

A Study of Hate Speech in the North and South: Politicians as Communicative Agents

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Abstract

Hate speech as a political tool of extremism has been on the rise in the Global North and Global South. Its appeal gains audience, support, and strength every day in numerous countries. The geographical spaces may be different, but the geopolitical social locations of groups, members, and individuals reveal similar inequalities and aggressions. Considering this context, we intend to contribute with an assessment of hate speech via a case study - a politician's statements in the Netherlands with a brief parallel with a Brazilian scenario. Centrally, our paper approaches two different domains of hate speech. One domain of hate speech is its discursive framing, taken as a major source of representations, and the other is its interpretation in the context of legal systems. Agency is what connects the two domains. That is, we will address institutional agents and legal interpretation of politicians' speeches. To have an understanding of the subject matter, we need to understand the collective representations involved. In simple terms, we connect (legal) interpretation and (collective) representation to deal with hate speech cases performed by agents. These agents are addressed in hate speech laws both within the Netherlands and within the UN - also considering speech aggression in the Brazilian political scenario. Finally, addressing the agents and the framed speech acts involved seem to be relevant steps to broaden our understanding of the criminalization of hate speech and its propagation inside human societies, observing that we can resignify our frames and the agents around us as part of a bigger community.

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Keywords

Hate Speech, Political Agents, Communicative Agency, Extremism, Islamophobia

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Introduction

The Center for the Study of Hate and Extremism at California State University, San Bernardino, observed a remarkable surge in anti-Asian hate crimes in some largest cities in the U.S. in 2020, especially in NYC, LA, and Boston, places considered to be progressive, diverse and open. The numbers (an increase of 149% compared to the previous year) and the dates of the first spike (March and April) point to a growing trend of discrimination against a specific group (Asians) during the coronavirus pandemic. Likewise, Stop AAPI Hate released a national report revealing a remarkable number of incidents of anti-Asian discrimination, 9,081 from March 2020 to June 2021. Considering AAPI (Asian American and Pacific Islander) women’s experiences of discrimination and violence, the numbers released by AAPI Hate from March 2020 to March 2021 are equally revealing. On the other hand, a study entitled Report to the Nation: Anti-Asian Prejudice & Hate Crime analyses that this rise occurred at the same time that 15 major U.S. cities had a 7% decline in overall hate crimes. The sanitarian context of the moment and the imposed isolation seem to explain the last numbers, and the geopolitical discourse around it seems to explain the first ones. Unfortunately, this scenario is not local or historically marked, and verbal violence figures as a central type of violence produced by racial intolerance. Within geopolitics, imbued in power relations in a Foucauldian sense (Foucault, 1998), people, groups, countries are framed as less developed as well as fragile/unstable democratic structures, while the others are cast as developed with superior democratic structures. Our entry point into this conversation is through discrimination based on migration, specifically migration of Moroccans to the Netherlands, and gender/sexuality privilege, framed by masculine, racial, and heterosexual privilege in entanglement with political (and religious) extremism in Brazil. Unfortunately, these two cases are representative of a global phenomenon. By observing hate speech spewed out openly by prominent political figures, we suggest that far-right-wing politics in the Netherlands and the Americas has thrived and sores on the wings of hate speech - in the Netherlands as an expression of racism and Islamophobia; and in the Americas as an expression of misogyny and/or homophobia. These examples serve just as an illustration of a more general phenomenon - our main concern - of hate speech, which is created by framed representations and used, spread, and interpreted by (institutional) agents. Furthermore, we are interested in addressing institutional agents and the legal interpretation that surrounds the notion of hate speech, which has a representational nature. For that, we will address two legal contexts, of the Netherlands and the UN, having politicians’ hate speech as illustrative cases. Thus, the analysis will be centered around the notions of speech acts and practical agency, considering the collective recognition and necessary deontology involved. We hope that this study can contribute to the understanding of hate speech and its regulation.

1. Setting the stage

One could argue we are currently living in a globalized world – a global village if you like Marshall McLuhan's terminology, yet the walls seem to be closing in for some, as evidenced by the ethnic-nationalist so-called populist political leadership in the U.S. and Europe. The hate speech spewed by political leaders in the Americas draws on similar tactics that far-right-wing politics in the Netherlands - and Europe in general. We observe a kind of politics that encompasses inciting racism, misogyny, homophobia, and islamophobia, among other discriminations. This at least seems to be the case in the Netherlands, where a renowned anti-immigration and anti-Islam politician (hereafter referred to as Politician X) rose to fame on the wings of the inflammatory film *Fitna*. His popularity rose, noting he led his party – party

Y – to second position in the 2017 general elections in the Netherlands. This was after a hate speech trial that took place in November 2016, which contributed to his popularity for the 2017 general elections, where he led the opinion polls before the elections in March of that year. He gained 5 seats in the house of representatives but was locked out of forming coalitions with the leading party Y, as well as other main parties that disavowed his political manifesto and party. His popularity could be framed within two main trajectories, his manifesto for the 2017 general elections as well as eruptions relating to hate speech. Part of his manifesto, propaganda, and pledges for the national elections scheduled for March 2017 included closing the Netherlands' borders, shutting down mosques, and leaving the euro and EU. Considering the national and international appeal of this kind of speech and its legal consequences, the phenomenon deserves our attention.

We observe a similar scenario in Brazil. In February 2021 a congressman was arrested after releasing a video attacking the ministers of the Supreme Court and apologies for dictatorship. In August 2020, the head of government told a journalist “Minha vontade é encher sua boca com uma porrada, tá? Seu safado” . A few months earlier, in February, the same politician said to a female journalist that she “queria um furo. Ela queria dar o furo, tá?... a qualquer preço contra mim” . Some months earlier the same journalist was insulted in a similar fashion by a member of parliament in Brazil's lower house of Congress . In both cases, the politicians insulted her with sexual innuendo . This type of aggression against female journalists is representative of an increase in misogynistic narratives worldwide, “designed to damage their personal reputations” and to spread a “malicious misrepresentation” .

