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HATE SPEECH AMONG SECURITY FORCES IN PORTUGAL

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1. Introduction

Several researchers have been trying to conceptualize and delineate hate speech related phenomena, according to its variety and extent, but have also considered whether new media and the Internet have altered the character of hate speech (Brown, 2018). In the discussion whether the medium is the message, there have been concerns about the specificities of online hate speech. As stated by Brown, part of the interest in this enterprise is the identification of the characteristic difficulties in tackling hate speech online, but also to understand the attractiveness of the digital realm for gatherings of hate speakers.

In a broader sense, some definitions consider the motivations, target audience, and language used by hate speakers to attack others (Gagliardone, 2019). However, Weber (2014) argues that there is no universally accepted definition of hate speech. This state of affairs makes its meaning fluid and diverse, varying across countries, governing bodies, and disciplinary lenses.

We also frame the analyses of online discriminatory discourses with ongoing debates concerning the balancing

between the democratic protection of freedom of expression and effective ways of tackling hate speech. Furthermore, we present considerations about the policies to combat hate speech at the national and European level, and its contradictions. Despite some regulatory movements, European governments have typically delegated regulation to digital platforms and Internet service providers. And it can be contended that measures of damage control against hate speech cannot be separated from regulatory policies towards digital platforms as a whole.

Finally, the present chapter also discusses the use of closed Facebook groups by Portuguese security forces officers to propagate hate speech, unraveled by a consortium of journalists, and its possible implications. Despite Facebook's public commitment to tackle hate speech, it was ineffective in enforcing its policies against such discursive forms, thus giving room to the traditional press to serve as watchdogs of the hate speech propagated among members of the security forces.

2. European Union against hate speech, but what is it?

In an attempt to somewhat harmonize national legislation within the European Union (EU), the Committee of Ministers of the Council of Europe, with Recommendation 97(20) on hate speech, defined and conceptualized it, clarifying that it should be understood as one that includes all forms of expression that disseminates, encourages, promotes or justifies racial hatred, xenophobia, sexism, antisemitism or other forms of hatred that are based on intolerance. The Recommendation also equates hate speech with “intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin” (Weber, 2014, p. 3).

By the end of 2021, the European Commission approved a Communication which proposes the extension of the current list of hate crimes and hate speech. But, although the majority of Member States of the EU have passed laws prohibiting expressions corresponding to hateful discourse, there

are national variations concerning the identification and extension of hate crimes and hate speech (PRISM Project, 2015). According to the PRISM Project report (2015, p. 49), European countries tend to specify “certain bias categories in their legislation, which help to identify segments of society that may be particularly targeted in acts of discrimination, hate crime and hate speech”. But, while in the Netherlands, hate crimes are solely defined as “offenses with a discriminatory background”, in Lithuania, for instance, there is an all-inclusive approach to face discrimination with its Public Security Development Programme for 2015-2025.

International law prohibits incitement to discrimination, hostility and violence, rather than explicitly prohibiting hate speech (UN, 2019) and in many contexts outside the West, the meaning of hate speech is still contested. Those who propagate hate speech can take advantage of this lack of definition to always claim that “this is not what this is about”.

Thus, the current state of affairs stresses Marwick and Miller’s (2014) remark that defining hate speech is a challenge. However, it can be described as speech that aims to spread hatred towards a specific “minority”, usually a disadvantaged one. Therefore, hate speech includes comments that are deliberately directed against a specific person or group, and encompasses a variety of situations: 1) “incitement to racial hatred”, i.e., targeted hatred against people or a group because of their racial belonging; 2) “incitation to hatred on religious grounds”, which can be equated with the incitement to hatred which is based on the distinction between believers and non-believers; and 3) “incitement to hatred based on intolerance”, which is characterized by the manifestation of violent nationalism and ethnocentrism (Weber, 2014, p. 4).

In general, the UN (2019, p. 2) defines hate speech as “any kind of communication in speech, writing or behavior, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are”. The basis for these attacks is “religion, ethnicity, nationality, race, color, descent, gender or another identity factor”. This behavior

can be consolidated and generate intolerance, which in certain contexts can cause division and humiliation. As the UN claims, hate speech has an influence on different areas: human rights protection; prevention of atrocity crime; preventing and countering terrorism and the underlying spread of violent extremism and counter-terrorism; preventing and addressing gender-based violence; enhancing protection of civilians; refugee protection; the fight against all forms of racism and discrimination; protection of minorities; sustaining peace; and engaging women, children and youth (UN, 2019, p. 2).

