

Eötvös Loránd University
Doctoral School of Law

**Online Hate Speech in Light of New Technological Challenges,
with Special Regard to Social Media Companies**

Thesis of the Doctoral Dissertation

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1. Objectives of the Doctoral Dissertation

The rapid development of information technology and the growth of social media platforms have created new avenues for the exercise of freedom of expression.¹ The widespread use of the internet, particularly social media, has created new spaces for communication where freedom of expression increasingly operates in a global, cross-border context. However, the risk of harmful content such as hate speech appearing and spreading has also increased, which can seriously infringe upon other fundamental rights, especially the right to human dignity and equal treatment.²

Online hate speech is one of the most serious and complex challenges to fundamental rights in the digital age, particularly given the changing patterns of communication, the evolving role of social media companies and the use of artificial intelligence-based moderation technologies.

This doctoral dissertation focuses on online hate speech and the new technological challenges arising in connection with it, paying particular attention to the role of social media companies.

The dissertation primarily aims to explore how online hate speech can be addressed within the framework of the rule of law. A central normative question is whether the legal restriction of online hate speech is permissible, and if so, under what conditions and with what procedural safeguards to ensure a balance between competing fundamental rights is maintained.

The research places particular emphasis on the new power position held by social media companies. These platforms no longer merely function as channels of communication; they increasingly make decisions — often through algorithmic means — about which content is allowed to remain on their platforms and which is restricted or removed, based on their own internal rules.³ This quasi-judicial role raises numerous concerns from both a fundamental rights and procedural justice perspective.

¹ ZANKOVA, Bissera – GOSZTONYI, Gergely (2021): *Quo vadis, European Union's New Digital Regulation Package?*. 2 Business and Law pp. 69. DOI: 10.370.75/BAL.2021.2.03.; NAGY Krisztina - POLYÁK Gábor: *Az internetes forgalomirányító szolgáltatások alapjogi vonatkozásai*. JURA 2018/1.

² KOLTAY András: *A véleménynyilvánítás szabadsága*. In: *A magyar közjog alapintézményei*. Pázmány Press, Budapest, 2020, pp. 569-597.

³ BALKIN, Jack M.: *Free Speech in the Algorithmic Society: Big Data, Private Governance, and New School Speech Regulation*. UC Davis Law Review (51) (2018) pp. 1149–1210.

The doctoral dissertation aims to address the following research questions:

- What legal and technological frameworks can be used to define online hate speech?
- What role do social media platforms play in managing such content, and what responsibilities do they have?
- Are current platform policies and moderation practices adequate for protecting fundamental rights?
- What are the implications of content moderation based on artificial intelligence and algorithms?
- How can the Oversight Board (FOB), established by Meta, contribute to the oversight of hate speech management based on the rule of law?
- What regulatory challenges are posed by decentralised social media platforms?

Therefore, the objective is not merely to describe and critically interpret current practices, but also to formulate regulatory, institutional and technological proposals that offer long-term, sustainable, rule-of-law-based solutions to the challenges of the digital environment. The aim of these proposals is to promote the transparent, responsible and accountable operation of social media platforms while effectively safeguarding users' fundamental rights.

It is of paramount importance that the balance between fundamental rights, particularly between freedom of expression and the protection of human dignity, is upheld in the digital space. Achieving this balance requires mechanisms that ensure an effective response to harmful content while preventing the unjustified restriction of free speech.

Accordingly, the dissertation seeks practical solutions that consider the dynamics of technological development, legal cultural diversity, and the specific characteristics of global platform actors. These solutions will serve as a normative compass for future regulatory and institutional frameworks.

2. Structure of the Doctoral Dissertation

The doctoral dissertation is divided into nine main thematic units which guide the reader through a complex analysis of online hate speech. These units are closely aligned with the research questions and are strongly interrelated.

The introductory chapter outlines the importance of the research, its initial questions and hypotheses, and its objectives. It also defines the dissertation's structural and methodological framework.