1.1. Aggression via acts of speech

The notion of speech act can be traced back to J. L. Austin (1962) and it involves two main assumptions or intuitions. One is that people can use language performatively, i.e. to do things, such as to order food, request information, and apologize. That is, by saying “I'd like to have a cup of coffee”, in certain circumstances, people are not merely stating what they want to have, they are doing something else, they are ordering a cup of coffee; and when they utter “I am sorry”, in specific conditions, they are not necessarily stating something regarding their feelings but doing something else, apologizing. On the other hand, the other intuition focuses on language itself, pointing out that the natural language machinery has a representational power, such as to convey information - which can be framed within discourse. So, those commands, requests, wishes, and promises depend on this machinery to be articulated.

Even though these were not new assumptions for philosophers and grammarians at the time, Austin (1962) started a new look at performative sentences or utterances, connecting features of a theory of language with features of a theory of action. His approach of performatives intended to describe and explain the conditions under which “the issuing of the utterance is the performing of an action,” or, in other words, cases when “to say something is to do something; or in which by saying or in saying something we are doing something” (1962: 12).

The aspects he addressed touch precisely on social representations, considering the relation between linguistic representation and conversational circumstances, conventions, and other local pressures applied to performances. Aside from the many complexities each point of this theoretical work invokes (please see Green, 2017 (2007)), it has set the stage for a substantial contribution to the analysis of language (semantics/pragmatics) and discourse.

Further developments of these ideas led to proposals on collective intentionality, especially in Searle (1990, 1995, 2008, 2010). These developments have focused on human beings as bearers of deontologies, such as rights and obligations. For Searle (2009), these deontic relations exist because the above-mentioned natural language representational power, which makes it possible for humans to think of someone as being in a social role or function, in certain circumstances (please see Dias, 2016; Dias and Müller, 2017, for more on this point). That is, humans can

collectively assign or recognize the assignment of some special function to an entity, under certain conditions, such that we can represent some people as politicians, some pieces of paper as votes, and a building as the House of Representatives. And more importantly, people can act based on such collective representations. As a consequence, according to Searle’s proposal, these creations of functions also create rights, entitlements, duties, requirements, and other deontic relations. This is extremely insightful for our understanding of peoples’ actions and representations. Furthermore, this could also have serious consequences in defining what is ‘normal’, who belongs, and therefore who is excluded. According to Hall (2010), these terms are deeply inscribed in relations of power where meaning is often organized into sharply opposed binaries or opposites; such as male/female, black/white, rich/poor, gay/straight, Global North/Global South, citizen/migrant. These binaries or opposites are imbued in power relations, which thrive on hierarchization, that is intersectional as evidenced in race, class, gender, sexuality and religious differences manifest in many discursive frames. It is not surprising that in discourse these opposites are explicitly or implicitly manipulated for the purpose of verbal aggression. But it is surprising - or frightening - that, in current times, social actors with a high deontic charge use prerogatives and official instruments to act through language in this way. This aspect - agency - is also crucial for understanding speech aggression, since language, discourse, action, and representation depend on people’s brains, and, more simply, on people.

2. The Agents at Stake

As assumed, language is a core element of mental representations; representations are the mental support for the existence of institutions, and institutions play a key role in social reality (Searle, 2009). Now we can add that human beings have created a special type of institution: one that can itself be the bearer of deontic powers; one that has an independent social identity in the world, and therefore has rights, duties, and other deontic powers. This is crucial in our society, from south to north, from east to west. Very importantly, these agents can act through people in institutional roles. Again, these institutions and their members have specific deontology (see Dias, 2016; Dias and Müller, 2017). So, we must call attention to the fact that the United Nations, the Brazilian Chamber of Deputies, and the Netherlands, for instance, as such, have a different type of status than, for example, the Dutch Criminal Code or American Dollar, which cannot be held responsible, be punished or absolved for any act. On the other hand, all of them fall under legal codes, terms, charters, contracts that may regulate their social existence. And such complex entities and relations allow us to increase our social life as human beings in terms of health, security, and a richer intellectual environment. Let us now focus on their agency status.

By ‘agent’, we identify any being or entity, human or not, that can enter into deontic power relations as bearers of the powers (rights, responsibilities, duties, requirements, and so on). And we take these agents as divided into three main types or categories: individuals, members of groups, and institutional groups. Accordingly, institutional groups are taken as collective entities that can act and be held responsible. It means that the entity can be composed by many other agents but the final output (act) is assigned to the single body, which may not translate into anyone else but the institution or group itself (e.g. companies, parties, or institutes, which also may enter into deontic relations as individuals or members). The category also comprises representatives, who can act on behalf of the group. Located in the second category, members have collective commitments inside groups/institutions, and their acts depend on and are regulated/restricted inside these groups. The first category comprises individuals, that is, someone whose agency status, or acts, is not directly committed to any institution or group.

All of these agents can act via speech and can be identified as acting. The above-mentioned assumptions are relevant both for the description and the explanation of central aspects of the phenomenon of hate speech. Centrally, institutional entitlements are what make it sensible for “the Dutch police” to receive “criminal complaints” against a “member of the Parliament,” or a “judge” to “judge” the “comments” as an “attack” on the “journalist’s honor.”

In the Brazilian judiciary system, for instance, there is an understanding of a special category of crimes as “acts committed during the exercise of a political mandate” and related only to that political function. As a result of this and other deontic relations, the same individual can be, as some are, judged by different courts and instances, each one addressing each function and/or mandate, i.e. their agency status (representation), such that the same person act qua different agents.

