



Directions and Developments in Criminal Justice and Law

RETHINKING ONLINE ANTI-GENDER HATE SPEECH

LEGISLATION AND PUBLIC POLICY MAKING

Moa Bladini and Eva-Maria Svensson



Rethinking Online Anti-Gender Hate Speech

Providing an innovative approach to understanding and addressing anti-gender hate speech, this book focuses on its effects on everyday life, how it is handled within legal frameworks and how it challenges democratic principles.

Unlike previous research, which is often limited to currently regulated forms of hate speech, this book is focused on gender-based hate speech, demonstrating its broader social and ideological impacts. By contextualising freedom of expression within democratic values, it offers a new framework for addressing anti-gender hate speech as a threat to both individual dignity and societal diversity. Through this lens, the authors highlight how anti-gender hate speech represents not only a breach of individual rights but also a structural challenge to democracy, requiring responses that reflect these dual dimensions. The book provides a unique contribution to both legal scholarship and democratic theory by rethinking the balance between gender equality and freedom of expression as cooperative as well as inherently contextual and inclusive.

Rethinking Online Anti-Gender Hate Speech will be of great interest to students and scholars in the field of criminology, law, media and communication, sociology, and women's and gender studies.

Moa Bladini is Associate Professor and Senior Lecturer at the Department of Law at the University of Gothenburg, Sweden. Her research focuses on criminal law and criminal procedure law, with a particular emphasis on sexual and gender-based violence, both online and offline. Recurring themes in her work include power, objectivity, and legitimisation strategies in judicial activity. She has been part of several comparative projects analysing Nordic and European legislation, and she has an extensive experience of interdisciplinary research projects.

Eva-Maria Svensson is Professor Emerita at the Department of Law at the University of Gothenburg, Sweden. Her research is mainly concentrated on legal philosophy and theory, particularly in the field of feminist/gender legal

studies, gender equality law and policy and freedom of speech. Professor Svensson also does research in the fields of ageing and capability, gender equality in the Arctic as well as studies of academic knowledge in law. She participates in several research networks, in jurisprudence, feminist/gender studies, socio-legal studies, critical legal studies, free speech issues, such as the international network on gender equality.

Directions and Developments in Criminal Justice and Law

<https://www.routledge.com/Directions-and-Developments-in-Criminal-Justice-and-Law/book-series/DDCJL>

The ways in which crime is constructed in society is of time-honored interest to criminologists across the globe. The ever-changing landscape of what is criminal and what is not affects scholars and policymakers in their approach to the body of law defining prohibited conduct, how that law evolves, and the modes by which it is administered. Rule of law cannot exist without a transparent legal system, strong enforcement structures, and an independent judiciary to protect against the arbitrary use of power. Critical consideration of the mechanisms through which societies attempt to make the rule of law a reality is essential to understanding and developing effectual criminal justice systems. The *Directions and Developments in Criminal Justice and Law* series offers the best research on criminal justice and law around the world, offering original insights on a broadly defined range of socio-legal topics in law, criminal procedure, courts, justice, legislation, and jurisprudence. With an eye toward using innovative and advanced methodologies, series monographs offer solid social science scholarship illuminating issues and trends in law, crime, and justice. Books in this series will appeal to criminologists, sociologists, and other social scientists, as well as policymakers, legal researchers, and practitioners.

18. **Wrongful Convictions and the Criminalization of Innocence**

International Perspectives on Contributing Factors, Models of Exoneration and Case Studies

Edited by Kathryn M. Campbell, Barak Ariel, Anat Horovitz and Irwin Colter

19. **Transitional Justice and the Criminal Responsibility of Judges**

Edited by Claudia Cárdenas, Jaime Cousos, Florian Jeßberger and Milan Kuhli

20. **Rethinking Online Anti-Gender Hate Speech**

Legislation and Public Policy Making

Moa Bladini and Eva-Maria Svensson



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

Rethinking Online Anti-Gender Hate Speech

Legislation and Public Policy Making

Moa Bladini and Eva-Maria Svensson



Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2025
by Routledge
4 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge
605 Third Avenue, New York, NY 10158

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 2025 Moa Bladini and Eva-Maria Svensson

The right of Moa Bladini and Eva-Maria Svensson to be identified as authors of this work has been asserted in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

The Open Access version of this book, available at www.taylorfrancis.com, has been made available under a Creative Commons Attribution-NonCommercial-NoDerivatives (CC-BY-NC-ND) 4.0 International license.

