



LANGUAGE AND HATE SPEECH ASPECTS IN THE PUBLIC SPHERE CASE STUDY: REPUBLIC OF MACEDONIA

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ABSTRACT

The issue of hate speech is widely present in the Balkan Peninsula and although it has a serious impact in inter-ethnic and inter-religious relations, it has never been addressed properly by the academia or the judicial systems. This paper aims to outline the main principles that define hate speech from the linguistic and legal perspective. Throughout the paper several international cases of hate speech are cited along with the measures that western European countries take in order to minimize the level of stereotypes and public discrimination. In the second part, the paper brings examples from degrading hate speech cases coming from public figures in Macedonia. In addition, a few comparative cases from the international practice have been cited in order to perceive if an egalitarian society is possible in Macedonia from the aspect of language usage without the hatred constituents by aiming to develop an acceptable public discourse for all.

Key words: Hate speech, ethnic tension, egalitarian society, Macedonia.

WHAT IS HATE SPEECH? NATIONAL AND INTERNATIONAL PERSPECTIVES

We live in societies in which language most commonly is perceived as a communicational tool without being aware of the wide range of cultural and human values that every language transmits. In this regards several studies have been conveyed by focusing on the damage that is committed to a particular culture through endangering or assimilating the population from that particular language. The focus of these analyses is moving towards the opposite direction, in other words, it investigates how the same language can be used as an offensive tool to produce stereotypes, hatred and in some cases even human victims. It is

known from ancient times that the power of language is by far stronger than any weapon in a battlefield. There is no official national or international definition for the notion of 'hate speech'. One that we can refer to is the definition found in the Oxford Dictionary which states that: "Hate speech is an abusive or threatening speech or writing that expresses prejudice against a particular group, especially on the basis of race, religion, or sexual orientation". Therefore, the core of the concept is that this speech aims to insult, intimidate, or threaten a group or an individual and is primarily based on a particular characteristic or disability.

An initiative that aimed to name and voice this negative phenomenon was initiated after World War II, during the hearings in the Nuremberg trial but a concrete legal umbrella was set in the document titled "The UN Convention on the Elimination of All Forms of Racial Discrimination" (CERD) which was adopted in the UN General Assembly in 1965.

An institution that we can refer to in Europe is the Council of Europe and the recommendation no. 97(20) of Ministers Committees which implies that the concept of "hate speech" spreads hatred or justifies racial hatred, xenophobia, anti-Semitism or other negative traits and should be not be accepted. These types of expressions reflect aggressive nationalism and ethnocentrism, discrimination towards the minorities, and people of immigrant origin and should not be part of a public discourse.

The focus of this paper is to analyze how this language can create such a "diabolic" impact in different levels and investigate the ways these negative traits can be minimized.

HATE SPEECH IN THE PUBLIC SPHERE

There are several levels of hate speech. The highest level of humiliation through hate speech is when officials elected and supported financially by the taxpayers of a particular country use hate speech as a tool to create segregation and dominance. Often this is the case in multicultural countries in which a non-majority community is directly or indirectly attacked. This situation has become even more dramatic with the introduction of social media. There are thousands of pages and blogs in which hate speech is evident and public. In an article published by *the legaldictionary.net* it is stated that "With the advent of social media, the issue of offensive and threatening speech has become a global problem...just as the U.S. is struggling to determine where free speech goes too far, hate speech laws in other countries are evolving". There are many cases in which hate speech is used as an argument of free speech although in real context the only thing they have in common is the term "speech". The process becomes even more challenging when the officials are expected to draw a line between where free speech ends and hate speech begins.

These issues have had a global impact and have therefore attracted the attention of the larger international institutions such as the United Nations. At a conference held in Durban (South Africa) in 2001, "The Durban Declaration and Programme of Action (DDPA)" was designed with particular emphasis on actions against usage of hate speech on the Internet. This was a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance organized by the South African Government under the supervision of the United Nations. More specifically, Chapter VII of the report of the Conference records the reservations and statements and the plan of action. Among these actions there are two which seem to bridge a direct link between hate speech and the Internet:

91. We express deep concern about the use of new information technologies, such as the Internet, for purposes contrary to respect for human values, equality, non-discrimination, respect for others and tolerance, including to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance, and that, in particular, children and youth having access to this material could be negatively influenced by it;

145. Urges States to implement legal sanctions, in accordance with relevant international human rights law, in respect of incitement to racial hatred through new information and communications technologies, including the Internet, and further urges them to apply all relevant human rights instruments to which they are parties, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, to racism on the Internet.

According to Palmadottir and Kalenikova (2015), the recommendation urges member states to ensure that relevant national legislation also applies to racist, xenophobic and anti-Semitic offences committed via the Internet, to prosecute those responsible for these offences and to undertake sustained efforts for the training of law enforcement authorities in relation to the problem of dissemination of racist, xenophobic and anti-Semitic material via the Internet.