On the other hand, Silva et al. (2011) argue that hate speech is based on two fundamental principles: discrimination and externality. It is characteristic of a segregationist and relational manifestation, supported by the establishment of symbolic power and violence (Bourdieu, 1989) and a hierarchical dichotomy between the “superior” emitter (that is, the aggressor) and the “inferior” reached target (that is, the victim). Thus, hate speech is revealed by places of speech and, in a relational perspective, by others besides the speaker. The concept of place of speech used by activists of feminist, black or LGBT movements is also useful here. It confronts the knowledge produced by the hegemonic epistemologies. Therefore, places of speech do not merely reflect individuals’ speech acts. They stem from unevenly positioned worldviews. This unevenly confrontation between worldviews appears in countless debates in academia and society, and is often present in discussions on social media where discourses are guided and fought (Pereira, 2018).

Hate speech can be seen as the enactment of symbolic power and violence, where, stemming from a place of speech, discourse is used to attack or socially disqualify others, often inciting violence and hatred towards a perceived group based on their physical appearance, religion, ethnicity, sexual orientation, gender identity, or other characteristics (Fortuna & Nunes, 2018). It can be used with based on various linguistic forms, and can be made subtly or by using humor, or even explicitly, based on violence (Lamerichs et al., 2018). The reinforcement of stereotypes and essentialist

notions can also serve as a symbolic tool for the aggressor to validate their discriminatory and negative attitudes against specific social groups.

In addition, there have been discussions about the novelty of the characteristics and challenges of online hate speech and crimes online. Digital platforms might allow anonymity, invisibility, the instantaneous spread of hateful content and the clustering of hate speakers with like-minded individuals (Brown, 2018) that might be instilled with a sense of empowerment and exemption. Miranda et al. (2022) state that hate speech is certainly a toxic behavior exacerbated by Internet culture and the digital underworlds. Gitari et al. (2015) define hate speech on social media as language that is characterized by its hurtful or potentially harmful lexicon that can spread with unprecedented speed and reachability. It is motivated by aggressive prejudice and is directed at individuals or groups based on their inherent or perceived characteristics. For the authors, this discourse has the clear goal of being harmful, inciting hate, or propitiating hatred. This type of hate speech can be done in different digital spaces, such as news ads, comments box, online forums, and social media.

Warner and Hirschberg (2012) explain that extremists often alter their online discourse through purposely misspellings or word choices, such as using “Zionists instead of Jews”. Klein (2012) refers to this practice as a “theory of information laundering”, a set of techniques used by hate groups to legitimize their ideas through a “borrowed network of associations”. This “network” helps in spreading hatred not just through words, symbols, and images but also through hyperlinks, downloads, so-called news, threats, conspiracy theories, and even pop culture.

Concerning the extent of the problem, Kaakinen et al. (2018) point out that, while hate content production is rare overall, it gains high visibility online. The authors also indicate that the dynamics of hate speech are related to social capital in two key ways that operate in different directions. On the one hand, high social capital in offline social networks was associated with a lower probability of production of hate content. On the other hand, individ-

uals with high social capital in online social networks were more likely to be producers of such content. This shows that, despite descriptions of social capital as a positive resource drawn from social networks and communities (Putnam, 1993; Portes, 1998), it can take a darker side online when used by certain individuals to propagate hateful content.

3. Freedom of expression and hate speech

There has been a public debate if the proper protection of freedom of expression demands the legal safeguard of so-called hate speech or not, and “whether freedom of speech should be granted priority over other political values” (Howard, 2019, p. 94). In Portugal, Article 37 of the Portuguese Constitution guarantees the freedom of expression for all citizens, allowing them to freely express their thoughts in words, images, or any other means. It also gives them the right to access and share information without apparent restrictions. Those who flout this right shall be subject to the general principles of criminal law or the unlawful of mere social ordination, “and their assessment respectively of the jurisdiction of the judicial courts or an independent administrative entity, in accordance with the law. All persons, natural or legal, are guaranteed, on a level and equal basis, the right of reply and rectification, as well as the right to compensation for the damage suffered.” (Portuguese Constitution, Article 37).

Likewise, the European Union also recognizes the right to freedom of expression and information in Article 11, which must be followed by all member countries of the community. European citizens have the fundamental right to freedom of expression, including the freedom to hold opinions and exchange information without interference from public authorities and without geographical borders in Europe (European Union Agency for Fundamental Rights, 2022).