2.1. Agency and Hate Speech

As our next step, we will mainly argue that the basis of hate speech, and its legal interpretation, rests upon the social representation that can be traced back to three general categories of agents. As a consequence, the status of a crime, such as a speech crime, depends on legislation that ascribes this status to a certain type of behavior, or product of behavior, of an agent, and within jurisprudence boundaries (a ‘context’, or another status), thus defining the circumstances for the appropriate invocation of this type of conduct as a criminalizable act.

However, things can get more complicated, since there are codes whose boundaries and hierarchies are controversial or fuzzy. To clarify the point, we can think of human rights or war crimes. Should national codes be superior to the international ones, or the other way around? Even though it may have a simple answer, it also asks for interpretation, agreements, and resolutions made by international and national institutions, or agents.

2.2. The Netherland's Case

At this point, we should consider that collectively recognition (of many agents) and legal status go together. Let us see how it works. Considering these previous points and taking into account the approach offered by Dias (2016), Dias and Müller (2017), and Dias and Silveira (2018), let us focus on the agency at stake. The agents involved in the Netherlands' case are the following ones:

As institutions/groups: UN Human Rights Committee (CCPR), Islam, the International Criminal Court (ICC), Marrocco, the Netherlands, the Dutch Police, Parties Y and Z, the European Parliament, the Amsterdam Court of Appeal and District Court, and the House of Representatives (Tweede Kamer).

As Members: members of the parliament and the political parties above-mentioned, Moroccans as immigrants in the Netherlands, Netherlanders (ethnic group members), the Dutch (citizens), Muslims.

As individuals: all human beings, as addressed by the UN Human Rights Declaration.

The following sections of our paper will then address this case study, to be finally related to the Brazilian context.

3. Speech Aggression in the Netherlands

We have mentioned the so-called global world, in which individuals are tied up by the media and by geopolitical and economic relations, which derive, or frame, an idea of us as world citizens and somewhat interconnected through global relations and discourses. Legal systems, though, define who are citizens according to geopolitical boundaries, such that someone can count as a citizen of a particular nation. Thus, both the term and the legal concept of ‘citizen’ refer to geopolitical relations.

Let us illustrate this point. Since our focus here resides on the phenomenon of hate speech - in many cases disputing the narrative of freedom of speech -, and since our case study relates to a sense of nationality as a core element, both legal and social representations converge. First, we must consider events that are relevant to clarify this idea. Below is a chronological evolution of these events.

Dutch politician X on charges of insulting the Netherlands' Muslim immigrants, as well as inciting hatred, discrimination, and violence against them.

Politician X, “during a 2006 public interview, said that the violent nature of the behavior of Moroccan youths in the country directly arises ‘from their religion and culture. [para. 2.7]’

“In February 2007, he warned against the Islamization of the country and said, ‘[w]e had enough. The borders are closed, no more Islamic people coming to the Netherlands, a lot of Muslims exiting the Netherlands, denaturalization of Islamic criminals.’ [para. 2.]”

“...[politician X] expressed his remorse for the country’s refusal to stop ‘the Islamic invasion in the Netherlands,’ referring to Muslim immigrants as ‘cowards. Frightened people who have been born cowardly and who will die cowardly.’ [para. 2.7]”

“In November 2009, the court ordered the prosecution of [politician X] on charges of ‘insult of a group for reasons of race or religion’ under section 137c of the Criminal Code and ‘incitement to hatred and discrimination on grounds of religion or race’ under section 137d of the Code.”

“(…) the definition of criminal incitement on the grounds of race or religion of a particular group. In its verdict of June 23, 2011, the Amsterdam District Court held that the elements of the indictment could not be proven and acquitted [politician X] of all charges.”

“three affected Dutch-Moroccans (Complainants) submitted an individual communication to the UN Human Rights Committee, the monitoring body of the ICCPR. They alleged that the acquittal of [politician X] violated their rights under Articles 2(3), 14(1), 17, 20(2), 26, and 27 of the ICCPR.”

“Articles 20(2) and 26 the ICCPR respectively protect the right of individuals and members of groups to be free from hatred and discrimination by requiring State Parties to prohibit by law certain conduct and expression.”

“With regard to their separate claims on the basis of Articles 20(2) and 26, the Complainants argued that even though the prohibition against incitement to religious hatred and discrimination is fully implemented in the Dutch Criminal Code, the acquittal at issue substantially deviated from the domestic jurisprudence that has shown a less tolerant approach to hate speech. They submitted that the court separately examined the effects of [politician X’s statements], rather than looking at their cumulative effects. They also argued that the court erred in emphasizing the distinction between criticizing Islam and humiliating Muslims, saying that the connection between the two was common in [politician X’s statements]. In addition, they argued that the acquittal created a general and absolute exception for public debate as a crime of incitement to hatred and discrimination by giving priority to [politician X’s freedom of expression] and failing to protect the victims from increasing racism and hatred against Muslims.”

“[Politician X], leader of [the party Y], was convicted for statements made to a café full of supporters on 19 March 2014. He asked whether those assembled wanted “more or fewer Moroccans” in the Netherlands, and responded to chants of “fewer”. Politician X then promised to “take care of that”. The rally was broadcast on television.”

“The conviction was under two provisions of the Dutch Criminal Code: for intentionally making an insulting statement about a group of persons because of their race (Section 137(c)), and for inciting discrimination against a group because of their race (Section 137(d)). [Politician X] was cleared of inciting hatred against persons because of their race, which is also

contained in Section 137(d). He was also acquitted under both provisions for similar remarks made in a TV interview on 12 March 2014.”

