

The Training Manual on Countering Hate Speech in Palestine

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Table of Contents:

1. Introduction	3
.....	
2. Hate Speech, and the Freedom of Expression and Equality	6
.....	
• What is hate speech?	6
.....	
• What is the right to freedom of opinion and expression?	8
.....	
• What is the right to equality?	8
.....	
• Examples from the Palestinian context	8
.....	
3. Hate Speech, and the Freedom of Expression	10
.....	
4. Criteria of what Hate Speech would look like	12
.....	
5. Hate Speech in International and Domestic Laws and Legislations	14
6. Online Hate Speech	22
.....	
7. Mechanisms of Countering Hate Speech	26
.....	
8. Recommendations	29
.....	

1. Introduction

As a result of the political changes, the countries of the Arab world have remarkably witnessed the expansion of the governments and authorities control over the media. This has led to a decline in the media capability and capacity to counter the abuses practiced by the authorities or to report the news objectively away from partisan or sectarianism. Furthermore, this has made opponents and various parties to exploit journalists as a tool or means in promoting hatred, racism, violence and intolerance to make them forget the fundamentals of journalism and media.

Hate speech is a broad term that refers to the negative discourse that incites hostility. There is no specific definition of hate speech in the International Human Rights Law. This term contains expressions that are offensive to any racial, religious, ethnic or national group in any form and can be expressed in a form of racism, xenophobia, hostility among religions, intolerance, and incitement to violence, hatred or discrimination.

Opinions differ on the prohibition of hate speech and its relationship to the right of freedom of opinion and expression. These opinions can be divided into two parts:

On the one hand, some say that the compulsory order of speech depending on the content can lead to undermining the fundamental right to freedom of expression. On the other hand, proponents of the hate speech in the media argue that the right to the freedom of expression is not absolute. This is recognized in Article 19 of the International Covenant on Civil and Political Rights, which states that the right to freedom of expression involve “special duties and responsibilities”, and accordingly “might be subject to certain restrictions”.

Whereas the freedom of expression is a fundamental human right, the emergence of social media has created several platforms for the production and dissemination of hate speech.

Palestine is witnessing significant increase in using hate speech in parallel with the regional political unrest in general, such as the Syrian case and the war in Yemen, and the internal unrest in the Palestinian territories in particular, such as the unrest taking place in the City of Jerusalem concerning the Foreign Policy of Donald Trump, not to mention the worst part, which is the Palestinian division.

This comes in parallel with the technology and social media penetration by the Palestinian youth, as well as female and male journalists to express their opinions in various subjects. So, is the use of certain terms to flout someone's opinion or contempt another or express anger towards a given case considered freedom of expression? And when can a particular "opinion" or "speech" turn into a hate speech?

Given the absence of a comprehensive, clear and specific definition of hate speech in the Palestinian context, in particular, it was necessary to work on developing a manual based on the Palestinian laws and international human rights principles to define hate speech and clarify the relationship and difference between hate speech and the right to expression, identify the elements of hate speech, as well as its determinants and criteria.

2. Hate Speech, and the Freedom of Expression and Equality

What is Hate Speech?

“Hate speech is a broad and contested term. Multilateral treaties such as the International Covenant on Civil and Political Rights (ICCPR) have sought to define its contours. Multi-stakeholders processes have been initiated to bring greater clarity and suggest mechanisms to identify hateful messages. And yet, hate speech continues largely to be used in everyday discourse as a generic term, mixing concrete threats to individuals’ and groups’ security with cases in which people may be simply venting their anger against authority¹”.

“Hate speech may be defined broadly as manifesting hatred and incitement to denial of the existence, humanity of others, marginalizing others, spread sedition, practice terrifying, use of vulgar and rude language in loud voice against a religious or ethnic group, incite violence and accuse others of betrayal and corruption²”.

“There is no specific, agreed definition of hate speech. It has several definitions and could be summarized as verbal violence included in the inferiority speech, obvious hatred, intellectual intolerance, racial discrimination, defamatory expressions and arrogant gaze in the exclusion-centered speeches. Any speech manifesting hatred and incitement to color, ethnic or sectarian based conflicts and disputes, or inciting the denial of others, marginalizing others, spreading sedition, accusing others of betrayal and corruption, would be categorized as hate speech³”.