These hate language aspects clearly need legal interpretation and a few countries have already created a legal infrastructure that is gradually evolving. According to *legaldictionary.net*, there are certain approaches that different countries follow. Here are some legislative steps that particular countries take with regard to hate speech:

- United Kingdom - Hate speech is widely criminalized in the U.K. Communications that are abusive, threatening, or insulting, or which target someone based on his race, religion, sexual orientation, or other attributes, are forbidden. Penalties for hate speech in the U.K. include fines and imprisonment.
- Japan - Japan's laws protect its citizens from threats and slander. However, derogatory comments directed at general groups of individuals remain unrestricted in Japan. Despite global calls for hate speech to be criminalized, Japan claims that hate speech has never reached such a point as to warrant legal action.
- Sweden – Hate speech, defined as public statements made to threaten or disrespect groups based on their race, ethnicity, religion, sexual orientation, or skin colour, is prohibited in Sweden. Constitutional restrictions determine which acts are and are not criminal, as do limits imposed by the European Convention on Human Rights.
- Ireland – While Ireland's constitution guarantees the right to free speech, there is an understanding that freedom of expression will not be abused to “undermine public order or morality or the authority of the State.” Further, the Prohibition of Incitement to Hatred Act 1989 defines threatening or abusive speech or behaviour as that which is likely to inspire hatred against a group of individuals based on their race, colour, religion, or other attribute.
- India – While freedom of speech and expression are protected under India's constitution, “reasonable restrictions” can be imposed in order to maintain the “sovereignty and integrity of India,” as well as the country's safety and its relations with other countries. Freedom of speech and expression may also come under fire in India with regard to offenses such as contempt of court, and defamation.
- Canada – Advocating for genocide in Canada against any “identifiable group” (any group that can be identified by their race, religion, sexual orientation, or other attribute) is a

criminal offense that carries a maximum sentence of five years in prison, with no minimum sentence. It is also a criminal offense to provoke hatred against an identifiable group

HATE SPEECH IN MACEDONIA

In this process Macedonia seems not to be an exception. There are a number of hate-speech cases starting from football and handball fans and continuing to statements by public figures in national media or on the internet that seem to drop more gasoline to the already heating inter-ethnic relations among the Albanian and Macedonian ethnic groups. What seemed to be an exception anyhow is the passivity of the legal system to take any measures in regards to these negative phenomena. In this regard, Macedonia is probably one of the few multicultural countries in which there is such a strong presence of hate speech in public platforms but no legal actions taken so far. A champion in this regard is the notorious journalist Milenko Nedelkovski who has openly used hate speech in many occasions in his talk shows which have been aired on various national televisions since 2012. This type of speech has done serious damage in the already fragile inter-ethnic relations in the Republic of Macedonia. Among the most common metaphors that promoted hatred towards the ethnic Albanians were offensive statements such as “dogs”, “peasants” and particularly the word “shiptari” which is a pejorative term used in former Yugoslavia by the nationalistic Serbian leaders such as Slobodan Miloshevic and Vojislav Sheshel with a derogatory sense in order to humiliate and disgrace the Albanian community. This phenomenon is classified as an offensive language or a hate speech by the Novisad School of Journalism (Novosadska novinarska škola) and an advisory video has also been produced for this purpose. You can find the link of the video in the reference list below.

Mr. Nedelkoski has used this type of hate speech many times during his TV show. Derogatory language is present in his very active personal Facebook profile today as well. This type of insulting language is not only unethical but also creates burden and lack of trust among two of the largest communities in Macedonia. One of the first offensive statements that Milenko Nedelkovski published in his Facebook profile was on February 15th 2012, stating : “Jas Shiptarite gi mnozam so nula” translated in English as “I equal Albanians to zero”. This statement was also published in the www.plusinfo.mk portal and ever since no measures at all have been taken by the legal system to penalize this continuous unacceptable behavior. This language has continued for six years the latest one being on October 1st 2018 whereupon he stated: “Вчерашното климактерично однесување на шиптарката Фатиме Фетай е уште еден доказ дека Никола Груевски згреши што не ме послуша” translated as “Yesterday’s behaviour of the Shiptar Fatime Fetai is another evidence that Nikola Gruevski had mistaken for not following my advice”. If we analyse the evolution or the degradation of his hate speech, we can see that if in the beginning of his offensive rhetoric in 2012 Mr. Nedelkoski was attacking the Albanian community, this hate speech has evolved a lot more aggressively six years later by attacking the Albanians who are part of the legal system, and in this case the special persecutor Ms. Fatime Fetai. Clearly, this is a result of the passiveness of the legal system that did not penalize this behaviour at the beginning. Surprisingly, sometimes people from the academia also get withdrawn in the language of humiliation. A recent example is the case of Janko Bacev, a professor at the Legal Faculty at the International Slavic University “G. R. Derzhavin” in Macedonia who stated the following: “Ambasadorot Bejli i shpitarските partii pokazuvaat deka ke ima vojna”. In translation : “(US) Ambassador Baily and” shiptarskite political parties” (a hate speech term for Albanians) are demonstrating us that there will be a war “. The statement was made on August 10th, 2018 in front of the government building of the Republic of Macedonia and at a

press conference for the national TVs and radio stations. Was he aware of this? There is very little doubt that a professor of law at a public university doesn't understand the connotation and the consequences of hate speech. However, he openly challenges the legal system by making a hate speech statement in front of the national media situated in the courtyard of the newly elected government.

