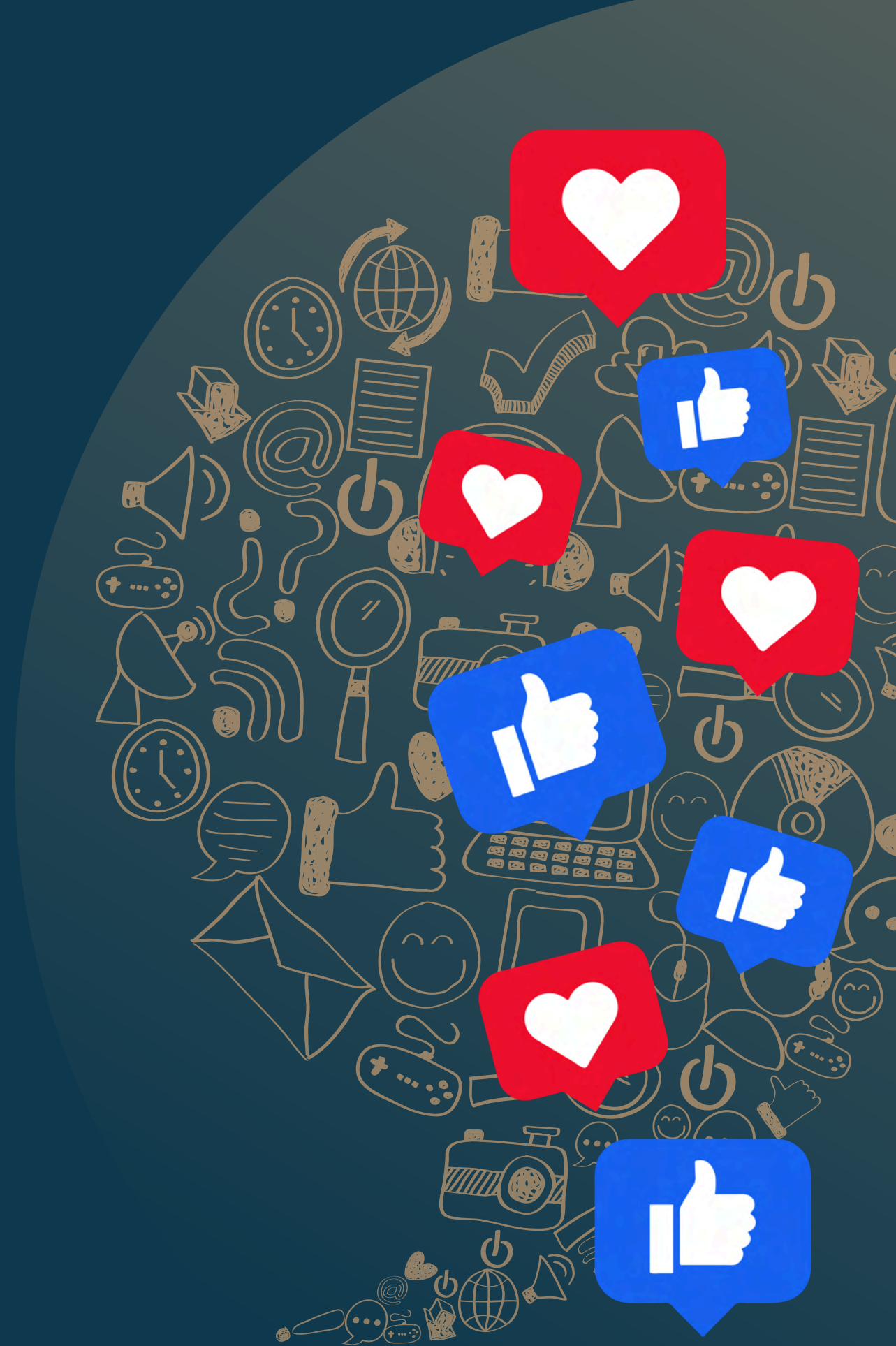
Platforms like X, Facebook, YouTube amplify global voices.