The second chapter discusses the theoretical and legal foundations of hate speech, paying particular attention to how it is defined and categorised in different legal systems and international human rights instruments. It begins with the acknowledgement that hate speech is not a universally defined legal concept⁴; while some countries permit active criminal prosecution, others allow only limited restrictions. After reviewing these differences, the chapter provides a detailed analysis of the constitutional balance between freedom of expression and efforts to combat hate speech in relation to international human rights standards. It also considers the regulatory practices of social media platforms. These platforms establish their own normative systems through internal policies and community guidelines, which determine whether content qualifies as hate speech. The chapter maps the main characteristics of these normative systems and highlights that they often do not align with formal legal frameworks yet play a decisive role in shaping global public discourse in practice. This normative duality — the tension between formal law and platform regulation — fundamentally defines the possibilities and limitations of addressing online hate speech.

The third chapter provides a detailed analysis of the challenges to the rule of law arising from the quasi-judicial role of social media platforms in their internal policies and algorithmic decision-making processes. It highlights that, although these platforms lack formal public authority, they effectively make decisions that directly impact users' fundamental rights, particularly the right to freedom of expression. At the same time, however, platforms are not required to adhere to the same constitutional and human rights standards as state actors. Consequently, content moderation may lack transparency, justification for decisions and effective remedies. This chapter therefore examines how the principles of the rule of law, such as legal certainty, transparency, predictability and

⁴ HEINZE, Eric: *Hate Speech and Democratic Citizenship*, Oxford University Press, 2016.

accountability, can be undermined when key digital actors exercise control over public discourse without institutional constraints.

The fourth chapter focuses on artificial intelligence (AI) and algorithm-based content moderation, one of the most widespread — yet also most controversial — technological tools for addressing hate speech today. It aims to explore the theoretical and practical issues arising from automated decision-making by AI systems, especially when such decisions directly impact the exercise of fundamental rights, most notably freedom of expression. It provides a detailed account of how algorithmic moderation is reshaping the responsibility framework of platforms, raising critical questions related to the rule of law, ethics and procedural fairness.

The fifth chapter examines the relationship between law enforcement and the transparency reports published by social media companies. The chapter's central question is the extent to which these documents enable monitoring of platforms' content moderation practices and the role they can play in ensuring transparency, accountability and adherence to norms essential for operations based on the rule of law.

The sixth chapter outlines the institutional operations and decision-making processes of the Oversight Board (FOB), which was established by Meta (formerly Facebook). Particular attention is given to cases relating to hate speech. It outlines the circumstances of the Board's creation, its legal status and the procedural mechanisms involved in its decision-making processes. Focusing on the FOB's quasi-judicial role, the chapter analyses how the Board makes context-sensitive decisions based on human rights standards, thereby supervising the platform's moderation practices. Through case studies, the chapter illustrates how the Board evaluates borderline cases of hate speech, and the interpretive framework it applies when addressing them.

The seventh chapter, closely related to the sixth, analyses the Oversight Board's (FOB) interpretative practice and conceptual approach to hate speech, as well as the normative implications of its decisions. Particular attention is paid to the principles used by the FOB to determine what constitutes hate speech, and to the manner in which human rights considerations are incorporated into its rulings. The chapter also considers the effect that the FOB's work has had on Meta's internal regulations and moderation culture, and its influence on the norm-setting practices of social media platforms worldwide.

The eighth chapter addresses the regulatory challenges posed by decentralised social media platforms, focusing particularly on how fundamental rights can be enforced in these non-hierarchical online spaces.⁵ It also considers what new normative and technological tools may be necessary to prevent these platforms from becoming unregulated spaces for hate speech and other unlawful content.

Finally, the concluding chapter summarises the dissertation's main findings and makes recommendations regarding the future regulation of platforms, algorithmic decision-making and the protection of human rights.