Any third party material in this book is not included in the OA Creative Commons license, unless indicated otherwise in a credit line to the material. Please direct any permissions enquiries to the original rightsholder.

Trademark notice: Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library

Library Cataloguing-in-Publication Data

Names: Bladini, Moa, 1979– author | Svensson, Eva-Maria author

Title: Rethinking online anti-gender hate speech : legislation and public policy making / Moa Bladini, Eva-Maria Svensson.

Description: Abingdon, Oxon [UK] ; New York, NY : Routledge, 2025. |

Series: Directions & developments in criminal justice & law |

Includes bibliographical references and index.

Identifiers: LCCN 2024061078 (print) | LCCN 2024061079 (ebook) |

ISBN 9781032467450 hardback | ISBN 9781032467474 paperback |

ISBN 9781003383062 ebook

Subjects: LCSH: Online hate speech–Law and legislation | Hate crimes–Law and legislation | Hate speech–Law and legislation | Freedom of expression |

Sex discrimination–Law and legislation

Classification: LCC KZ7177.H38 B53 2025 (print) |

LCC KZ7177.H38 (ebook) | DDC 342.08/53–dc23/eng/20250202

LC record available at <https://lcn.loc.gov/2024061078>

LC ebook record available at <https://lcn.loc.gov/2024061079>

ISBN: 9781032467450 (hbk)

ISBN: 9781032467474 (pbk)

ISBN: 9781003383062 (ebk)

DOI: 10.4324/9781003383062

Typeset in Sabon
by Newgen Publishing UK



An electronic version of this book is freely available, thanks to the support of libraries working with Knowledge Unlatched (KU). KU is a collaborative initiative designed to make high quality books Open Access for the public good. The Open Access ISBN for this book is 9781003383062. More information about the initiative and links to the Open Access version can be found at www.knowledgeunlatched.org

Contents

<i>Preface</i>	<i>ix</i>
<i>List of Abbreviations</i>	<i>x</i>
1 Introduction: Anti-gender hate speech	1
1.1 <i>Introducing the theme</i>	1
1.2 <i>Anti-gender hate speech</i>	5
1.2.1 <i>Everyday life challenges</i>	6
1.2.2 <i>Legal challenges</i>	8
1.2.3 <i>Democratic challenges</i>	10
1.3 <i>Overview and structure of the book</i>	12
2 Theoretical perspective and democratic framework	19
2.1 <i>Theoretical perspective</i>	19
2.2 <i>Defining anti-gender hate speech</i>	22
2.3 <i>Anti-gender hate speech: A democratic problem</i>	24
2.3.1 <i>What is democracy and how is it justified?</i>	24
2.4 <i>Gender equality</i>	27
2.5 <i>Freedom of expression</i>	31
2.5.1 <i>The role of freedom of expression in a democratic society: Promoting a diversity of voices</i>	31
2.5.2 <i>Justifying freedom of expression</i>	32
2.5.3 <i>Limiting (restricting) or extending freedom of expression</i>	36
2.6 <i>Legitimising the use of criminal law</i>	37
2.7 <i>Concluding remarks</i>	42
3 Visiting the sphere of regulation	49
4 Anti-gender hate speech counteracts gender equality	51
4.1 <i>Gender equality</i>	51
4.2 <i>Means to achieve gender equality: Non-discrimination and gender mainstreaming</i>	53