However, Gascón (2012) states that the Internet presents new challenges to tackle the spread of hate speech, a concern usually associated with freedom of expression – a privilege frequently employed by proponents of hate to

justify acts of violence, particularly against minority groups. Thus, proper definitions are required, since there is no agreed definition at international level of hate speech, along with the delineation of boundaries. The world's democracies promptly define limitations to freedom of expression. In developed democracies like the United Kingdom, Denmark, France, Germany, Sweden, and so on, we can find legislation that criminalizes offenses to incite racial or religious hatred (Waldron, 2012; Brown, 2018; Pohjonen, 2018).

In this sense, the European Commission against Racism and Intolerance (ECRI, 2015), in its general policy, n°. 15, states that freedom of expression and opinion shouldn't be regarded as an unrestricted right. It should not be exercised in a manner incompatible with other rights, as they are important for a democratic and pluralistic society (ECRI, recommendation n°. 15, 2015, p. 5). This means that freedom of expression is at odds with hate speech, since hate speech discriminates against others, as well as denies recognizing their rights equally (Gagliardone, 2019).

As a matter of principle, hate speech should be fought because it is important to help prevent “armed conflict, atrocity crimes and terrorism, end violence against women and other serious violations of human rights, and promote peaceful, inclusive and just societies” (UN, 2019, p. 1). Combating hate speech does not equate to limiting or restricting freedom of expression – despite being a persistent issue, this remains a relevant question (Mihajlova, Bacovska & Shekerdjiev, 2013). Instead, it aims to prevent hate speech from escalating into more dangerous forms, such as incitement to discrimination, hostility, and violence, which are prohibited by international law (UN, 2019).

4. Policies to combat hate speech

The European Union defines illegal hate speech in European law as public incitement to violence or hatred which is based on certain perceived particularities, such as race, religion, ancestry, and national or ethnic origin. It is a discourse that is at odds with other fundamental rights and values, be-

sides free speech, in which democratic societies are supported. It is argued that it harms not only the victims of this discourse, but also society at large. In addition, hate speech, instead of being a proper product of free speech, is seen by European institutions as an obstacle to diversity and the pluralism of ideas, due to its tendency to present a hierarchical reasoning and monopolizing worldviews and its negative effects on public debate and democracy (External Action Service of the European Union, 2022).

The European Commission against Racism and Intolerance (ECRI, 2015) admits that the duty provided for in international law to criminalize some forms of hate speech, applied to all, was designed to protect individuals from vulnerable groups. In such cases, hate speech should be monitored and penalized, especially on social media. Indeed, the European Union has sought arrangements with social media platforms to tackle the dissemination of hate speech. In 2016, for example, the European Commission signed with Facebook, Microsoft, Twitter and YouTube a Code of Conduct for combating illegal hate speech online. Two years later, in 2018, Instagram, Snapchat and Dailymotion signed this non-binding code of conduct. Respectively, Jeuxvideo (2019), TikTok (2020) and LinkedIn (2021) also adhered to the code. However, we can question the effectiveness of such arrangements in combating hate speech.

As Mansell (2011, p. 6) puts it, supporters of an open Internet, not subject to regulation, have succeeded in convincing policymakers that direct interference under conventional telecommunication or broadcasting regulatory mechanisms is unnecessary and would subdue inventive online activity (Benkler, 2000). Thus, the general regulatory rule on the Internet has been self-regulation and minimum intervention (Ben-David & Matamoros-Fernández, 2016). Governments usually delegate the control of the content to technological corporations and Internet service providers. But the procedures of providers are more flexible than regulations targeted at traditional media imposed by different countries. The authors explain that Facebook uses specific blocking techniques depending on the law of each country. For example, Nazi material is prohibited in Germany but allowed in the United

States. Thus, some hate content may have restrictions on its social media circulation in one country but continue to be freely shared in another.

The United Nations (UN) Strategy and Plan on Hate Speech, established in May 2019, acknowledges the growing trend of xenophobia, racism, and intolerance globally, including the increase of anti-Semitism, hatred towards Muslims, and persecution of Christians. The UN explains that social media and other forms of communication have been used as vehicles of intolerance, and neo-Nazi and white supremacist movements are increasing. Thus, public discourse is being used for political purposes with speech acts that recreate and dehumanize minorities, migrants, refugees, women, or anyone else considered “other”. The UN (2019) also highlights that these events are not isolated, since hatred supported by the use of social media is turning into a dominant discourse - both in democracies considered liberal and in authoritarian systems, weakening the values of humanism.