The first point is that (4) - (14) involves public statements manifested by a political figure, whose public speech acts are regulated by law. The line between speech acts that can be criminalized and the ones that are considered protected by the freedom of speech regulations sometimes is not clear, but sometimes it is. Clear cases, for instance, involve racism or apologies to Nazism in the Brazilian law . But there is a spectrum of acts of hate speech and discrimination, both online and offline. So, how does speech become subject to law jurisdiction? As we have discussed, speech acts can be addressed as intentional acts, and intentional acts, such as acts of speech, are included in law codes that regulate civil behavior. The Dutch penal code, in particular, prohibits both insulting a group (article 137c) and inciting hatred, discrimination, or violence (article 137d). The definition of the offenses is outlined in the penal code as follows:

Article 137c: He who publicly, orally, in writing or graphically, intentionally expresses himself insultingly regarding a group of people because of their race, their religion or their life philosophy, their heterosexual or homosexual orientation or their physical, psychological or mental disability, shall be punished by imprisonment of no more than a year or a monetary penalty of the third category. (*italics emphasis added*)

Article 137d: He who publicly, orally, in writing or graphically, incites hatred against, discrimination of or violent action against person or belongings of people because of their race, their religion or their life philosophy, their gender, their heterosexual or homosexual orientation, or their physical, psychological or mental disability, shall be punished by imprisonment of no more than a year or a monetary penalty of the third category. (*italics emphasis added*)

Again, we have descriptions directed to “group of people”, “person”, and “belongings of people”. And acts directed at each of these types of agents may evocate particular representations of social features. Let us now address the very act of “expressing himself insultingly” or discriminating. One can discriminate against a person, members, or a group of people who share a specific feature - or against an institution, or ideology, such as a religion or movement - in many forms. One of the forms is by the use of assertions of the type “this x is y”, where ‘y’ is a variable placed by any negative frame (we will clarify the concept in the next section) and where the act is meant to offend x, as well as the agent is aware they are offending x, as we may analyze now. The emphasis here is on the offense that is imbricated in connotations and experiences of ‘privilege’ - from the offender - and ‘oppression’ of the person/group that has been offended. The symbolic and material violence of this is unpacked in the proceeding section through the ripple effects of these aggressions at individual and group levels through discursive prisms. Before that, let us think about agency a little more.

3.1. The Agents and their Acts

Again, terms like ‘individuals’, ‘members of groups,’ and ‘groups’ appear in the legal queries, and this is an important aspect to be considered, we claim. Our case-study targets a group identity, involving “group defamation” and “incitement to hatred or discrimination” against a group, which are crimes according to articles 137c and 137d of the Dutch criminal code, so they are not under the civil right of freedom of speech.

Indeed, we note that hate speech plays out both at the individual and group levels. The proper definition of hate speech involves a verbal attack on groups or group members. The ones who use this type of speech can themselves play as members of some specific group or as representatives of a group/organization. We assume this as a crucial feature not only to define

the phenomenon in legal terms but also to understand the commitments among these agents (inside a party, for instance), as well as their reasons and judgments.

Let us also consider the following:

“ARTICLE 19 considers that [politician X’s’ comments] on 19 March 2014 were insulting towards Moroccans, and may correctly be identified as “hate speech”. However, we do not consider that insult laws, including those criminalizing insults against a group, can be justified under international human rights law. We recall that while all “hate speech” raises concerns in terms of intolerance and discrimination, not all “hate speech” may legitimately be restricted by the state.” The central argument is the following:

“Insult laws, and the conviction of Wilders for insult, run contrary to the principle that freedom of expression encompasses statements that are deeply offensive to individuals or groups, including even expression that may be discriminatory or considered “hate speech”. Though freedom of expression may be limited to “protect the right of others”, there is no right to be protected from insulting or offensive ideas or opinions. Permitting restrictions on expression that harm individuals’ feelings is a dangerously subjective exercise that endangers shutting down a broad range of discussion on matters in the public interest.”

We must consider that the claim that “there is no right to be protected from insulting or offensive ideas or opinions” is challenged by many law codes when it concerns moral damages. And the attack is not only on individuals’ feelings, it goes beyond that, as we have discussed.

“Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) requires states to prohibit only severe forms of ‘hate speech’, specifically “any advocacy of national, racial or religious hatred that constitutes incitement to hostility, discrimination or violence.” “The Rabat Plan of Action gives UN-backed expert guidance on how states should interpret and implement this obligation. Importantly, it makes clear that the criminal law should only be used in the most extreme cases and as a last resort. It sets out a six-factor test to assist judges to make a case-by-case analysis of whether this high threshold has been met. The Hague District Court found Wilders guilty of incitement to discrimination, and acquitted him of incitement to hatred.”

Unfortunately, severe forms of hate speech are themselves the last stage of this type of aggression.

“In ARTICLE 19’s view, the Hague District Court gave too broad a reading to Section 137(d) of the Dutch Criminal Code in relation to the incitement to discrimination. The decision accords too much weight to the content of the expression and its incendiary delivery, assuming without detailed analysis that the discriminatory nature of expression would incite others to illegal acts of discrimination. Inadequate consideration is given to other relevant and important contextual factors, including the speaker’s intent to incite illegal discrimination, the context of a broad public debate on issues around immigration and integration, and the likelihood of people being encouraged to engage in imminent unlawful acts against the target group. A closer analysis of these factors should have led to an acquittal on the incitement to discrimination charge also.”

“ARTICLE 19 considers that politicians and candidates for public office are under an ethical duty to avoid making statements that might promote discrimination or undermine equality.

However, this is best achieved through systems of self-regulation, and not through the blunt tool of the criminal law.”

Regarding the ethical duty of these agents, we are in accordance. And this is another example of the centrality of the idea of communicative agency and their agents.