3. Research Methods Applied in the Doctoral Dissertation

This dissertation takes an interdisciplinary approach to the issue of online hate speech, combining legal, technological and social science research methods. The research incorporates qualitative and quantitative elements based on three main methodological pillars:

As part of a comparative legal analysis, it primarily examines the norms set out in international human rights documents, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. Building on these, the dissertation analyses how different legal systems⁶ – such as the European model, the constitutional framework of the United States, and various national regulatory efforts — interpret and restrict hate speech. The characteristics of these normative systems are compared with the internal policies, moderation guidelines, and practices of major social media platforms—YouTube, Meta, X (formerly Twitter), and TikTok. The aim is to explore the structural and substantive differences between the normative frameworks developed by non-state actors and traditional, law-based regulatory systems. In addition, the dissertation provides a detailed analysis of how platform rules—and especially the decisions of the Facebook Oversight Board (FOB) established by Meta—align with international human rights standards. It examines the extent

⁵ ZANNETTOU, S., CAULFIELD, T., BLACKBURN, J., & STRINGHINI, G. (2021).: What is Gab? A Bastion of Free Speech or an Alt-Right Echo Chamber? *ACM Transactions on the Web*, 15(2), pp. 1–36. DOI: <http://dx.doi.org/10.1145/3309699>

⁶ KAHN, Robert: *A gyűlölet szabadsága – amerikai és európai perspektívák*. Wolters Kluwer Kft., Budapest, 2016, pp. 7.

to which these decisions reflect the required balance between freedom of expression and human dignity, as well as the ways in which they diverge from these standards.

As part of a quantitative content analysis, I processed the statistical data found in the transparency reports published by the platforms, paying particular attention to the quantitative indicators related to the moderation of hate speech. The analysis covers temporal changes in the volume of content removed, the extent to which artificial intelligence and algorithms are used, and the degree of automation in decision-making processes. I also examine the consistency, transparency and procedural detail of individual platforms' moderation practices. This method allows me to empirically assess the extent to which social media platforms' moderation practices can maintain the balance between freedom of expression and the protection of human dignity, and the degree to which procedural safeguards are effectively ensured.

As part of the qualitative analysis, I adopt a case study approach, focusing on the decisions issued by Meta's Oversight Board. The selected cases are representative examples that effectively illustrate the challenges of platform moderation practices, such as context-sensitive interpretation, navigating the boundaries between hate speech and political expression, and accounting for cultural and linguistic differences.⁷ The analysis focuses on how these decisions contribute to the development of soft law norms and the extent to which they set a precedent for the operation of the platform and the broader regulation of digital public discourse.

Finally, theoretical legal interpretation is an integral part of the research, through which I examine the foundational principles that may justify restricting freedom of expression. This methodological approach allows for a more in-depth, normative analysis of the legal assessment of hate speech and a critical evaluation of the rule of law foundations of various restriction models.

4. Findings of the Doctoral Dissertation

The research has yielded novel findings across multiple dimensions, which are relevant from both theoretical and practical perspectives.

⁷ KOLTAY András: A gyűlöletbeszéd korlátozása a magyar jogrendszerben. In: Koltay András (szerk.): A gyűlöletbeszéd korlátozása Magyarországon. Wolters Kluwer, Budapest, 2013

1. One of the dissertation's most significant scholarly contributions is its detailed demonstration that the concept of online hate speech is not defined uniformly across different legal systems. In fact, even among democratic states, substantial differences exist regarding the definition of hate speech, the permissibility of restrictions, and the legal consequences.
 - a. While some countries, such as Germany and France, apply a broader, more proactive interpretation and may respond to hate speech with criminal sanctions, others, such as the United States, recognise the legitimacy of restrictions only within a much narrower scope, citing constitutional protections for freedom of speech. These differences are not merely theoretical: they directly impact how global social media platforms handle hate speech.
 - b. By contrast, platforms such as Meta, YouTube, TikTok and X have their own definitions of hate speech, which are often vague or overly broad. These definitions are frequently inconsistent with national laws or international human rights standards. These differences in definition can lead to divergent legal interpretations, inconsistent practices and disproportionate restrictions in moderation decisions by platforms.⁸ This is particularly concerning when platforms fail to provide sufficient transparency about the rationale behind their decisions or when users lack access to effective legal remedies or appeals processes.
 - c. The dissertation therefore proposes developing a context-sensitive and normatively grounded definition of hate speech. This definition would take into account the specific characteristics of online communication environments,⁹ such as the speed of mass dissemination, linguistic diversity, cultural differences and the mediated nature of technology. The core of the proposed approach lies in its flexibility to adapt to different social contexts while remaining aligned with international human rights standards.