In this scenario, member states of the European Union have adopted measures to combat hate speech online. In June 2017, the German parliament passed laws against social media to combat the spread of hate bear discard fake news, disseminated by users of these pages. This passed law is known as the Facebook Act and ensures that social media such as Facebook, Twitter and YouTube must delete content that explicitly is against German law within 24 hours of a report, and within seven days for material deemed offensive. Social media platforms may have to pay fines of up to €50 million if they do not comply with these rules (The Verge, 2017).

In March 2018, then-French Prime Minister Edouard Philippe announced his plan to intensify efforts to combat the daily proliferation of hate on the Internet. One of the initiatives was to enhance the accountability of Internet service providers through the implementation of new European regulations. Just like Germany, France plans to punish social media platforms that do not comply with this new law by €50 million. The government also wants to allow to use online aliases to identify the perpetrators of racist comments and publications (UOL, 2018).

At the Portuguese level, in July 2020 the Minister of State and the Presidency, Mariana Vieira da Silva, announced that the Government will monitor hate speech online and this should result in a monthly barometer of monitoring and identification of pages, with this type of speech (Público, 2020). However, although it has already elapsed two years after its announcement, this project has not yet advanced.

And, even if Nick Clegg (2020), Facebook's vice president of Global Affairs and Communication, said that "Facebook does not profit from hate", in practice, its algorithm analyzes users' links and clicks to suggest content that aligns with their interests (Pariser, 2011). In other words, this algorithm can reinforce hate speakers' discriminatory attitudes by recommending similar content from the platform. Gerlitz and Helmond (2013) also point out that digital platforms monetize from the interactions of their users, through the marketing of data, and organize the communities of users and knowledge, helping in the creation of environments where users behave in a certain way. Likewise, Facebook and its hate speech policies are driven by the motivation to monetize interactions.

Therefore, it can be argued that we cannot separate the discussion of the regulation of online hate speech from the debate of the regulation of digital platforms and of the Internet as a whole. As Silverstone (2007, p. 26) penned, "mediated connection and interconnection define the dominant infrastructure for the conduct of social, political and economic life across the globe". As the dynamics concerning online hate speech show, social media is no more a neutral configuration of technologies than previous media. As Mansell (2011, p. 1) puts it, if there are forces that are changing the Internet in ways that are not equitable or desirable from a progressive democratic perspective, then there should be ways for opposing them in the interests of positive engaged citizenry.

Ultimately, the regulation of online hate speech encompasses a contradiction between the public character of hate speech related consequences and the possibilities of public intervention in the private digital spaces where

hateful discourse takes place and spreads. Although not thinking specifically about hate speech, Mansell (2011) calls for the examination of the contradictions between the means of private appropriation of digital spaces and public resistance. For him, in the interest of fostering democratic values and an engaged citizenry, public powers need to ask “what kind of information society do we want?” (Mansell, 2011, p. 16). If pro-active policies and regulatory interventions are left behind, then we can expect the erosion of online environments as inclusive communicative spaces and the maintenance of digital platforms as fertile grounds for the dissemination of hate speech.

5. “Who watches the watchmen?” Hate speech among security forces in Portugal

Recently, a consortium of journalists of newspapers *Público*, *Expresso*, *Setenta e Quatro*, and *Visão* magazine uncovered an exemplary case of hate speech in the Portuguese context. The investigation exposed Facebook pages frequented by security forces professionals – 296 from the Public Security Police (PSP) and 295 from the National Republican Guard (GNR) – containing abundant hate speech. These police officers engaged in offensive remarks that called for violence and sexual assault against women, as well as discriminatory speech based on race, national origin, gender, sexual orientation, and more.

This highlights how hate speech can undermine democratic institutions and principles from within, since security force agents used Facebook to spread hateful messages as if they were acceptable forms of expression. According to the consortium, Facebook’s closed groups like *GNR - Só Camaradas* [GNR - Just Comrades], *Forças de Segurança* [Security Forces], and *Polícias - Profissão de Risco* [Police - Profession of Risk], were frequently visited by certain security agents that acted as hate speakers, endorsing discourses and worldviews affiliated with nationalist extreme right-wing parties. This case can also be further analyzed to understand if certain police officers

used their offline and online social capital among their peers to propagate hate speech.