¹ Countering Online Hate Speech, UNESCO Series on Internet Freedom, 2015, <http://unesdoc.unesco.org/images/0023/002332/233231a.pdf>

² HEYA Center for Public Policy, Countering Online Hate Speech, http://admin.heyaprogram.net/Files/Pubs/Pub_09262016062902.pdf

³ Doha Center for Media Freedom, the Gulf Crisis Media – Hate Speech, <http://www.dc4mf.org/wp-content/uploads/2018/02/%D8%A5%D8%B9%D9%84%D8%A7%D9%85-%D8%A7%D9%84%D8%A3%D8%B2%D9%85%D8%A9-%D8%A7%D9%84%D8%AE%D9%84%D9%8A%D8%AC%D9%8A%D8%A9-%D8%AE%D8%B7%D8%A7%D8%A8-%D8%A7%D9%84%D9%83%D8%B1%D8%A7%D9%87%D9%8A%D8%A9-compressed.pdf>

When it comes to expressing hatred, the International standards can help us to a great extent in determining what hate speech is and how to deal with it:

- For race-related speech, the International Convention on the Elimination of all forms of Racial Discrimination calls for a ban on expressing ideas of superiority or inferiority of people categorized by “race”.
- For hatred on the basis of nationality or religion, this is criminalized in terms of Article 20 of the International Covenant on Civil and Political Rights (ICCPR) – but with the qualification that the expressions involved should amount to the advocacy level which constitutes incitement to discrimination, hostility or violence.
- It is possible, but not required, that hatred such as that based on people’s gender, sexual orientation or other features, may be limited in terms of the ICCPR (Article 19), in the interests of respect of the rights or reputations of others⁴.

Hate speech is compromised primarily and mostly of two elements⁵:

- **Hate:** the intense and irrational emotion of opprobrium, enmity and detestation towards an individual or group, targeted because of their having certain - actual or perceived – protected characteristics (recognized under international law).⁸ “Hate” is more than mere bias, and must be discriminatory. Hate is an indication of an emotional state or opinion, and therefore distinct from any manifested action.
- **Speech:** any expression imparting opinions or ideas – bringing an internal opinion or idea to an external audience. It can take many forms: written, non-verbal, visual or artistic, and can be disseminated through any media, including internet, print, radio, or television.

⁴ Countering Online Hate Speech, UNESCO Series on Internet Freedom, 2015, <http://unesdoc.unesco.org/images/0023/002332/233231a.pdf>

⁵ Article 19, Hate Speech Explained, A Toolkit, <https://www.article19.org/data/files/medialibrary/38231/'Hate-Speech'-Explained---A-Toolkit-%282015-Edition%29.pdf>

What is the right to freedom of opinion and expression?

- Freedom of opinion and expression (freedom of expression): a fundamental human right that is protected in article 19 of the Universal Declaration of Human Rights and enjoys legal power by all major international and regional human rights treaties.
- International human rights law requires States to ensure that all persons have the right to seek, receive or transfer information or ideas of any kind, regardless of frontiers, by any means chosen by the individual.
- The scope of the right to freedom of expression is broad. It includes, for example, the expression of opinions and ideas that others may find very offensive, which may include discriminatory expression.

What is the right to equality?

The International Human Rights Law guarantees equality and non-discrimination for all persons. States are committed to ensuring equal enjoyment of human rights and equal protection by the law.

The non-discrimination principle is characterized by three interconnected elements summarized as follows:

1. Any discrimination, exclusion, restriction or preference against any person,
2. Based on a recognized protective characteristics under the international human rights law,
3. Aimed at, or involves disrupting or obstructing the recognition of human rights and fundamental freedoms or enjoying or practicing the same, equally, in the political, or economic or social or cultural or any other field of the public life.

It is a protection of the dignity of all persons without discrimination, which catalyze most responses to the “hate speech”, including restrictions on the right to freedom of expression. These responses concerning “hate speech” and the embargoes imposed thereof are often justified on the basis of protection of national security, or public order or public morals. However, wherever these goals are combined with the goal of protecting individuals from discrimination, the responses that limit expression can easily become loose and subject to abuse.