⁸ KOLTAY András: *Az új média és a szólásszabadság: A nyilvánosság alkotmányos alapjainak újragondolása.*, Wolters Kluwer, Budapest, 2019, pp. 232.

⁹ BALKIN, Jack M.: *How to Regulate (and Not Regulate) Social Media.* 1 *Journal of Free Speech Law* 1 pp. 71-96. 2021 DOI: <http://dx.doi.org/10.2139/ssrn.3484114>

2. Another key finding of the research is the critique of the quasi-judicial role assumed by social media companies based on the rule of law. While not formally considered public authorities, these companies' decisions, particularly those involving content removal, restriction or user suspension, have a tangible impact on users' fundamental rights. These decisions significantly influence the nature of online public discourse¹⁰, determining which opinions and societal conversations are visible or suppressed in the digital space.¹¹
 - a. The dissertation provides a detailed account of the institutional and procedural issues inherent in platform decision-making processes. Content moderation mechanisms are often opaque: policy references are unclear, justifications for decisions are lacking or automated, and users are often denied access to effective complaint or appeal processes.¹² These issues violate key principles of the rule of law, particularly the principles of accountability, predictability and the right to remedy, and, over time, they erode trust in the legitimate operation of these platforms.
 - b. Although transparency reports published by platforms may allow certain conclusions to be drawn about content moderation¹³, they do not provide sufficiently detailed information about the legality of moderation decisions or the procedural context in which they are made.
3. Systems based on artificial intelligence are playing an increasingly significant role in the content moderation practices of online platforms.
 - a. Although AI-powered moderation systems enable the rapid processing of large amounts of content, they lack the capacity to accurately interpret social, cultural and linguistic contexts, especially in borderline cases of hate speech.¹⁴

¹⁰ TÖRÖK Bernát: *A szólásszabadság a közösségi platformokon és a Digital Services Act*. In: TÖRÖK Bernát – ZÓDI Zsolt: *Az internetes platformok kora*. Budapest, 2022. NKE Ludovika Egyetemi Kiadó, pp. 195.

¹¹ PAPP János Tamás: *A közösségi média szabályozása a demokratikus nyilvánosság védelmében*. Budapest, Wolters Kluwer, 2022, pp. 171.

¹² SZIKORA Tamás: *A platformszabályozás egy új iránya Donald Trump Facebookról való kitiltásának példáján keresztül*. In: TÖRÖK Bernát – ZÓDI Zsolt: *Az internetes platformok kora*. Budapest, 2022. NKE Ludovika Egyetemi Kiadó, pp. 211.

¹³ HELDT, Amelie: *Reading between the lines and the numbers: an analysis of the first NetzDG reports*. Internet Policy Review, 8(2). 2019. pp.10. Available at: <https://policyreview.info/pdf/policyreview-2019-2-1398.pdf>
DOI: <https://doi.org/10.14763/2019.2.1398>;

¹⁴ LLANSÓ, Emma; van HOBOKEN, Joris; LEERSSEN, Paddy; HARAMBAM, Jaron: *Artificial Intelligence, Content Moderation, and Freedom of Expression*. Transatlantic Working Group, Working Paper 2020. pp. 8. Available at: <https://www.ivir.nl/publicaties/download/AI-Llanso-Van-Hoboken-Feb-2020.pdf>

This absence of contextual sensitivity can result in erroneous decisions, such as the removal of lawful content or the retention of harmful material.¹⁵ Such algorithmic errors violate the principle of legal certainty, particularly when decisions are unsubstantiated and users have no access to effective remedies.