“In many parts of the world, we see vague “hate speech” laws abused to target individuals with minority and dissenting opinions, including human rights defenders. Even where targeted against advocates of discriminatory hatred, criminal prosecutions pose a dual danger. Where an individual is convicted, the speaker may present themselves as a “martyr” persecuted for speaking the truth, using the platform a conviction provides to spread their hateful ideas even further. Where acquitted, the speaker may present their hateful views as vindicated by the courts. There is little evidence that criminal prosecutions are effective in addressing intolerance or in promoting greater inclusion.”

It seems necessary to point out that criminal prosecutions are not educational methods to address intolerance or to foster inclusion, that is not their function. Other measures must be included in the countries’ agenda for that aim.

“ARTICLE 19 therefore considers that censoring or punishing offensive and discriminatory expression is often counter-productive to the stated aim of hate speech laws to promote equality: it fails to address the underlying social roots of the kind of prejudice that drive “hate speech”. In most instances, we believe equality is better promoted through positive measures to increase space for counter-speech, rather than by shutting down space for debate and engagement.”

Again, addressing the underlying social roots of prejudice and promoting equality are obtained by a conjunction of methods, not by official regulation of hostile behavior.

“Governments have an obligation to prohibit hate speech and incitement. And restrictions can also be justified if they protect specific public interest or the rights and reputations of others. Any restrictions on freedom of speech and freedom of expression must be set out in laws that must in turn be clear and concise so everyone can understand them. People imposing the restrictions (whether they are governments, employers or anyone else) must be able to demonstrate the need for them, and they must be proportionate.”

Governments create their own obligations in their constitutions and they also follow international agreements. Therefore, addressing the absence of obligations of this type of agent is addressing regulations created by each nation considering contextual needs.

4. Discourse, Concepts and their Mappings

Regarding the discursive frame, we begin by defining it and contextualizing it inside a certain perspective. The concepts of ‘frame’ and ‘framing’ can be traced back to different areas of expertise and to people such as Gregory Bateson (1972), Ervin Goffman (1974), and George Lakoff (2004).

Centrally, a frame has been mainly approached either as a cognitive object, conceived as a structure of thought (given a concept or a set of concepts associated to an object or event and evoked in certain circumstances), or as a linguistic/discursive object, formulated as a structure of language (given morphological units, lexicon, and sentences evoked in discourse). The way to create or evoke those structures in communication is at stake when studying framing effects.

Concerning the production and the spread of hate speech (as already defined) towards a specific class of agents, we may observe the concepts and their mappings evoked in discourse that create this effect. And we can do that by tracing this process back to two structural characteristics that have developed in Europe since the 1980s, as articulated by Sniderman et al. (2002) in their seminal book “The Outsider,” where they articulate a deep strain of intolerance of immigrants/foreigners, and the emergence of at least one political party committed to mobilizing public resentment of immigrants/foreigners.

To this, a third characteristic is added by others (such as Mazzoleni et al., 1999), who posit what consolidates the negative characteristics of migrants, widening the scope of fear to the media and their role in mobilizing fear.

Sam Cherribi (2011) posits another dimension, that of the populist media’s coverage (of Islam in Europe and the US) may be the primary factor in creating ‘Islamophobia,’ as an aversion against Islamic institutions and their members. In particular, there is a correlation between anti-Islam sentiments and the amount of crime coverage in the news especially with regards to so-called terrorist events. This makes the distrust in Muslims normalized and institutionalized.

The general phenomenon, not only targeting a religion, was certainly evidenced in three main campaigns – in the UK with Brexit, in the US 2016 presidential elections, and in the 2018 Brazilian presidential elections –, which included communicative strategies involving homophobia, xenophobia, islamophobia, misogyny, and/or racism, among other discriminations, in a way that became a normalized narrative within societies’ imagination. The latter rings true for politician X in the Netherlands, who gained popularity on the wings of islamophobia. One of the tactics deployed by politician X drew on Jabir Puar’s notion of homonationalism sentiments, by pitting the Netherlands as progressive on grounds of sexuality (homosexuality) while casting Moroccan (who are mostly Muslim) migrants as homophobic.

These campaigns and rhetoric have seen a rise in verbal attacks toward individuals, group members, entire communities, and their institutions. It appears as if this prevailing Islamophobic discourse has given certain members in communities and institutions – mostly white nationalists (which we can take as the privileged in these frames) – the carte blanche as individuals, members, and representatives to incite targeting Muslim communities (which we can take as the oppressed in these frames). And these agents may have some representational, political, or even legal freedom to act accordingly, especially when argumentatively conflating hate speech with freedom of speech.

Following on, we interrogate this from framing hate speech historically in the Netherlands to presenting occurrences of it at an individual, group, and institutional level.

4.1. Frame, Agency, and Hatred Speech

Now we can identify a common narrative structure of hate speech built inside political institutions and used by groups and representatives. This narrative is precisely framed in and spread on the media side to side with historical facts, helping to present or reinforce the meanings conveyed by it.

Moreover, these frames may turn out to be used as content of hate speech, i. e. they may convey negative images of groups and their members.

It is fair to say that discourse against Islam in the Netherlands is not a recent occurrence, although it has progressively increased post 9/11. We must highlight the key role media plays in this kind of phenomenon of (dissemination of) speech aggression towards certain social entities.

Specifically, the Netherlands has a long history of immigration. Moreover, the Netherlands has had a history of mostly Moroccan (and Turkish) migrants, and both refugees and economic

migrants have come to the country in large numbers. According to Focus Migration, currently, almost 20% of the Dutch population are immigrants or children of immigrant parents (Meeteren et al., 2013).