Examples from the Palestinian Context

It became clear to all the role of some of the Palestinian media in catalyzing and fueling division through the blind mobilization of the masses, which was based on denial and elimination of the other, with labelling the same by the worst, bloodiest

and most insulting descriptions, despite the Palestinian rejection to these practices, through which the media has become platforms to serve incitement to violence, hatred and denial of the other.

Some of the Palestinian media have shown how biased they appear to be in favor of one party at the expense of the other which reflects the absence of subjectivity in press coverage, not to mention the incitement practices which mislead the media off the correct path of its professional mission in favor of promoting partisan political positions at the expense of the national issues. This has resulted in fueling hatred between the proponents and members of the conflicting parties. It is worth to note to the excessive inciting role of the online media by publishing violent photographs and videos in the context of the process of distorting each party by the other, which transformed these websites to a mere tool to fuel hatred and violence, rather than instilling the constructive dialogue and discussion.

The Palestinian Center for Development & Media Freedoms in a study it has prepared entitled: The Role of the Palestinian Media in Promoting Division (Palestine and Al-Aqsa TVs as case studies)⁶ has addressed a set of terminologies used by both TVs to fuel the conflict, promote division, manifest hatred, and incite violence. Below are some of the said terminologies and descriptions:

Al-Aqsa TV	Palestine TV
Corrupt Clique	Black Militia
Spy/Agent Leadership	The Lawless Hamas Militia
Shameful Agencies	Deposed Government
National Degeneration	Subversive Forces
Rats	Flocks
Disloyal Course	The Dark Ones
Sedition Gangs	Disloyal Traitors

It is noteworthy that hate speech within the Palestinian society is witnessed in the social networking sites, whether practiced at the local level or when it comes to social issues, or others.

⁶ The Role of the Palestinian Media in Promoting Division – Palestine and Al-Aqsa TVs as study cases, the Palestinian Center for Development & Media Freedoms – MADA, .
http://www.madacenter.org/media.php?lang=2&id=779&category_id=7

3. Hate Speech, and the Freedom of Expression

Article 19 of the International Covenant on Civil and Political Rights provides for certain criteria to restrict the freedom of opinion and expression. However, these restrictions shall only be such as are provided by law and are necessary: for respect for the rights or reputations of others or for the protection of public order, public health or morals. This is explained by the Human Rights Committee in its General Comment No. (34): “in accordance with the International human rights standards which direct the legislations at the national level, then the specific phrases such as “hate speech discourse can be restricted according to the articles 18 and 19 of the International Covenant on Civil and Political Rights based on various justifications, including respect for the rights of others and public order. States are also obliged to “prevent expressions amounting to incitement to discrimination, aggression or violence in accordance with article 20/2 of the International Covenant on Civil and Political Rights and under some different conditions as well as in accordance with article 4 of the International Convention on the Elimination of Racial Discrimination”.

When reviewing these issues, creating balance between the freedom of expression and the restrictions on hate is very complex in connection to the international law and corresponding regional laws. This explains the diversity of legal concepts associated with defining the meaning of hate speech across the world, which increases the complexity and interpretation of the law in any particular case. It is clear that any legal restrictions always need to be in exchange of a broader right to the freedom of expression and “the relation between right and restriction and between norm and exception must not be reversed”.⁷

A UNESCO report on online hate speech generally favors comparing speech to speech instead of suppressing freedom of speech and expression. Any response that limits speech needs to be very carefully weighed to ensure that this remains wholly exceptional, and that legitimate robust debate is not curtailed.⁸

⁷ Countering Online Hate Speech, UNESCO Series on Online Freedom, 2015, p26 <http://unesdoc.unesco.org/images/0023/002332/233231a.pdf>

⁸ Terrorism and the media: a handbook for journalists; 2017, John Paul Martos, UNESCO, <http://unesdoc.unesco.org/images/0024/002470/247074a.pdf>

Report of the Special Rapporteur on the Promotion of Freedom of Opinion and Expression

The report of the special rapporteur of the freedom of opinion and expression ⁹ has consistently underlined the importance of the right to freedom of opinion and expression, not only as a right that should be guaranteed to all, including individuals belonging to marginalized groups, but also as a means to claim and enjoy all other rights. The special rapporteur also emphasized that it is a fundamental right that safeguards the exercise of all other rights and is a critical foundation of democracy, which depends on the free flow of diverse sources of information and ideas.