- b. The doctoral dissertation emphasises the crucial role of human decision-making in evaluating sensitive cases, as this is the only way to strike the right balance between fundamental rights.¹⁶ It also calls for greater transparency and accountability in the operation of algorithms¹⁷, arguing that users should be informed of the logic behind automated decisions and have access to effective remedies. Only then can artificial intelligence support, rather than undermine, the functioning of the rule of law.
4. The Meta Oversight Board plays a model role in the practical application of fundamental rights standards; however, it is also subject to legitimate criticism.
- a. The FOB's decisions are context-sensitive, transparent and well-founded from a human rights perspective. In each case, the Board provides a detailed justification, clearly outlining the human rights standards applied and assessing the legality of content removal in light of these standards.¹⁸ Particular attention is paid to cultural and societal context, the intent and impact of the expression, and the potential risks posed to other fundamental rights, such as human dignity.¹⁹ This approach enables the FOB to exercise a deliberative practice that meets theoretical and practical expectations of the rule of law, and addresses the complexity of the hate speech issue.

¹⁵GORWA, R., BINNS, R., & KATZENBACH, C.: *Algorithmic content moderation: Technical and political challenges in the automation of platform governance*. In: Big Data & Society, 7(1) (2020) pp. 5. DOI: <https://doi.org/10.1177/2053951719897945>

¹⁶SCHMIDT, Anna and WIEGAND, Michael: *Survey on Hate Speech Detection using Natural Language Processing*. In Proceedings of the Fifth International Workshop on Natural Language Processing for Social Media, Valencia, Spain. Association for Computational Linguistics. (2017) pp. 1–10. DOI: <http://dx.doi.org/10.18653/v1/W17-1101>

¹⁷TÖRÖK Bernát: *Az Alkotmányjog horizontális hatálya?* In.: TÖRÖK Bernát - ZÖDI Zsolt (szerk.): A mesterséges intelligencia szabályozási kihívásai. Budapest, Ludovika Kiadó, 2021. pp. 149.

¹⁸BARATA, Joan (2022): *The Decisions of the Oversight Board from the Perspective of International Human Rights Law*. COLUM. U. GLOBAL FREEDOM OF EXPRESSION 10 <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2022/10/The-Decisions-of-the-OSB-from-the-Perspective-of-Intl-Human-Rights-Law-Joan-Barata-.pdf>

¹⁹GOSZTONYI Gergely (2021): *Az internetes tartalomszabályozással kapcsolatos új gondolkodási irányok az Amerikai Egyesült Államokban*. In.: Miskolci Jogi Szemle 16. évfolyam (2021) 4. szám pp. 47.

- b. The decisions of the FOB also carry precedent value for other platforms. The Board's decision-making process is gradually becoming a norm-setting practice within the global digital regulatory landscape, establishing 'soft law'-type principles and interpretive patterns that can guide other technology companies. According to the dissertation, more widespread dissemination and adoption of the FOB's practices could significantly contribute to the development of a legitimate and lawful moderation culture, one that is not only grounded in technical efficiency, but also in fundamental rights principles.
 - c. Concerns have been raised regarding the FOB's independence, particularly in relation to the transparency of the selection process for its decision-makers. In the long term, this lack of transparency could undermine the Board's legitimacy.
 - d. The practical enforceability of the FOB's decisions is limited because Meta does not automatically implement all of the Board's recommendations. Consequently, the legal impact of these decisions is often uncertain.
5. Decentralised social media platforms, such as Nostr and Mastodon, create a completely new regulatory landscape.²⁰
- a. The lack of moderation on these platforms makes it virtually impossible to take effective action against hate speech.
 - b. The traditional tools of law enforcement and oversight are often ineffective in decentralised spaces, making legal enforcement more unpredictable.
 - c. The dissertation offers recommendations on which international and technological tools could be used to protect fundamental rights in decentralised environments.

In conclusion, the legal and technological management of online hate speech can only be effective if it considers the balance of fundamental rights, platform responsibility, and the unique characteristics of the new technological environment simultaneously. The doctoral

²⁰ ZANNETTOU, S., CAULFIELD, T., BLACKBURN, J., & STRINGHINI, G (2021): "What is Gab? A Bastion of Free Speech or an Alt-Right Echo Chamber?" *ACM Transactions on the Web*, 15(2), pp. 1–36. DOI: <http://dx.doi.org/10.1145/3309699>

dissertation aims to explore this balance, developing theoretical and practical frameworks that support the protection of fundamental rights within digital communication.

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List of Publications Related to the Topic of the Doctoral Dissertation

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