The General Inspector of Internal Affairs (IGAI), Anabela Ferreira, said, in response to the newspaper *Setenta e Quatro*, that the security forces are “prevented from making statements that meet democratic legality, in whatever forum”. Ferreira also assured that security forces are attentive primarily to the interaction in social media and that they do not want agents of authority in service in social network sites, who have to behave in a compatible way with the rule of law, defending values that are contrary to this rule of law (Teles & Coelho, 2022). However, the concern of high-level officials alone is not enough to tackle hate speech within the security forces without clear measures and laws in place. These individuals may always claim the right to free speech, even if hate speech is at odds with other public and democratic values.

The president of the Observatory of Security, Organized Crime and Terrorism (OSCOT), Bacelar Gouveia, confronted with the investigation of the consortium, said: “there are people in the security forces who do not have profile for these functions, due to their radicalized thinking” and asks “more discretion in the admissions of new agents” (Soares, 2022). The Attorney General’s Office said an investigation has been opened because of the discriminatory statements of certain police members on Facebook (Público, 2022).

The hate content published on Facebook by security forces agents in the two-year period covered by the investigation is a serious issue. It might erode the public credibility of the security forces as a whole, foster distrust towards legal institutions, promote the normalization of discriminatory discourses because of the positions of authority of police officers, and endanger the minorities who were targeted by hateful comments. The fact that IGAI claims to be aware of the online behavior of members of the security forces indicates a failure in the enforcement of laws that the state imposes on its employees (Teles & Coelho, 2022). Finally, Facebook has been ineffective

in monitoring and applying its policies against hate speech on its platform. Despite claiming to combat hate speech, the company has been unable to detect or take action against the hateful comments made by members of the Portuguese security forces in various groups.

6. Conclusion

The spread of hate speech on social media often involves the use of language to attack individuals based on their national, ethnic origin, race, sexual orientation, or gender. This speech can circulate quickly on digital platforms and reach many people. According to the United Nations (2019), there is no international definition of hate speech, and what is meant by “hateful” is “controversial and contested”. Online hate speakers also call into question the limits of free speech, as they may use freedom of expression as a moral justification for their actions.

The member states of the European Union should take the necessary measures to ensure that perpetrators of criminal offenses are punished in accordance with the legislation in force. However, this is not always the case. In Portugal, for instance, members of the security forces have been known to utilize Facebook groups to spread discriminatory speech against minorities, and there has been limited action taken to address it. One may raise concerns about the effectiveness of hate speech regulation and the conditions under which it is implemented when law enforcement officials engage in it as if it were acceptable speech.

For two years, that social media platform was ineffective in monitoring and addressing hate speech produced in various groups and pages by Portuguese security forces agents. Thus, it raises questions about the extent to which the platform complies with the *Code of Conduct for combating illegal hate speech online*, which it signed with the European Union in 2016. Hate speech is an emerging issue in different countries, whether developed or developing. Creating a more stable definition of hate speech seems an urgent challenge, as well as strengthening the legal mechanisms to combat

it in an alliance between governments, platforms, and social media users. Nevertheless, it can be contended that the regulation of online hate speech cannot be separated from the debate of the regulation of the “platform society” in its entirety. Despite the public demonstrations from digital platforms of goodwill and willfulness to work with authorities in tackling hate speech, in practice, their algorithms can strengthen the exposure to discriminatory discourses by recommending related content to users, foster the encounter and clustering of hate speakers in groups and, at the same time, they profit from all online interactions, regardless of the content.

The case unraveled by the Portuguese consortium, with further research, might also reveal the dark side of the social capital of certain influential police officers, and their capability to mobilize social networks to propagate hate speech among their peers, in spite of positive notions of social capital. This perverse link between online hate speech and social capital is more coherent with Bourdieu’s (1986) neutral approach to the concept, seen as a reciprocal source of validation and acknowledgment and as a resource in the power struggles between social groups.

Notwithstanding efforts and pressures of governing bodies on social media platforms at the European and national levels, online hate speakers continue to use various expedients to spread prejudiced and intolerant content. For instance, hate speech can spread and be cloaked in the form of disinformation or misleading information. The investigation of the consortium of Portuguese journalists also demonstrates that the traditional press can embrace the role of watchdogs, either through fact-checking or through the public exposure of online hate speech. The current communicational and informational environment certainly poses serious challenges to the traditional press, but it can also constitute an opportunity to reaffirm its public relevance, especially when the regulation of online platforms is lacking.

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