# Rapid spread of hate speech and misinformation.



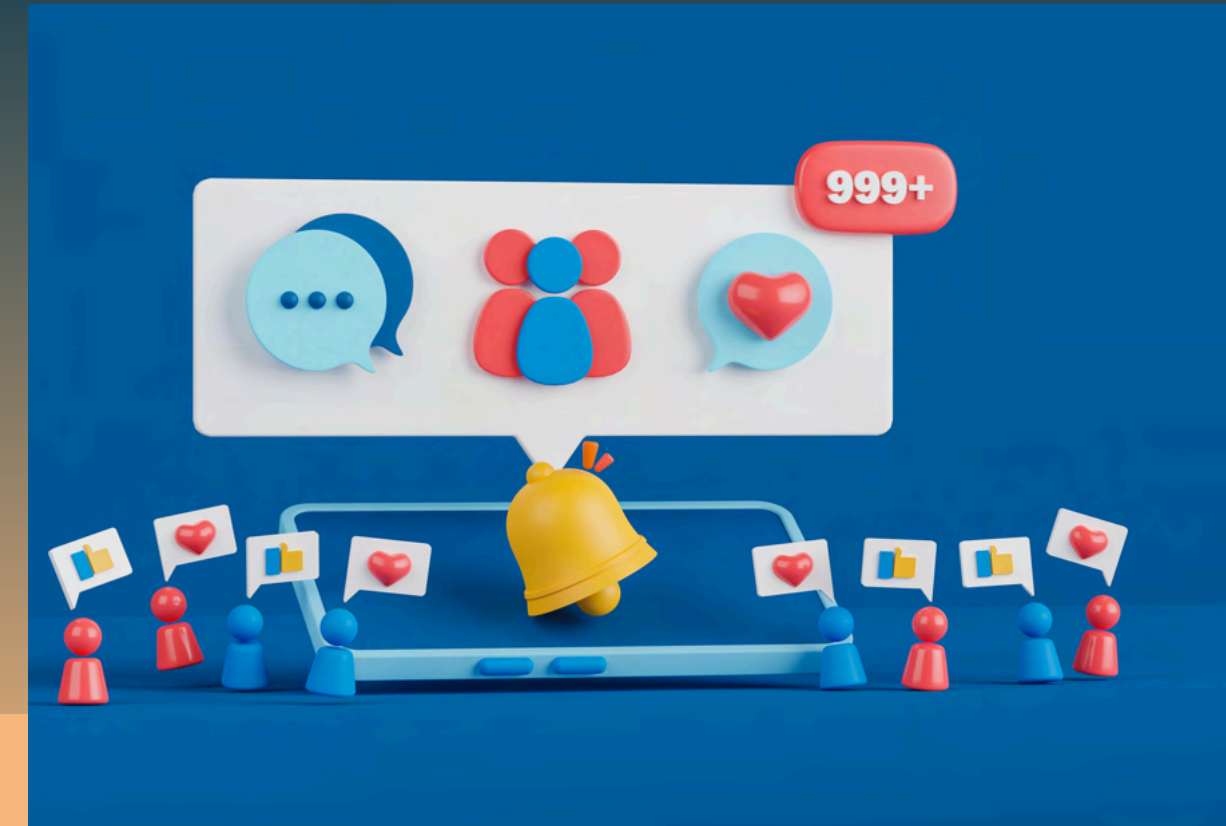
# Private moderation raises questions on censorship and bias.





# SOCIAL MEDIA

## GLOBAL LEGAL RESPONSES



**France – Avia Law (partly struck down):** Sought to force rapid removal of hate content; parts were ruled unconstitutional over free speech concerns.



**United States – Section 230 of the Communications Decency Act:** Shields platforms from liability for user-generated content while allowing them to moderate content in “good faith.” This law is under increasing scrutiny.



**European Union – Digital Services Act (DSA, 2024):** A comprehensive regulation requiring transparency in algorithms, stronger moderation of illegal content, and user protections.