Furthermore, the rapporteur also indicated that the Constitution of UNESCO also affirms that peace can be promoted by facilitating the free flow of ideas and understanding among peoples of the world by creating an environment conducive to critical discussions of religious and racial issues and also to promoting understanding and tolerance by deconstructing negative stereotypes. As the Special Rapporteur has emphasized “for the right to freedom of thought, conscience and religion to be fully realized, robust examination and criticism of religious doctrines and practices, even in a harsh manner, must also be allowed. As with all human rights, however, the exercise of the right to freedom of expression should not be aimed at the violation of any of the rights and freedoms of others, including the right to equality and non-discrimination”.

Moreover, building on Article 20 (2) of the International Covenant on Civil and Political Rights explicitly provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law. Additionally, Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination has further prohibited hate speech on the basis of racial or ethnic origin is further prohibited. The said article also called State parties to declare an offence punishable by law all dissemination of hatred, racism, and discrimination.

The Special Rapporteur affirms that any restriction imposed on the right to the freedom of expression, based on the international provisions has to comply with

⁹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sixty seven session, 7 September 2017, https://digitallibrary.un.org/record/735838/files/A_67_357-AR.pdf

the three-part test of the restrictions on the right as stipulated in article 19 (3) of the International Covenant on Civil and Political Rights, namely that: (a) the restriction must be provided by law, which is clear and accessible to everyone; (b) it must be proven as necessary and legitimate to protect the rights or reputation of others; national security or public order, public health or morals; (c) and it must be proven as the least restrictive and proportionate means to achieve the purported aim.

In addition, any restriction imposed must be applied by a body that is independent of political, commercial or other unwarranted influences and circumstances.

4. Criteria of what Hate Speech would look like

In this manual, we must refer to the determinants/criteria which assist in determining in which situations the danger of violence, hostility or discrimination is sufficiently present to justify prohibitions on the expression. Article 19¹⁰ Toolkit has designed a six-part test to serve as a framework in clarifying the extent to which a speech is considered a hate speech or not:

First: context of the expression: evaluate the enormity of the speech by evaluating the political, economic, and social context in which it was communicated, taking into account the existence of violence incidents against the targeted group, the existence and history of institutionalized discrimination, and the existence of political or media landscape against the targeted group. (Recent incidents of violence against this group).

Second: the speaker's influence: the position of the speaker, and their authority or influence over their audience is crucial. Special considerations should be made when the speaker is a politician or a prominent member of a political party and public officials or persons of similar status (e.g. teachers or religious leaders).

Third: intent: the speaker has to a clear intent to engage in advocacy to hatred, to target a group on the basis of race, or color or religion, having knowledge of the consequences of their action and speech, taking into account, the language used, the scale and repetition of the expression.

¹⁰ Article 19: Hate Speech Explained, A toolkit, <https://www.article19.org/data/files/medialibrary/38231/'Hate-Speech'-Explained---A-Toolkit-%282015-Edition%29.pdf>

In 1994, the Danish court has convicted a television program anchor for broadcasting hateful messages from Danish extremist groups. The European Court of Human Rights (ECHR) has objected to the Danish court's decision and considered it a violation of the journalist's right to expression after taking into consideration that the racist statements were broadcasted in a program aimed at exposing the manifestations of racism in Denmark and seriously addressing political and social issues.

The intent of the speaker to engage in advocacy to hatred against a specific group is a condition specified in the International Covenant on Civil and Political Rights, and also in the American Declaration of the Rights and Duties of Man (AHCR).

Fourth: the content of the expression: whether the expression contained direct or indirect calls for discrimination, hostility or violence against a targeted group.

In 1998, the Turkish Court has convicted the former Prime Minister of Turkey, Necmettin Erbakan, of the charge of "incitement to hatred and violence" and sentenced him to one year's imprisonment because of a public speech during his election campaign in which he made a distinction between "believers" and "non-believers". However, after the sentence was reviewed by the European Court of Human Rights in 2006, it has declared that Erbakan had indeed reduced diversity to a simple division between "believers" and "non-believers" but this was not a compelling reason to convict him.¹¹

Fifth: the extent and magnitude of the expression: the analysis should examine the means of the expression and the intensity or magnitude of the expression in terms of its frequency or volume, for example, was the expression disseminated in one leaflet, or broadcasted in the mainstream media? Or is it disseminated one time or repeatedly?