4.3	<i>Specific regulation to combat anti-gender hate speech</i>	54
4.3.1	<i>UN level</i>	54
4.3.2	<i>European level</i>	56
4.3.3	<i>National level</i>	60
4.3.3.1	<i>Sweden</i>	60
4.3.3.2	<i>Italy</i>	64
4.3.3.3	<i>Spain</i>	64
4.4	<i>Concluding remarks</i>	64
5	<i>Freedom of expression as more than an individual right</i>	72
5.1	<i>The right to and the responsibility of freedom of expression</i>	72
5.2	<i>The democratic rationale</i>	76
5.3	<i>Balancing freedom of expression and gender equality</i>	77
5.4	<i>Concluding remarks</i>	81
6	<i>Combating anti-gender hate speech with criminal regulation</i>	87
6.1	<i>Regulations and policies within European Union</i>	89
6.2	<i>Criminal offences in a national context</i>	92
6.2.1	<i>Sweden</i>	92
6.2.1.1	<i>Hate crime and hate speech: Relevant offences</i>	93
6.2.1.2	<i>Regulation on hate motive as an aggravating circumstance</i>	96
6.2.1.3	<i>Constitutional acts</i>	100
6.2.1.4	<i>Liable subjects</i>	101
6.2.1.5	<i>Policies and legal proposals</i>	102
6.2.2	<i>Italy</i>	104
6.2.3	<i>Spain</i>	106
6.3	<i>Concluding remarks</i>	107
7	<i>Anti-gender hate speech regulation revisited</i>	114
7.1	<i>Anti-gender hate speech impacts several of the democratic core principles</i>	115
7.2	<i>Restriction or extension of freedom of expression</i>	117
7.3	<i>Anti-gender hate speech in a patriarchal society</i>	118
7.4	<i>The extension and persistence of what is hate speech</i>	120
7.5	<i>Small actions' enabling of the larger ones</i>	122
7.6	<i>Legitimising criminalisation</i>	125
7.7	<i>A side question: A Nordic walk-over</i>	128
7.8	<i>Conclusion</i>	129

Preface

This book is an offspring and an update of the research produced within the project ‘Hate Speech, Gender, Social Networks and Political Parties’ (GENHA) co-funded by the European Union during the years 2020–2022. The project was a collaboration among researchers from five European countries and universities: Germany and Universität Erfurt, Hungary and the Central European University, Italy and Alma Mater Studiorum Università de Bologna, Spain and the Universitat Autònoma de Barcelona, and Sweden and the University of Gothenburg. Four reports were produced and published, while the wider intentions to publish scholarly texts were delayed by the very specific circumstances coming with the pandemic hindering the research team to even meet. Almost three years later, parts of the research group have concluded a monograph addressing the regulation on anti-gender hate speech.

Through several policies and laws, bodies like the UN, Council of Europe and EU express their concern about anti-gender hate speech, both offline and online, and challenge the states to act against it. On the national level the degree of willingness seems to be less impressive. Even countries like Sweden, a former role model for gender equality, is hesitant. Recent obliging initiatives taken by EU will hopefully change this reluctance. This book shows a fragmented regulation.

The authors would like to thank two of the participants from the GENHA project for their contributions with information about the regulation in Spain and Italy, respectively, Professor Noelia Igareda González and Professor Raffaella Sette. We would also like to thank Professor Jacob Öberg who has read and commented on parts of the text.

We would also like to thank the University of Gothenburg for providing writing retreat through travel scholarship in 2024.

Abbreviations

BrB	<i>Brottsbalk</i> (Swedish Criminal Code)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CSW	UN Commission on the Status of Women
DSA	Digital Services Act
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EEA	European Economic Area
EIGE	European Institute for Gender Equality
EU	European Union
GENHA	Hate Speech, Gender, Social Networks and Political Parties
GREVIO	The Group of Experts on Action against Violence against Women and Domestic Violence
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	information and communications technology
RF	<i>Regeringsformen</i> (The Instrument of Government)
TEU	Treaty on European Union
TF	<i>Tryckfrihetsförordningen</i> (The Freedom of the Press Act)
TFEU	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
USA	United States of America
YGL	<i>Yttrandefrihetsgrundlagen</i> (The Fundamental Act on Freedom of Expression)

1 Introduction

Anti-gender hate speech

1.1 Introducing the theme

Trigger warning

‘For me, gender equality is to finger a sexist feminist whore in the vagina, with a big knife. The best thing you can do for gender equality in Sweden is to go out with a baseball bat and beat a sexist feminist scum to death.’