Interestingly enough for the analysis of discursive frames, for a long time, the Dutch community took pride in the fact that many people came to their country because of its relative tolerance towards other cultures and religions. Immigrants who came after the Second World War, as guest workers or from former colonies, were initially encouraged to maintain their own cultures, even after it became clear they would stay in the Netherlands permanently. Shortly after that period, in the 1960s and 70s, Turks and Moroccans came to the Netherlands in large numbers. Earlier arrivals consisted of guest workers, whose recruitment and admission were governed by a bilateral treaty signed in 1969. However, the guests did not return home (ibid.). From the 1970s, the number arriving under family reunification schemes became more significant. Access to citizenship was easy, and the pressure to assimilate was low. For immigrants who were not proficient in Dutch, many government services and documents were provided in their mother tongues (ibid.).

The tipping point came about in the late 1990s, with the tightening of immigration policies in the Netherlands, with 9/11 catapulting this into a downward spiral of Islamophobic acts. The mass Syrian refugee migration in 2015 re-awakened these sentiments at an individual and group level as a result of institutional discourses related to group membership.

The following sections will analyze these discourse frames, which are placed in space and time conveyed by and towards agents.

4.2. Islamophobia

Acts of islamophobia are acts, verbal or not, against people who profess the Islamic faith, as part of the Islamic community and institutions. Acts that fall under this description are on the rise in the Netherlands. The mass refugee migration from Syria and other countries at war to Europe in 2015 has been seen as a major justification for certain kinds of claims against the whole Islamic population – which are rhetorically framed as ‘invasion of Europe by Islam/Muslims.’ Before the Syrian refugee crisis, and during the 2014 municipal elections in The Hague, politician X told the Dutch national broadcaster NOS that he hoped the city’s residents would “vote for a more safe and social city and if it would be possible fewer Moroccans.” as pointed out in Section 3 on speech aggression, at a rally a week later, he asked, “Do you want more or fewer Moroccans in this city and in the Netherlands?” The audience responded by chanting, “Fewer, fewer!” politician X responded, “Well, we’ll arrange that, then.”

Politician X was then charged with offending members of a group based on their race/religion, as well as with hate speech and discrimination. The three-week trial was triggered when police received 6,400 complaints about remarks he made during a municipal election campaign in The Hague (ibid.). He denied inciting racial hatred and denounced the trial as an attempt to suppress freedom of speech. He refused to attend the trial in person and, instead, he issued a series of inflammatory posts on Twitter, saying the Netherlands has a “huge problem with Moroccans” — an echo of the denunciations he made in 2014 that are at the center of the hate-speech charges. In one of those tweets he says:

NL has [a] huge problem with Moroccans.

To be silent about it is cowardly.

43% of Dutch want fewer Moroccans.

No verdict will change that.

9:18 AM - 31 Oct 2016 (NY Times 2016: ibid.)

At the trial, prosecutors took testimony from Dutch-Moroccans who said his comments made them feel like “third-rate citizens”. Politician X was then found guilty but no penalty was imposed. Already in 2011, politician X was acquitted for the hate speech charge as discussed in section 5 on speech aggressions.

In her groundbreaking work on race relations in the Netherlands, Gloria Wekker (2016) foregrounds a dominant way in which the Dutch think of themselves, as being a small, but just, ethical nation; color-blind, thus free of racism; as being inherently on the moral and ethical high ground, thus a guiding light to other folks and nations. Wekker frames Dutch racism through what she posits as ‘white innocence’, which she argues out in several avenues, one of them being: “innocence, furthermore, enables the safe position of having license to utter the most racist statements, while in the next sentence saying that it was a joke or was not meant as racism” (ibid:17) – or as freedom of speech, we add. She adds that the claim of innocence, however, is a double-edged sword: it contains not-knowing, but also not wanting to know, capturing what philosopher Charles W. Mills (1997, 2007) described as the epistemology of ignorance. Succinctly stated, “the epistemology of ignorance is part of a white supremacist state in which the human race is racially divided into full persons and sub-persons. Even though — or, more accurately, precisely because — they tend not to understand the racist world in which they live, white people are able to fully benefit from its racial hierarchies, ontologies and economies” (Sullivan and Tuana, 2007: 2).

We argue that such rhetoric can be framed on a social status narrative filled with Western privileges and economic capital allowances. From an intersectional point of view, they all lay on the privileged side of a network of privileges made possible by a collective intentionality mechanism (think about white supremacy, patriarchy, and capitalism), which in combination brews up and places them in a powerful position, where there is seemingly no accountability. As evidenced in the case of politician X whose islamophobic sentiments abide in the present. After contextualizing the discourse frames conveyed in the charges, we will address some practical consequences of negatively-framed acts, inside the levels of the agency involved, which is also central for us to understand the legal apparatus regarding hate crimes and their social relevance.

4.3. How does Hate Speech Affect each Agency Level?

Having discussed how hate speech plays out at a discursive level, it is important to pay some attention to how this spills into institutions, their members, and individuals. Here we also make a point about structural inequality - where a group of people has an attribution of an unequal status compared to others. In this case, Muslims in Europe, for example, occupy a disadvantageous status, as will be discussed below.

Firstly, the Netherlands and Europe at large are witnessing a wave of aversion to public Islam. Take for instance sexual politics which has become entangled with anti-muslim discourse where the Muslim ‘other’ has been recast as backward and homophobic in contrast to the sexually liberated free modern Dutch/European - a cast within Orientalist narratives that underwrite the superiority of European secular modernity. Gay rights discourses have thus offered a language for the critique of Islam (Mepschen et al., 2010). According to Mepschen et al. (ibid), most Dutch feel that Muslim migrants threaten the national identity, and 50% feel the admission of immigrants has been the country’s biggest mistake because they consider Islam incompatible with Dutch Jewish-Christian and humanist traditions.

It is important to point out that The European Commission against Racism and Intolerance (ECRI) argues that Muslims in the Netherlands are ‘the subject of stereotyping, stigmatizing

and sometimes outright racist political discourse and of biased media portrayal, and have been disproportionately targeted by security and other policies' (ECRI, 2008:36).