Sixth: the likelihood of harm occurring: the extent to which an expression is connected to harm occurring, or about to occur, as a direct consequence of the expression. An example is what happened recently with the Rohingya Muslims in Myanmar, where the United Nations has condemned Facebook as it serves as a platform to encourage violence and the dissemination of hate speech against the oppressed group.

¹¹ European Court of Human Rights, Case of Erbakan Vs. Turkey.
<http://merlin.obs.coe.int/iris/2006/8/article1.en.html>

Reuters and the Human Rights Center at UC Berkeley School of Law, through a lengthy search, found more than 1,000 examples of posts, comments, images and videos attacking Myanmar's Muslims calling for hatred and incitement to violence against the Muslims of the Rohingya:

In 2013, a user has commented on a blogpost depicting a boat full of Rohingya refugees arriving in Indonesia: "Pour fuel and set fire so that they can meet Allah faster."¹²

5. Hate Speech in International and Domestic Laws and Legislations

The International Covenant on Civil and Political Rights ¹³

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputations of others;
 - b. For the protection of national security or of public order or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

¹² The Guardian, Facebook struggling to end hate speech in Myanmar, investigation finds, <https://www.theguardian.com/technology/2018/aug/15/facebook-myanmar-rohingya-hate-speech-investigation>

¹³ The International Covenant on Civil and Political Rights, Human Rights Library, Minnesota University. <http://hrlibrary.umn.edu/arab/b003.html>

The United Nations Universal Declaration of Human Rights 1948¹⁴

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

The American Convention on Human Rights¹⁵

Article 13/5

Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

The International Convention on the Elimination of All Forms of Racial Discrimination¹⁶

Article four of this Convention stipulates that State Parties:

- Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another color or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial

¹⁴ The United Nations Website, <http://www.un.org/ar/universal-declaration-human-rights/index.html>

¹⁵ The American Convention on Human Rights, Human Rights Library, University of Minnesota. <http://hrlibrary.umn.edu/arab/am2.html>

¹⁶ The International Convention on the Elimination of all Forms of Racial Discrimination, Human Rights Library, University of Minnesota, <http://hrlibrary.umn.edu/arab/b010.html>

discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

- Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Rabat Action Plan:

Rabat Action Plan¹⁷ is considered the product of a long process of global debate, including regional discussions in every part of the world. It explains, in details, the implications of article 20/2, taking into account the positive safeguards of freedom of expression, which are also contained in the International Covenant on Civil and Political Rights.

The Rabat Action Plan was adopted in a meeting held by the Office of the High Commissioner for Human Rights (OHCHR), in Rabat, Morocco, in October/November 2012. The purpose of the meeting was to wrap-up and bring together conclusions and recommendations since 2011 from the four workshops to conduct evaluation, at the national and regional levels, of the legislative patterns, judicial practices, and public policies related to incitement to national, racial or religious hatred.

In regard to the prohibition of the advocacy of national, racial or religious hatred, which constitute incitement to discrimination, hostility or violence, the Rabat Action Plan recommends to adopt comprehensive national legislation to combat discrimination with preventive and punitive measures to effectively fight incitement to hatred and to empower minorities and vulnerable groups.

Among the key factors contained in the Rabat Action Plan to prevent incitement to hatred is the collective responsibility of the public officials, religious and social leaderships, media, and individuals. This is in addition to the need of raising social awareness, tolerance, mutual respect, and intercultural dialogue.

The action plan also addresses a six-part threshold test proposed for the expressions considered as criminal offences according to the criminal law. This threshold consists of: the context of incitement to hatred, the speaker, the intent, the content, extent of speech, the likelihood to cause harm.

¹⁷ Rabat Action Plan. https://carjj.org/sites/default/files/events/kht_ml_lrbt.pdf

Furthermore, the Action Plan considers that education on pluralism, according to the experts, may contribute to the prevention of incitement to hatred, intolerance, negative stereotyping and stigmatization, and discrimination against persons based national belonging, or ethnic origin or religion or belief.

