

Europe Has Proven Hate Speech Laws Don't Work

Periodically, we Americans scratch our chins and ponder the desirability of our exceptionally broad speech protections. In recent months, opinion pieces in both the [*The New York Times*](#) and [*The Washington Post*](#) have suggested that it is time to “rethink” the First Amendment. Both argue that the rise of social media should prompt a reevaluation of our approach to hate speech. A liberal democracy, so the argument goes, must extend certain protections to its most vulnerable citizens. Safeguarding individual expression should be balanced by other considerations.

Left unasked is whether hate speech laws actually work. Leave aside the well-rehearsed arguments against restricting speech on principled grounds, or the prudential case against giving government broad authority to police political expression. While it is difficult to predict the effectiveness of hate speech laws in the United States, we can look at how they work in other countries. As speech restrictionists are fond of pointing out, America is a notable outlier when it comes to freedom of speech, even among liberal democracies.

However, the European experience with hate speech laws is not very promising. England, France, and Germany have broad restrictions on “hate speech,” usually defined as speech that incites hatred towards a particular ethnic, religious, or sexual minority. The EU has tried to regulate online video sharing that fuels hatred or violence. A cursory examination of European politics, however, reveals that this has had little to no effect on political extremism, racism, or ethnic tension.

In Germany, the Dresden city council [recently declared a “Nazi emergency.”](#) [According to the United Kingdom's Home Office,](#)

hate crimes have doubled over the past five years. Human Rights Watch describes the rise of anti-Semitism in Europe as [“alarming.”](#)

These failures have not deterred European policymakers – [Germany is on the verge of tightening its hate speech laws](#) – but they should give Americans pause. The practical effect of German policy has been [the creation of a blueprint for regulating online speech for authoritarian governments in Russia and Vietnam](#), not a reduction in hatred or political extremism.

Indeed, one senses that even for speech restrictionists, the purpose of hate speech laws is more symbolic than functional. But symbolic of what? Far from being totems of tolerance or inclusion, European speech restrictions are symptomatic of institutional malaise. We are treated to the absurd spectacle of British police chasing down Twitter users for offensive tweets, [or the French government jailing activists for the high crime of displaying a political banner on a ski slope](#). Meanwhile, issues that have roiled the continent’s politics for years – immigration, Islamic extremism, the troubled relationship between the European Union and its member states – fester beneath the surface.

Since the Great Recession, the default response to political crises on both sides of the Atlantic has been a feverish search for scapegoats and superficial fixes. Everything from social media to Russian meddling has been blamed for populist spasms against immigration, demographic change, and economic stagnation. These explanations are attractive because they absolve our leadership class of responsibility while suggesting easy fixes to thorny political issues. Block a few Russian bots and viral videos, so the argument goes, and we can get back to business as usual. The left-wing fixation on banning Donald Trump from Twitter is merely the latest in this desperate search for a shortcut back to normality.

European hate speech laws are instructive because they expose the fallacy of this line of thinking. Restricting speech in the United States is unlikely to solve any of our political problems, just as speech restrictions in the United Kingdom and Germany have not magically erased European divisions over immigration or the EU. Before the United States abrogates the First Amendment, we should ask ourselves what hate speech laws would actually accomplish. The answer, if Europe is any indication, is “not much.”

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