(Quote from a judgment in the Swedish Court of Appeal¹)

This is an authentic quote that illustrates the severe and aggressive hate present online in Sweden, and elsewhere, today. This quoted comment was a response to a chronicle on gender equality written by a young female journalist. The chronicle was published online, accompanied by a comment section where the remark was posted. The statement in the comment was prosecuted under Swedish criminal law. The charge was brought as molestation (*ofredande*), as no other offence was applicable, despite its serious and violent nature. While the District Court found the perpetrator guilty, the Court of Appeal acquitted him as they argued that the comment did not fall under the definition of molestation nor any other criminal offence but suggested that the legislator should review the relevant criminal law.

It is worth noting that the case is almost ten years old, and a legislative process has taken place since then, aiming to amend the law to encompass statements like the one quoted, and various other forms of digital harassments, such as non-consensual pornography. Despite the revision of the criminal law, there are still challenges and deficiencies in legal protection, particularly in how the law currently addresses anti-gender hate speech (Nordref 2023).

At the time, the Court of Appeal argued that the comment was an isolated event, not part of a recurring pattern generally required to constitute molestation. The court further noted that the comment followed

2 *Online Anti-Gender Hate Speech*

a chronicle intended to spark debate, implying that offensive responses might be anticipated. This reasoning suggests the court considered it reasonable for the journalist to tolerate more hate than others.

In a more recent case, where a public debater received a so-called ‘dick pic’ and the perpetrator argued that the victim’s status as a public figure should mitigate the offence, the court took the opposite view. The District Court deemed this an aggravating circumstance, leading to a harsher sentence.² This decision may reflect a shift in judicial attitudes toward online abuse targeting individuals engaged in public debate, aligning with evolving policy frameworks addressing such issues.

This shift is particularly noteworthy as it may relate to differing interpretations of freedom of expression – specifically, its negative aspect (non-censorship) and positive aspect (guaranteeing a diversity of voices) as dealt with in criminal law. The first case appears to focus solely on the individual and the principle of non-censorship, whereas the second case can be seen as emphasizing the protection and preservation of a diversity of voices, with particular attention to those in professional roles.³

Online anti-gender hate speech is a global phenomenon impacting both individual everyday life, societies and democratic processes. Anti-gender hate speech presents urgent issues across several dimensions and has in recent years received intensified attention; UN has even called it a ‘shadow pandemic’ (UN Women 2020). It gives rise to serious problems in at least three aspects: practical everyday life, legal and democratic. At the same time, the example above from a Swedish context illustrates two tendencies going in different directions: firstly, a hesitancy to recognise anti-gender hate speech as a serious issue and a criminal offence, and secondly, a gradual shift in the perception of the importance of protecting democratic discourse over time. In this book, we discuss how these issues can be understood and approached from a legal perspective.

The phenomenon concerns freedom of expression⁴ and gender equality as two cornerstones of democratic society. These values might be seen as contradictory or as mutually strengthening. This book argues that, to uphold and strengthen democracy, we must re-evaluate the relationship between freedom of expression and gender equality – not as opposing forces but as compatible and collaborative principles. This includes rethinking freedom of expression as not merely a prohibition against censorship but as a democratic responsibility to foster an inclusive and diverse public discourse where freedom of expression and gender equality can coexist. A democratic state has an obligation to foster a pluralistic and inclusive environment where marginalised perspectives are heard, valued, and protected, ensuring all voices contribute to a robust and equitable public dialogue.

Online anti-gender hate speech benefits from and takes place in a context of advanced technology. In today’s digital age, where much of our personal and public lives are lived online, democracy faces both unprecedented

opportunities and serious challenges. The internet has enabled movements like #MeToo, amplifying voices and mobilising support for gender equality on a global scale. Yet, the same digital spaces have become fertile ground for hate and threats, particularly anti-gender hate speech that targets those advocating for gender rights, by some called the anti-gender movement (EIGE 2022; Kuhar & Paternotte 2017). According to the UN Working Group on Discrimination against Women and Girls there has in recent years been a clear backlash for women's rights and the use of the term gender, with attacks claiming a 'gender ideology' is wrongly imposed (United Nations Human Rights Special Procedures 2020).