In 2013, the United Nations has held a workshop in Amman, Jordan, in which international specialists, and experts as well as experts from the Arab World were brought together. The workshop was concluded with recommendations for the implementation of the Rabat Action Plan on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Palestinian Laws and Legislation:

The State of Palestine has ratified several international treaties, including the International Convention on the Protection of the Rights of all Migrant Workers, the International Covenant on Civil and Political Rights, which entered into force in 2014. Accordingly, Palestine is obliged to amend the domestic legislation to conform to the international treaties and standards.

The hate speech has emerged in the Palestinian territories in an unprecedented and unique manner. It is considered one of the major implications of the internal political split between Hamas / Fatah, which broke out in 2007, and resulted in destroying the inner texture of the Palestinian society at all levels, as the roots of the internal conflict are attributed to the political and partisan affiliation.

Several aspects have promoted the use of hate speech in some of the official and non-official Palestinian media. The media channels have played a major role in aggravating the situation in terms of using strong words that can reshape the knowledge and awareness of the recipient. Although the media should be an open platform for dialogue among different groups, the Palestinian media has been heavily involved in promoting internal divisions that fuel conflict and hatred.

In a related manner, the Palestinian Center for Development & Media Freedoms “MADA” has issued a study entitled “The Role of the Palestinian Media in Promoting Internal Division – Palestine and Al-Aqsa TVs – comparative study”, in January, 2012. The study concluded that the Palestinian media was not only influenced by the Palestinian political split but played a major role in fueling the

division. It should be noted here that without the adoption of the law on the right of access to information, specific media were targeted with closure to prevent access to any other source of information.¹⁸

Constitutional Guarantees:

The International Covenant on Civil and Political Rights (ICCPR) prohibits the advocacy of hatred or war¹⁹, but the articles of the Palestinian Basic Law (Constitution) and its amendments of 2003 did not address the issue of hatred and incitement or referred to it as a punishable crime by law. However, it ensured that basic human rights and liberties shall be protected and respected²⁰. The constitution has also guaranteed that every person shall have the right to express his opinion and to circulate it orally, with due consideration to the provisions of the law²¹.

Criminal Legislation:

The Jordanian Penal Code No. (16) Of 1960, that is applicable in the West Bank, contains a number of articles which criminalize the speech aimed at stirring sectarian or racial prejudices or the incitement of conflict between different sects²². However, the articles of this code do not explicitly address and combat hatred. According to Article 150 of this Code, the Palestinian Authority has arrested a number of journalists and citizens and brought them before the courts on charges of stirring sectarian strife, as in the case of the director of Bethlehem Radio 2000, the journalist George Qanawati.

¹⁸ In June 2017, at least 29 news websites were closed as they were deemed to be opposing the authority in the West Bank, under an order from the Palestinian Attorney General in Ramallah. It is noteworthy that this decision violates the Palestinian Basic Law as a result of its issuance without any legal basis.

¹⁹ Article (20) of the International Covenant on Civil and Political Rights. <http://hrlibrary.umn.edu/arab/b003.html>

²⁰ Article (10) of the Palestinian Basic Law OF 2003 and its amendments. Published on the Muqtafi, Palestinian Legal and Judicial System) <http://muqtafi.birzeit.edu/pg/getleg.asp?id=14138>

²¹ Article (19) of the Palestinian Basic Law OF 2003 and its amendments. Published on the Muqtafi, Palestinian Legal and Judicial System) <http://muqtafi.birzeit.edu/pg/getleg.asp?id=14138>

²² Article (150) of the Jordanian Penal Code No. (16) Of 1960 https://www.unodc.org/res/cld/document/penal-code-no-16-of-1960.html/Jordanian_Penal_Code_1960.pdf

Presidential Decree of 1998 on the Establishment of National Unity and the Prohibition of Incitement

The presidential decree No. (3) of 1998 on the establishment of national unity and the prohibition of incitement²³. The first article thereto, considers incitement to discrimination, violence acts, insulting different religions, inciting violence that harms relations with foreign and neighboring countries, and forming illegal associations which practice or incite crimes, illegal acts in the Palestinian governorates. The second article provides for the punishment of any person who commits any of the acts specified in the decree under the relevant laws.

Although this decree is clearly related to hatred, it did not explicitly refer to the term hate or fight it, clearly and explicitly.

Media and Press Legislation:

Article (8/d) of the Palestinian Press and Publications Law²⁴ stipulates that all those working in the press must strictly abide by the ethics and morals of the profession, including not publishing anything that might fuel violence, intolerance and hatred, or promote racism and sectarianism.