Against this backdrop, some current political discourse in the Netherlands, therefore, casts immigrants as "problems", in particular Muslim migrants. And there is more to be said practical consequences, since police statistics show that over 10% of Antillean and Moroccan boys aged 12-17 have been suspected of a crime, compared to only 2% of autochtonen and 5.2% of Turkish boys. Of men aged 18-24, 17.8% of Moroccans and 13.0% of Antilleans have been a suspect in a crime, compared to 3.8% of the autochtoon Dutch population .

In the same country, non-Western allochtoon groups are generally in a disadvantaged socio-economic position. Of the four largest non-Western immigrant groups, the Turks and Moroccans are the most disadvantaged: they exhibit low labor market participation, high unemployment, and welfare dependency rates, and relatively poor school results, even among the second generation. In 2006, only 38.7% of Moroccans and 43.9% of Turks aged 15-64 had a job. Unemployment was 17.2% among Moroccans and 15.1% among Turks, about four times the level among autochtoon Dutch: 4.3%. Almost 30% of Turks and Moroccans receive social security benefits, compared to 13% of the autochtoon Dutch population (ibid).

Though this kind of statistics is problematic for several reasons, including racial profiling by the police, it is often referred to in debates surrounding the immigrant population. And this phenomenon is related, to some extent, to the one regarding hate speech since racial profiling occurs when a person is treated as a suspect based on his ethnicity, nationality, or religion, instead of on evidence of criminal behavior. So, it may be taken as a symptom of nations' acceptability of discourses of race and Islamophobia, which are inextricably tied to the normalized practices of racism, islamophobia, and white supremacy (Hooks, 2013). The statistics we bring here are a reflection of systemic racism and islamophobia in the Netherlands, like in many other countries, as a manifestation of, for instance, everyday racism. It is within this political climate that we have seen an escalation and normalization of negatively-framed discourses and hate speech. Now let us consider a Brazilian case.

4.4. A Parallel with Brazil's Cases of Speech Aggression

Considering hate speech as an illustrative case of discrimination based on human and cultural features, we should also note that discrimination is intersectional because of social categorizations such as race, gender, class, sexuality, and religion, as they apply to a given individual or group, and because they involve interdependent systems of framed interpretations resulting in social disadvantage, privilege, and oppression. And Brazil is not different from the Netherlands in incubating discrimination among citizens. Like the Netherlands, over the last decade, Brazil has also seen a rise in intolerance and aggression in the public sphere and citizens' political life. The presidential elections were a milestone in this regard; from verbal to physical aggression and deaths - the first inciting the last ones. This public discourse brought to life hate and fear. In particular, one politician's narratives stood out in terms of popularity. Let's analyze a case in which the politician in discussion here was tried and convicted.

Politician Z has a long history in Brazilian political life as a member of the Chamber of Deputies. In 2003, in the halls of Congress he said to a congresswoman that "I would never rape you because you don't deserve it" (our translation) - in addition, he pushed her and call her "slut" (our translation) some moments later.

In 2014, the same politician repeated his speech aggression towards the same congresswoman, saying on the tribune "you called me a rapist and I told you that I wouldn't rape you because you don't deserve it" (our translation). At the time, a state congresswoman published on her

social networks that congresswomen are often offended in Congress and that the institution does nothing about, naming 4 woman politicians insulted, her included.

Also at the time internet users created an online petition calling for the deputy’s impeachment. “The deputy already has in his history aggressions, insults, and hate speeches against progressive deputies, we can no longer accept any pileup. This is parliamentary decorum! (...)” (our translation).

When explaining the speech to a newspaper in 2014, politician Z declared: “She doesn’t deserve [to be raped] because she’s really bad, because she’s really ugly, she’s not my type, I would never rape her. I’m not a rapist, but if I were, I wouldn’t rape (her) because she doesn’t deserve it” (our translation).

(23)-(26) are illustrative of the general behavior we are addressing here and are referent to speech aggression towards a congresswoman directed at her as a woman. In her view, “He, in fact, attacks all women [with his speech] (...)” (our translation). First, we need to point out that this evocation of a framed representation of women as a target of sexual violence has a misogynistic character. As argued by Kate Manne, in her *Down Girl: The Logic of Misogyny* (2018:33), the targets of this hostility against women encompass particular women and particular kinds of women. So, a misogynistic act may be directed at a specific individual or member of a group. The High Commissioner for Human Rights also has expressed alarm “at the often extraordinarily negative portrayal in many countries of migrants, but also of minority groups by the media, politicians and other actors in the society” (2013:3). In Brazil, women represent a social minority and, according to a Datafolha Institute survey, commissioned by the Brazilian Public Security Forum – FBSP, “About 17 million women suffered physical, psychological or sexual violence in Brazil in 2020” (Brazilian Institute of Family Law, online) (we may add that the number did not change considerably from the previous year). Thus, the speech of a political leader has even more social impact when expressed in a country where so many women suffer violence . Moreover, the framed representations evoked by discourses of this type are easily identified in the public sphere. Like in the case of Islamophobia in the Netherlands, we locate this in the discursive framework of toxic masculinity (rooted in entitlement that is pervasive within the masculine domain in Brazil), in its intersection with whiteness. As feminists argue, against this backdrop, women are cast as objects - in the case being discussed here - one who can be (deserving) of rape. Within there, we find pre-emptying threats to power and status in order to control and exploit. Violence then becomes the language that enforces gendered relegation of women to the margins. And hate speech, such as that deployed by Politician Z, falls within the spectrum of violence against women in Brazil. Unfortunately, this was not an isolated case. Politician Z has been ordered to indemnify the journalist mentioned in section 1 for moral damages. The decision in March of this year was made by judge I, from the 19th Civil Court of São Paulo . In 2015, before the start of the impeachment rite of a former female president, when asked about when he thought her term would end, he replied: “I hope it ends today, with a heart attack or cancer, anyway. (...)” (our translation). We will limit ourselves to mentioning only these cases. For his speech in 2014, the Attorney General’s Office (PGR) denounced him to the Federal Supreme Court for inciting rape. After analysis, the Supreme made him the defendant. Politician Z was then sentenced by the Federal District Court of Justice in 2015 to pay her compensation of ten thousand reais for moral damages, but he appealed. The Third Panel of the Superior Court of Justice (STJ), in its turn, unanimously upheld the deputy’s conviction for the offenses directed at the congresswoman - and according to her, “We [Brazilian women] had the courage to face a parliamentarian, a public authority, who uses public space to foment violence. It is not a victory