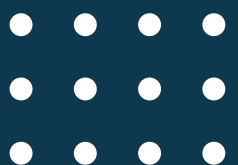
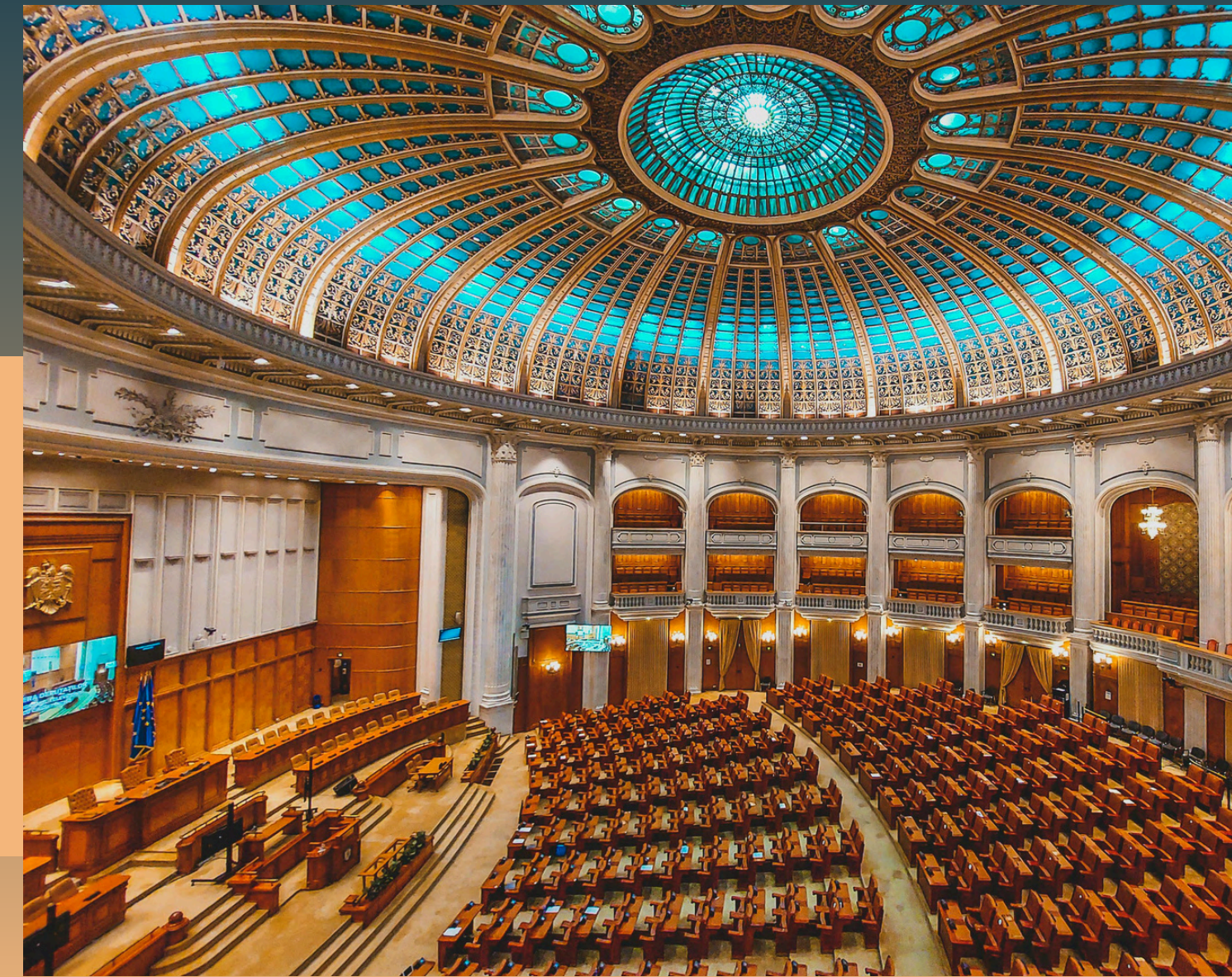


# POLITICAL SPEECH

Political speech lies at the heart of democratic life. It refers to any expression related to government, public policy, elections, or political criticism. This includes campaign speeches, debates, public protests, interviews, and even controversial statements made on social media by politicians. In most democratic countries, political speech is among the most protected forms of expression.

However, political speech is not immune from legal consequences. It can be restricted or sanctioned if it crosses into:

- Incitement to violence
- Hate speech targeting minorities
- Public disorder or national security threats







# POLITICAL SPEECH

## JANUARY 6 CAPITOL

In 2021, former **President Donald Trump** faced accusations of inciting **the January 6 Capitol riots** with his political rhetoric.



While no formal criminal charges were filed, the case ignited national debate over:

- The limits of protected political speech
- Whether such speech amounts to incitement under *Brandenburg v. Ohio*





# FREEDOM OF SPEECH AND THE POLITICS - FRANCE

## § **Éric Zemmour's convictions**

- 2011 conviction – For inciting racial discrimination after stating on national TV that “most drug dealers are Black and Arab
- 2018 conviction – For provoking hatred against Muslims by stating they should “choose between Islam and France
- 2022 acquittal – In one case, for calling unaccompanied migrant minors “thieves, rapists, murderers.” The court ruled the statement was directed at a policy, not individuals—but the decision was widely criticized

A journalist, author, and right-wing politician—has become a symbolic figure in debates over political speech and hate speech in France. His frequent and highly controversial remarks have triggered legal consequences





# THE UNITED KINGDOM

# POLITICAL SPEECH



Andrew Bridgen, a British Member of Parliament (MP), was expelled from the Conservative Party in 2023 after making inflammatory statements online about COVID-19 vaccinations.