With regard to what newspapers are prohibited to publish, Article 37 of the same law provides for a long list of prohibitions, including: the prohibition of publishing articles that would harm national unity, incite crimes, fuel hatred, dissension, and dispute, and stirring sectarianism among members of society.

According to Article (47) of the Palestinian Press and Publications Law, the competent authority, under an administrative decision, may seize and confiscate all printed copies issued that day. The court may temporarily suspend the issuance of printed copies, for a period of no more than three months, against anyone who violates the provisions of Article (37), in addition to any other prescribed penalty.

²³ Presidential decree No. (3) Of 1998 on the establishment of national unity and the prohibition of incitement. <http://mugtafi.birzeit.edu/pg/getleg.asp?id=12679>

²⁴ The Palestinian Press and Publication Law Of 1995. https://www.madacenter.org/media.php?lang=2&id=372&category_id=9

Audio-Visual Media²⁵

In an audiovisual media law drafted in 2016, not passed yet, due to the suspension of the Palestinian Legislative Council, Article (22/b) stipulated that licensed broadcasters shall not broadcast hateful, terrorist, violent or seditious material, or promote religious, sectarian or ethnic strife or discrimination. Article 38 provides for penalties for breach of this article of a fine of not less than two thousand Jordanian Dinars, and no more than ten thousand Jordanian Dinars.

Article 33 of the same draft states that the Media Complaints' Commission shall be the specialized body for dealing with complaints relating to promoting violence and discrimination based on religion, race, color, gender, or ethnic or social origin.

Decree Law No. (16) Of 2017 on Cybercrime

Article (40) of the decree law explicitly stipulates that if a website hosted within or outside the country detects any statements, numbers, images, films, propaganda or other material that may threaten the national security, civil peace, public order or public morals, the relevant investigation and control authorities shall submit a statement to the attorney general or to one of his assistants requesting permission to block the site, the websites or to block some of the links from being displayed²⁶.

The rules of self-regulation of the media to address hate speech and racism

As a result of the need to address intolerance, violence and advocacy to hatred in the media in so many cases, which have emanated from internal unrest, political disputes, and the absence of professional dialogue based on trust, non-intimidation, not to mention the occupation which spreads hatred everywhere, some Palestinian news media have developed criteria to address hate speech in the media.

²⁵ ADDRESSING HATE SPEECH AND RACISM IN THE MEDIA IN THE SOUTHERN MEDITERRANEAN: A REVIEW OF FORMAL AND INFORMAL REGULATORY APPROACHES <https://www.euneighbours.eu/sites/default/files/publications/2018-05/MedMedia%20Hate%20speech%20report.pdf>

²⁶ Decree Law No. (16) Of 2017 on Cybercrime. <https://www.amad.ps/ar/Details/181979>

Radio Nisaa FM has adopted a code of conduct prohibiting the dissemination of news which promotes violence, hatred or intolerance based on religion, gender, race or nationality²⁷.

In 2012, the Palestinian Journalists Syndicate has approved a code of conduct calling for values of tolerance, condemning defamation, and incitement to violence and hatred against any person, entity or institution, whether based on gender, race, religion or political affiliation²⁸.

This is in addition to the Code of Conduct signed by twenty representatives of the Palestinian media in 2011 on the professional coverage of the elections, which includes provisions against incitement to violence and calls for objective and equal coverage of the candidates²⁹.

It is worth to mention that the President Mahmoud Abbas is the first Arab President³⁰ to sign the Declaration on Freedom of Information in the Arab World in 2016. The Declaration calls States to put in place laws which prohibit the dissemination of statements which represent “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” in accordance with the International Covenant on Civil and Political Rights. The media has a professional, ethical and social responsibility to combat hatred, intolerance and sectarianism³¹.