Online anti-gender hate speech undermines individuals' ability to freely express themselves online and poses a significant threat to the diversity of public discourse by silencing voices (see, e.g., European Institute for Gender Equality 2020). Contrary to the common perception that it creates complex legal tensions between freedom of expression and gender equality, we argue that this framing is misleading. Being silenced entails avoiding communication due to threats, verbal or physical attacks, or subtler forms of harassment.⁵

Regulatory measures at international, regional, and national levels can either facilitate or restrict the prevalence of anti-gender hate speech. Historically, online abuse has been trivialised as 'merely virtual' and therefore inconsequential. Similarly, less overt forms of violence against women have often been dismissed or not taken seriously. These attitudes may explain why anti-gender hate speech only recently gained recognition as a regulatory priority.

Today, however, anti-gender hate speech is increasingly addressed at multiple levels and is often classified as a form of violence against women (European Commission, COM(2022) 105 final 2022/0066 (COD)). It is also increasingly recognised as a barrier to freedom of expression, particularly when the obligation to promote a diversity of voice is considered.

This book explores the regulation of online anti-gender hate speech, encompassing both legal and policy frameworks. The phenomenon is examined through an international lens, with a focus on relevant international regulations, with a particular focus on the EU and some of its member states. Our analysis is informed by findings from the EU-funded GENHA project, which investigated five European countries: Germany, Hungary, Italy, Spain, and Sweden. While Italy, Spain, and Sweden are most prominently referenced, Sweden serves as the central example.

There are two key reasons for this emphasis on Sweden. First, Sweden possesses an extensive legal framework on freedom of expression (Kenyon, Svensson & Edström 2017). Second, it consistently ranks highly in global gender equality indexes (Hellum et al. 2024). These principles – freedom of expression and gender equality – are deeply embedded in Sweden's democratic tradition. Freedom of expression, which includes both non-censorship and the promotion of a diversity of voices, is historically regarded as a 'common

4 Online Anti-Gender Hate Speech

good'. The concept of the common good, as a justification for the use of criminal law, will be explored in greater depth in Chapter 2. Meanwhile, gender equality is recognised as requiring active measures to be fully realised.

Sweden's unique position is further underscored by its declaration as the first nation with a feminist government (Skr. 2016/17: 10). This commitment heightens the expectations for the country to ensure that women's voices are protected from being silenced (Bladini 2020).

The current Spanish government also proclaims itself feminist, and it is the third time Spain has a Ministry of Equality. In 2014, President Rodríguez Zapatero formed the first government with gender parity, appointing an equal number of women and men as ministers. This government was explicitly feminist and proudly declared its commitment to advancing gender equality, marked by the establishment of the Ministry of Equality.

The current situation in Italy presents a somewhat different scenario; even though, Georgia Meloni, the prime minister of Italy and the leader of 'Fratelli d'Italia' ('Brothers of Italy'), introduces herself as 'a woman, a mother, a Christian' she is not a feminist (Serughetti 2024). Together with the party she reinforces the traditional family and characterised by the strategical use of the defence of women's rights to support anti-immigration and conservative issues (De Giorgi, Cavalieri & Feo 2023).

Anti-gender hate speech manifests both online and offline. However, the online dimension presents unique challenges, particularly due to the rapid dissemination of speech and the complexities of regulation. Investigating online crimes often proves difficult, particularly in identifying the offender. Determining the ownership of specific accounts is a significant hurdle, as platform providers are frequently located in other jurisdictions, complicating access to critical information (Bladini & NIKK 2017).

Given the global nature of this phenomenon, effective regulation necessitates international cooperation, which is not always feasible. Even within a single jurisdiction, such as Sweden, the legal framework for freedom of expression varies depending on the medium in which the speech occurs (Carlsson 2024). This issue will be elaborated further in Chapter 3.