## WHAT HAPPENED?



In January 2023, Bridgen posted on Twitter/X that the COVID-19 vaccination rollout was “the biggest crime against humanity since the Holocaust.”



## LEGAL CONTEXT

Bridgen’s statement was not illegal under UK criminal law. Due to the UK's strong protections for political speech and parliamentary privilege, MPs are generally shielded from prosecution unless their speech crosses into incitement, harassment, or defamation.

However, his speech violated party ethics and standards of public conduct, particularly in relation to antisemitism and misinformation.





# FREEDOM OF SPEECH

# MINORITIES

Freedom of speech is a universal right, but not everyone experiences it equally. Minorities—whether ethnic, religious, linguistic, sexual, or cultural—are often the primary targets of hate speech, both online and offline.

Canada: Criminal Code prohibits willful promotion of hatred against identifiable groups, but the Supreme Court has also struck down overly broad laws as unconstitutional.

## LAW AROUND THE WORLD

France: Strict hate speech laws apply equally to all, but critics argue they have been used to silence pro-Palestinian activism.

Hungary: Laws against hate speech exist, but enforcement is weak and sometimes politically selective.





# MINORITIES RIGHTS POLAND

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Poland protects freedom of speech in [Article 54 of the Constitution](#), but this right is subject to limitations prescribed by law, particularly to prevent hate speech, defamation, and public disorder.

## [Article 256 of the Penal Code](#)

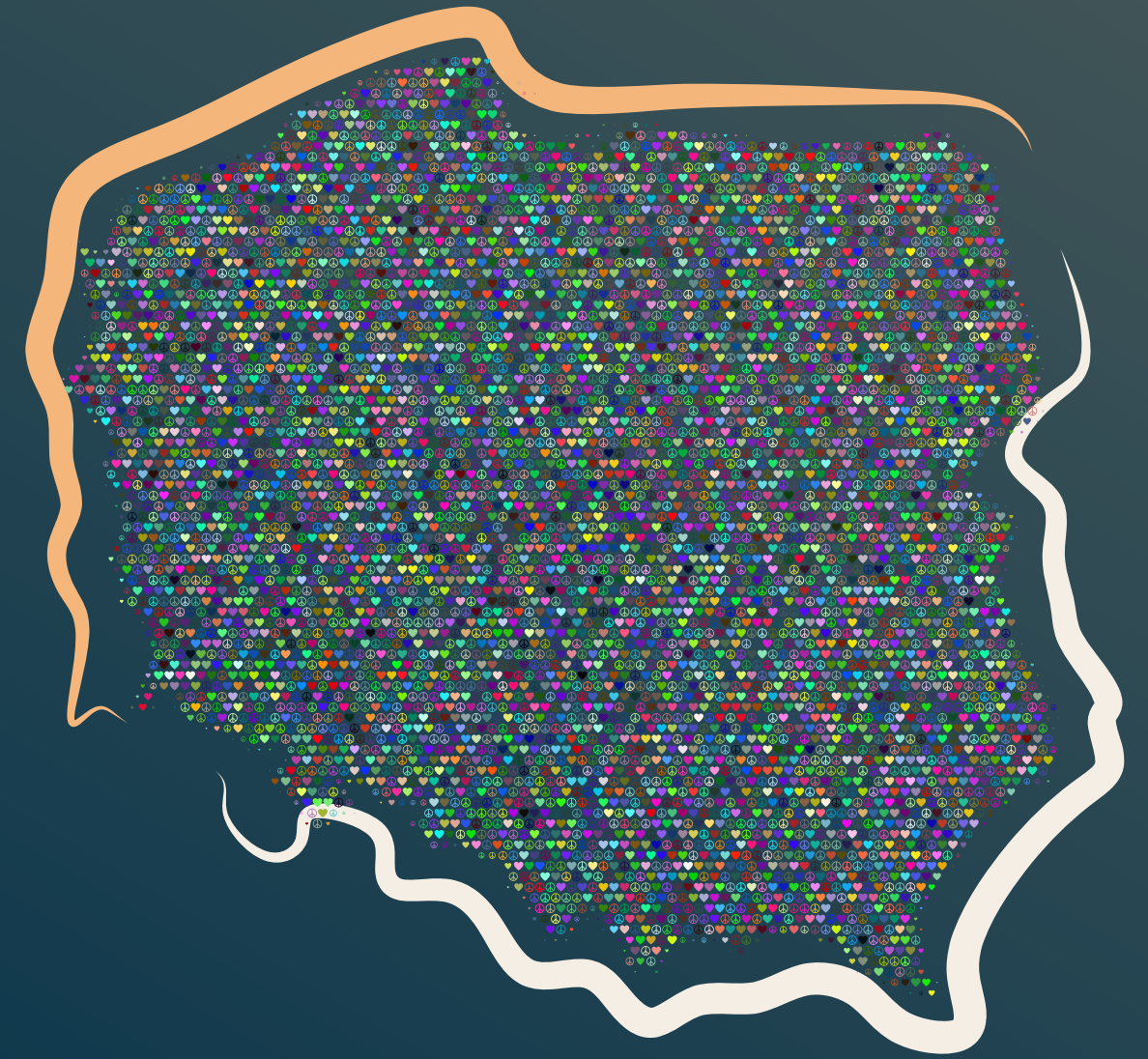
Criminalizes promotion of fascist or totalitarian systems and incitement to hatred based on national, ethnic, racial, religious, or non-religious grounds.