The previous cases are examples of how public media such as TV or the Internet can be used to promote such negative phenomena. The impact that these public figures had by using hate speech is not measurable but it provokes future incidents and the questions arising in this case are as follows:

1. What is the role of the state institution in this case?
2. Is the legal system too busy to follow daily statements of its public figures in order to penalize or at least marginalize hate speech?
3. How do we regulate hate speech and other modes of expression in a vulnerable society?
4. Is there a clear line between the free speech and hate speech?

WHAT IS THE INTERNATIONAL PRACTICE REGARDING HATE SPEECH?

In a press release of the European Court of Human Rights published in June 2018 in which hate speech was the main focus, there is a case named “Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary” from February 2nd 2016 . The case is in the section named “Hate Speech and the Internet” in which the dilemma regarding the line between freedom of expression and hate speech is clearly challenged. I will cite the original brief report cited by the court in order not to miss-paraphrase the case:

This case concerned the liability of a self-regulatory body of Internet content providers and an Internet news portal for vulgar and offensive online comments posted on their websites following the publication of an opinion criticising the misleading business practices of two real estate websites. The applicants complained about the Hungarian courts' rulings against them, which had effectively obliged them to moderate the contents of comments made by readers on their websites, arguing that that had gone against the essence of free expression on the Internet.

The decision: The Court held that there had been a violation of Article 10 (freedom of expression) of the Convention. It reiterated in particular that, although not publishers of comments in the traditional sense, Internet news portals had to, in principle, assume duties and responsibilities. However, the Court considered that the Hungarian courts, when deciding on the notion of liability in the applicants' case, had not carried out a proper balancing exercise between the competing rights involved, namely between the applicants' right to freedom of expression and the real estate websites' right to respect for its commercial reputation. Notably, the Hungarian authorities accepted at face value that the comments had been unlawful as being injurious to the reputation of the real estate websites. Although offensive and vulgar, the comments in the present case had not constituted clearly unlawful speech. Furthermore, while Index is the owner of a large media outlet which must be regarded as having

economic interests, Magyar Tartalomszolgáltatók Egyesülete is a non-profit self-regulatory association of Internet service providers, with no known such interests.

In Macedonia a clear pro-active framework is needed to regulate hate speech and although the issue seems to raise a legal dilemma, it is also a linguistic one since language does not only transmit meaning that serves as a communicational tool but also provides cultural and heritage aspects, and aspects of hatred should not be part of the everyday life of a society with a multilingual and multicultural reality.

CONCLUSION

Do we solve a question by raising a few more questions? In our case the answer is yes. Unless these issues are raised and discussed, we may not expect reflection from the ordinary citizens. It is up to the intellectual elite to name and voice negative phenomena and hate speech often is in the centre of the debate. Finding the right answers might provide good bases for a good local theoretical framework. Although this framework will not have immediate impact, it is necessary to raise the awareness of the legal system in order to provide some success stories against hate speech.

In the Balkans, there is a myth that hatred can elevate national feelings to a higher level and this has been proven in many cases. A notorious case with clear public threatening toward particular ethnic groups was the speech of Slobodan Miloshevic in Gazimestan, in Kosovo in June 1989. These negative moments should trigger to the public political and social leaders a deeper reflection to the power of language when used in public. Any type of public expression needs to consider the aspects of ethics and responsibility. Sometimes speeches cannot be separated from the individuals who made them and this has cost certain politicians more than just a career drop. Palmadottir and Kalenikova (2015) state that ... it is necessary to establish what constitutes as hate speech in order to find effective ways of countering it...that is only possible through awareness raising and education on cause and effect. They also state that Intercultural education is a powerful tool to increase tolerance and counter prejudice and that such education must be aimed at society as a whole, the general public as well as specialists. Palmadottir and Kalenikova (2015) also state that in this regard legislation must also be revised and effectively implemented and therefore attention has been drawn to amends that need to be made and recommendations made by international committees

As regards the local context, the question that needs an answer is the dilemma whether the Macedonian judicial system should set up certain limits when it comes to defining what an acceptable public discourse is. If yes, then it is expected that specific legal norms to be drawn and applied.

As mentioned above it is very difficult to draw lines between free speech and hate speech. In this regard we do not have clear indicators from the society in regard to how will a particular community react if a notable member is punished for hate speech. Will this measure stimulate more hate speech? This becomes even more dramatic when social media is very popular tool for expression.

A possible resolution for the Balkan countries might be not to ignore the hate speech issue because it could create even more negative impact. If we aim an egalitarian society as doctrine that believes that all humans are equal in fundamental worth or social status then

these topics should be raised and measures must be taken and Macedonia should not be an exception.

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