Our primary focus is on *online* anti-gender hate speech, and unless otherwise stated, this will be the subject of the following discussion.

Why is this book necessary? We argue that addressing the fragmented nature of regulation, its evolution over time, and its variation across jurisdictions is essential for developing a more cohesive and reflective approach to the phenomenon. Re thinking the legal framework surrounding anti-gender hate speech has the potential to foster more respectful communication, thereby strengthening democracy and ensuring a diversity of voices.

In this chapter, we provide a *background* by briefly describing the problem and *explaining* its urgency. We introduce the concept of anti-gender hate speech and examine the challenges it poses in everyday life, within legal contexts, and from a democratic perspective. Furthermore, we discuss

relevant previous research and outlines this book's contributions to the field. Finally, we present the *structure* of the book.

1.2 Anti-gender hate speech

Anti-gender hate speech gives rise to serious challenges across at least three dimensions. The first is practical, affecting individuals everyday lives. It shapes whether and how people engage online, influencing their ability express themselves and avoid being subjected to offensive actions or expressions. The second is legal, often framed as a clash between the principles of gender equality and freedom of expression. The third is democratic, highlighting how restrictions on women's participation in public discourse silence voices, exclude certain groups from debates, and erode the diversity of public dialogue. These challenges urgently demand thorough exploration, and a critical assessment of the extent to which they can be mitigated through legal and political measures.

While the concept of hate speech has been acknowledged in a legal context for some time, *anti-gender hate speech* has yet to be formally established as a distinct legal concept. Nonetheless, recognition of the phenomenon has been increasingly evident in various political and legal frameworks. The lack of a unified definition of hate speech complicates matters further (Lagiewska 2024). Disagreements persist over severity, the types of actions it encompasses, and the characteristics protected under its scope. Historically, gender and sex were excluded from these definitions, and even today, some jurisdictions either do not include these categories or only recognise them to a limited extent.

As a result, the protection offered to individuals and groups varies widely. The concept of hate speech cannot, therefore, be applied without careful examination of its definition and implications. In this book, we take the starting point in the definition of hate speech provided by the European Commission against Racism and Intolerance (ECRI) in its General Policy Recommendation no. 15, as our point of departure:

Considering that hate speech is to be understood for the purpose of the present General Policy Recommendation as the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of 'race', colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

It should be noted that other definitions will also be explored and discussed later in the text; see Chapter 2 for a more detailed analysis.

6 *Online Anti-Gender Hate Speech*

The discussions in the book will address the legal and regulatory challenges associated with the three core dimensions – everyday life, law and democracy – by examining the interplay between gender equality, freedom of expression, and criminal law. Gender equality and freedom of expression are foundational principles of democracy, enshrined in constitutional provisions, while criminal law serves as a crucial tool in combating hate speech.

1.2.1 Everyday life challenges

Most people in the Western world engage with the internet daily. While digital communication offers numerous benefits, it also presents significant drawbacks. The internet connects individuals across the globe, but unlike physical interactions, messages online spread rapidly to vast and often undefined audiences. This blurring of the boundary between public and private life opens new pathways for harassment and abuse.

Four defining characteristics of online communication amplify the effects of online hate. First, the physical and temporal distance between sender and recipient diminishes empathy and accountability, encouraging impulsive and offensive remarks with minimal perceived consequences (Suler 2004). Second, anonymity facilitates harmful speech without accountability. While it can protect vulnerable individuals, it also enables abuse by allowing perpetrators to evade responsibility (Dunkels 2016). Third, constant connectivity via smartphones exposes individuals to potential abuse at any time, even in private spaces, and fosters impulsive hostility (Brovall & Christiansen 2013). Finally, the persistent nature of online hate leaves a lasting impact; once shared, harmful content can be saved and redistributed, perpetuating a ‘lifelong violation’ for victims (Sunde 2006; CJEU 2014).

Online communication, whether intentional or spontaneous, may target specific recipients or reach broad, undefined audiences. Messages can originate from individuals or groups, either organised or reactive (De Smedt et al. 2018). Anti-gender hate speech highlights these challenges, exposing gaps in legal protections that fail to address the unique impact of digital communication for targeted groups.