## [Article 257 of the Penal Code](#)

Criminalizes public insult of a group or individual based on nationality, ethnicity, race, or religion.

## [Article 212 \(defamation\)](#)

Used both in private and public disputes, sometimes controversially in political contexts.





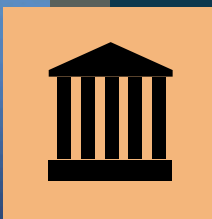
# FREEDOM OF SPEECH

## CONCLUSIONS



### THE ROLE OF THE LAW

The law must draw clear and enforceable lines:



- Between criticism and incitement
- Between debate and defamation
- Between provocation and propaganda

Laws against hate speech, threats, and disinformation serve to protect individuals and democratic order, especially in pluralistic societies.



# GLOSSARY

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Amendment - A formal change or addition to a legal document, such as a constitution or law.

Incitement - The act of urging or provoking others to commit an unlawful or violent act.

Obscenity - Material or language considered offensive or sexually explicit by legal or social standards.

Defamation - False statements that harm a person's reputation; includes libel and slander.

ECHR (European Convention on Human Rights) - A treaty protecting fundamental rights and freedoms in Europe, including freedom of expression.

To stem from - To originate or come from a particular source or cause.

Hate-filled - Filled with hatred or hostility, especially toward a group of people.

Imminent - About to happen very soon; immediate.

Penal Code - A body of laws that define crimes and prescribe punishments.

Accountability - The state of being responsible or answerable for actions.

To stir up - To provoke or incite strong emotions, especially anger or unrest.

Scrutiny - Careful and critical examination or observation.

Riot - A violent public disturbance involving a group of people.

Conviction - A formal declaration that someone is guilty of a criminal offense.

Acquittal - A legal judgment that a person is not guilty of the crime they were charged with.

Inflammatory - Likely to provoke anger, hostility, or unrest.



# BIBLIOGRAPHY

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European Court of Human Rights. (n.d.). European Convention on Human Rights. Retrieved from [https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG)

United Nations. (1966). International Covenant on Civil and Political Rights (ICCPR). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

Sejm of the Republic of Poland. (1997). The Constitution of the Republic of Poland. Retrieved from <https://www.sejm.gov.pl/prawo/konst/polski/kon1.htm>

Sejm of the Republic of Poland. (1997). The Penal Code of Poland – Articles 256 & 257. Retrieved from <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf>

Politico Europe. (2022, January 17). French far-right presidential candidate Eric Zemmour convicted of hate speech. Retrieved from <https://www.politico.eu/article/eric-zemmour-convicted-hate-speech-france/>

The Guardian. (2023, April 26). Former Tory MP Andrew Bridgen expelled permanently from party. Retrieved from <https://www.theguardian.com/politics/2023/apr/26/former-tory-mp-andrew-bridgen-expelled-permanently-from-party>

OSCE Office for Democratic Institutions and Human Rights. (2023). Hate Crime Reporting – Poland. Retrieved from <https://hatecrime.osce.org/reporting/poland/2023>

Article 19. (2018). Poland: Responding to 'hate speech'. Retrieved from <https://www.article19.org/wp-content/uploads/2018/04/Poland-Hate-Speech.pdf>

United Nations Human Rights Committee. (2011). General Comment No. 34 – Article 19: Freedoms of opinion and expression. Retrieved from <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>

France24. (2022, January 17). Zemmour convicted for racist hate speech. Retrieved from <https://www.france24.com/en/europe/20220117-french-far-right-presidential-candidate-zemmour-convicted-for-racist-hate-speech>





THANK  
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