for one or the other, it is for all of us” (we may add that the case had reached the House Ethics Council but was shelved with the end of his term, and he was re-elected).

For our analysis, it is important to observe that during the trial, the rapporteur of the case, Minister N, claimed that by saying that the congresswoman did not ‘deserve to be raped’, the deputy “attributed to the crime the quality of a prize, of benefit to the victim” (our translation). Furthermore, she claimed, “The expression ‘doesn’t deserve to be raped’ is a vile expression that belittles the dignity of any woman, as if brutal violence could be considered a boon, something good to happen to a woman.” Another important fact is that the minister challenged the defense’s thesis that he could not be held responsible due to parliamentary immunity (according to Article 53 of the Brazilian Constitution, “Deputies and Senators are inviolable, civilly and criminally, for any of their opinions, words, and votes.” (our translation)). That is to say that the speech - according to this claim by the defense - was a political act, that is, made by a politician as such. This kind of political act is itself problematic. However, in the minister’s understanding, the speech had no relationship with the parliamentary function, thus moving away from parliamentary immunity. Again, the agencies involved are crucial to the analysis of the act, considering the relevance and repercussion.

As we have discussed, the status of a crime, such as a speech crime, depends on legislation that ascribes this status to a certain behavior of an agent, and within jurisprudence boundaries, thus defining the circumstances for the appropriate invocation of this type of conduct as a criminalizable act. First, the case was judged by specific spheres due to the fact that they were members of Congress. As stated by the constitution, the defendant is judged in the Federal Court of Justice under conditions consistent with a constitutionally regulated parliamentary mandate. He was then sentenced accordingly, given the moral damages identified in his speech act. Crucially, these damages can be associated both with her image as an individual woman and as a woman politician. And this type of attack on women’s moral representation can be identified as misogynistic - remembering that violent misogyny is one of the reasons the UN launched the United Nations Strategy and Plan of Action on Hate Speech. Also, just as in the Netherland’s Case, we note that hate speech plays out both at the individual and group levels, even though the widely accepted definition of hate speech involves the verbal attack on groups or group members. As noted, politicians are key social agents, since they are representatives of relevant decision-making groups in society - thus, what these agents propagate has a real impact on their communities, on individuals, groups, institutions, and their members. Therefore, if they propagate hate speech as political rhetoric of discrimination and prejudice, they need to review their acts as agents of power, from north to south. And, since hate speech can be and in many cases is expressed as a political persuasive tool of extremism (fostering aggression and violence among citizens and among political actors) we need to address the problem, its causes, and the means to banish it from our societies.

Conclusion

We are far off from ‘creating’ a strong sense of a global community even in this digital/ technological era. At the same time, there is prevailing rhetoric that ‘sells’ an image of a big online community, and of closeness, something that exponentially ‘grew’ with the Covid Pandemic. At some point during the Covid Pandemic when it seemed like the ‘whole world was under lockdown’, digital forms of communication dominated. Yet, we also consume the reinforcement of discursive frames of fear and destruction concerning groups of our society who are marginalized by being targets of these precise acts. In the different moments of our

history, in different parts of the world, similar frames have been created putting different groups of our society against each other. But nowadays there is information and technical machinery to understand the mechanisms of manipulation and spread of hate speech towards groups, group members, and individuals, since we can analyze their content, how they are deployed as acts - criminalizable or not -, and sometimes their use as a strategy of manipulation of the public opinion. This is one of the main practical uses of hate speech, given its potential for inciting action inside and across groups. When we listen to structures like “These Muslims destroyed Sweden”, “These people from the Northeast of Brazil have polluted São Paulo”, “Haitians will ruin our country”, “the Mexicans will devastate the US and our job market”, “These Syrians will detonate Germany”, we need to understand what these acts mean discursively, as acts. Such as, what is the point of saying this or deploying such a statement? This deployment is used as a reason to say something else and do something else. People vote for political acts and behave differently given the assumptions conveyed by such structures. That is, these structures are not merely language used as acts of free speech. The bigger picture of understanding their content requires us to think of ourselves as both a world community as well as minor (political) communities - in this case, how different parts of the globe bleed into each other. Structures of the type of “This x is y” where ‘x’ is a variable that can be filled by any ethnic or any other social group identification need to be observed in a discursive and action framework. We can resignify ‘x’ as part of a bigger community that has geographical and social movements of groups, with potential contributions and strategic limits. Discussing causes (what makes these groups leave their homes and come to this land? Why are these journalists saying what they are saying? Why is this group behaving like this?), requirements, possible contributions, and limits are socially relevant, differently of using discursive frames without further thought. It is not employing hate speech that we fix wrong political decisions since hate speech tends to foster more hate, discrimination, and inequality. As individuals, we behave by common patterns and we impact society. As members, we can adjust our groups’ behavior. As groups, we can make a huge impact. And politicians are not representatives of hate, that is not their duty. Fostering extremism is not part of their functions as political leaders of their communities. And we are all humans. So, a relevant path is to reframe our discourse to better fit the empathetic angels of our nature

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