Even though there is a growing body of feminist scholarship on online misogyny, hate speech against women online has been limitedly studied, particularly among legal scholars (Antigona Research Group 2020). While hate speech is an established research topic within law, the majority of work focuses on categories such as race and ethnicity and rarely addresses gender as a basis for hate (Antigona Research Group 2020). In contrast, there is a growing body of interdisciplinary research examining online misogyny as part of everyday life, particularly its impact on women’s voices and participation in digital spaces. Many of these scholarly works span multiple disciplines and address various challenges. We structure the following sections according to the challenges they concern.

Expressions that some individuals viewed as a fundamental aspect of their freedom of expression may be experienced by others as offensive and silencing. Women worldwide are regularly subjected to anti-gender hate speech on social media platforms as part of everyday life (UNESCO & Broadband Commission 2013; UN Women 2020; Bladini 2020; Vickery & Everbach 2018). The impact of online sexual violence on everyday life has been studied by Citron (2009) and Bladini (2020); see also Powell, Flynn and Suguira (2021).

A philosophical analysis of online anti-gender hate speech, examining its impact on women as a group and how it constrains their ability to engage in digital spaces, has been offered by Richardson-Self (2018, 2021). Her work raises questions on the nature, targets, and countermeasures of such speech, suggesting that it not only harms individuals but also reinforces broader ideological constraints on gender equality. This perspective is crucial to our analysis.

While Richardson-Self touches on legal responses, her analysis is primarily philosophical and lacks a European or Nordic legal perspective, which this book aims to provide. Additionally, we expand on her framework by situating anti-gender hate speech within a legal context, examining its alignment with internationally recognised principles of freedom of expression, gender equality, and democratic discourse.

Research shows that exposure to anti-gender hate speech has a silencing effect (Als Research 2015; Tolstrup Holm 2015; Edström 2016; Amnesty International 2018; Bladini & NIKK 2017, 2020; BOM 2021). The impact of online sexual violence on everyday life has been studied by Citron (2009) and Bladini (2020). The concept of everyday life in relation to offline sexual violence, particularly rape, has been explored by Bladini and Svedberg Andersson (2020). Sexual violence manifests in various forms and degrees of severity, which are interconnected.

McGlynn, Rackley and Houghton (2017) introduce the concept of a continuum of violence in online spaces, describing image-based abuse as part of a broader spectrum of gendered violence. While not specifically addressing anti-gender hate speech, their continuum framework is instrumental in understanding the pervasive nature of online harassment, which is reflected in our analysis of anti-gender hate speech as a form of systemic, gendered violence. Other researchers highlight that anti-gender hate speech functions as a continuum of violence, impacting women's freedom and self-expression, particularly in online environments (e.g. McGlynn, Rackley & Houghton 2017; Morini 2024). This continuum not only applies but also parallels research on gender-based violence in offline contexts.

The continuum of violence is also the focus of research on gender-based violence offline (e.g. Lundgren et al. 2002; Fileborn & Vera-Grey 2017). Nielsen (2004) explores street harassment, framing it as 'offensive public speech' embedded within broader systems of social inequality. Nielsen argues that law can serve to normalise harassment, effectively providing a 'license to

harass'. This early analysis connects offensive speech to power structures – a foundational insight we expand upon by situating anti-gender hate speech within democratic theory and examining how it obstructs gender equality.

1.2.2 Legal challenges

Societal problems are addressed through diverse legal means and across various legal fields. Anti-gender hate speech engages at least three legal fields, criminal law, freedom of expression and gender equality.

Hate speech is a matter of criminal law, as it may constitute a form of hate crime. Criminal regulation is essentially imposed control and state violence and should be used restrictively. Only when the principles of criminalisation can justify such regulation may it be used. We will elaborate on the principles of harm, common good and public wrong, see Chapter 2. The concept of hate crime encompasses various acts targeting individuals or groups based on prejudice against characteristics such as ethnicity, religion, sexual orientation, or similar grounds. Hate speech can thus be viewed as a specific type of hate crime.

While criminal law has historically been a national matter, it has increasingly become subject to international and regional demands. Examples include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Istanbul Convention and the newly adopted EU Directive on Violence against Women (Directive (EU) 2024/1385). These demands on national regulation can be direct or indirect and often intersect with different policy fields, contributing to a fragmented legal landscape.

There is also a debate on when and how criminal law should be used as a preventive measure. At the EU level, this debate has centred on which crimes qualify as *core crimes* under EU jurisdiction (Öberg 2024). In the Nordic context, there is a growing tendency to rely on criminal law as a solution to societal problems (Anderberg, Martinsson & Svensson 2022).⁶ However, the willingness to use criminal law appears to vary depending on the nature of the issue, with indications of gender bias. Efforts to include gender as a ground for hate crimes and hate speech regulation have faced resistance in Sweden (SOU 2023: 80; Granström 2016). Similarly, measures to address men's violence against women, such as the adoption of consent-based rape legislation, have met with reluctance (Prop. 2017/18: 177; Leijonhufvud 2015).

Anti-gender hate speech engages both freedom of expression and gender equality, as it constitutes a form of speech and is simultaneously characterised as gender stereotypical, a manifestation of violence against women, and an obstacle to achieving gender equality. Both freedom of expression and gender equality are foundational elements of democracy. Although established in different times, both have long been recognised as legal principles in various international and national conventions and constitutions. However, their interpretations vary across contexts.

Freedom of expression can be understood narrowly as non-censorship, emphasising the individual's right to express themselves without restriction. Alternatively, it can be interpreted more broadly, requiring active state measures to safeguard a diversity of voices. Similarly, gender equality can be viewed as limited to formal non-discrimination or as necessitating active measures to achieve substantive equality. A transformative interpretation goes even further, requiring states to actively eliminate gender inequality.

How anti-gender hate speech is addressed within regulations varies over time and between jurisdictions. Increasingly, it has been argued to be severe enough to warrant inclusion in hate speech regulation, alongside expressions targeting ethnicity or sexual orientation. However, such arguments often encounter resistance rooted in a narrow understanding of freedom of expression, which frames any regulation as a limitation of this freedom. This reluctance to regulate anti-gender hate speech is partly due to how the protection for freedom of expression is interpreted and applied (Kenyon, Svensson & Edström 2017; Edström 2016; Bladini 2020).

A common perception is that regulating anti-gender hate speech creates a conflict between an extensive freedom of expression and legal measures against such speech, making it a restriction of freedom of expression (see, e.g., Bakken 2000). Such a narrow interpretation of freedom of expression, as primarily or solely non-censorship, often dominates. Consequently, freedom of expression is frequently given precedence over gender equality when the two principles are balanced (Svensson & Edström 2014).

In this book, we challenge this understanding. Rather than advocating for a different balance, we suggest that freedom of expression and gender equality are compatible when understood in alignment with their justifications as foundational principles of democracy.

Current literature on anti-gender hate speech is limited, particularly in the legal sphere. Barker and Jurasz (2019) examine the regulation of online misogyny within the UK context, focusing on social media abuse, legal responses, and the categorisation of gender abuse as hate crime. Our book complements this by examining the Swedish and EU legal frameworks, adding a broader European perspective and situating anti-gender hate speech within a democratic context. Zempi and Smith (2022) explore misogyny both online and offline with an intersectional lens and discuss proposed reforms on hate crime, also in a UK context. They do not, however, consider gender equality or freedom of expression as democratic prerequisites, principles central to our approach. Our book thus reinterprets the fragmented political discourse on anti-gender hate speech and integrates it into a democratic framework (Svensson & Bladini 2021).

Legal scholars have engaged in other forms of expressions that constitute violence against women, such as pornography (MacKinnon 1996; Kraus 1993; Svensson 1995), and sex-discriminatory advertisement (Svensson & Edström 2014; Sundström & Käll 2019). Angelari (1993) suggested early, even before the UN had done so, that hate crime statutes could be used as a