²⁷ Nisaa Regional Network, Code of Conduct. http://www.nisaanetwork.net/ar_page/index/300f9y196857Y300f9

²⁸ Professional Media Code of Conduct, Palestinian Journalists Syndicate. <http://www.pjs.ps/ar/pjs2/code-of-Conduct>

²⁹ A Code of Conduct on “Professional Media Coverage of Elections”. http://www.cfip.org/pdf/code_of_conduct.pdf

³⁰ Palestine signs on the Declaration on Freedom of Information in the Arab World. <http://www.med-media.eu/ar/event/%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86-%D8%AA%D9%88%D9%82%D8%B9-%D8%B9%D9%84%D9%89-%D8%A5%D8%B9%D9%84%D8%A7%D9%86-%D8%AD%D8%B1%D9%8A%D8%A9-%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85-%D9%81%D9%8A-%D8%A7>

³¹ Declaration on Media Freedom in the Arab World. <http://www.ifj-arabic.org/page-ifj-645.html>

6. Online Hate Speech³²:

Internet intermediaries such as social networking platforms, Internet Service Providers or Search Engines, stipulate in their terms of service how they may intervene in allowing, restricting, or channeling the creation and access to specific content. A vast amount of online interactions occur on social networking platforms that transcend national jurisdictions and which platforms have also developed their own definitions of hate speech and measures to respond to it. For a user who violates the terms of service, the content he or she has posted may be removed from the platform, or its access may be restricted.

Internet intermediaries have developed disparate definitions of hate speech and guidelines to regulate it. Some companies do not use the term hate speech, but have a descriptive list of terms related to it. Yahoo!'s terms of service prohibit the posting of "content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable". Similarly, Twitter does not mention explicitly a prohibition of hate speech, but alerts its users that they "may be exposed to content that might be offensive, harmful, inaccurate or otherwise inappropriate, or in some cases, postings that have been mislabeled or are otherwise deceptive". This is complemented by Twitter's Rules, a set of conditions for users that contain content limitations such as "You may not publish or post direct, specific threats of violence against others".

As to YouTube Company, it has explicitly addressed hate speech in its terms of service. It seeks to balance freedom of expression and limitations to some forms of content. As they read, "We encourage free speech and defend everyone's right to express unpopular points of view. But we do not permit hate speech: speech which attacks or demeans a group based on race or ethnic origin, religion, disability gender, age, veteran status and sexual orientation/gender identity."

Facebook's terms forbid content that is harmful, threatening or which has potential to stir hatred and incite violence. In its community standards, Facebook elaborates that "Facebook removes hate speech, which includes content that directly attacks people based on their: race, ethnicity, national origin, religious affiliation, sexual orientation, sex, gender or gender identity or serious disabilities or diseases".

³²

Countering Online Hate Speech, UNESCO Publishing.
<http://unesdoc.unesco.org/images/0023/002332/233231a.pdf>

All Internet intermediaries are expected to respect human rights. This is set out in the Guiding Principles on Business and Human Rights elaborated by the United Nations Office of the High Commissioner for Human Rights. The document emphasizes corporate responsibility in upholding human rights. In principle 11, it declares that: “Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved”.

In the same context, it should be noted that social media may or may often cooperate with governments or authorities that may be considered repressive in controlling content that is published within the scope of criticism but does not reach the limit of incitement to hatred. Such content would be deleted or the journalist may be suspended from publishing temporarily.


It should be noted here that the Security Council Resolution No. (1624) Of 2005, which calls upon States to take measures under the law to prevent incitement to terrorism, and to prevent such acts. It also affirms that States must ensure that measures taken to implement this, should comply with the obligations of States under the international law, in particular, the International Human Rights Law, the International Humanitarian Law and the International Criminal Law.

Such administrative measures, which directly restrict the freedom of expression, including media regulatory practices, must be applied only through independent bodies, and it should be possible to challenge the implementation of administrative measures and restrictions imposed by an independent tribunal or other judicial body according to law. Examples in this context can be derived from the websites which collaborate with Israel in the omission of Palestinian ³³journalists’ contents without legal justification or the decision of an independent body³⁴.

³³ A report entitled: “Social Media: a new title to prosecute journalists”, MADA Center. http://www.madacenter.org/report.php?lang=2&id=1671&category_id=14&year

³⁴ A report entitled “Social Media: a new title to prosecute journalists”, MADA Center. http://www.madacenter.org/report.php?lang=2&id=1671&category_id=14&year

A few examples of what online hate speech may look like³⁵:

- Threats of violence (such as death threats or threats of rape)
- Racial or ethnic slurs
- Symbols of hate such as  swastikas
- Encouraging others to harass someone online because of their identity
- Insulting someone due to their sexuality or gender identity
- Xenophobic comments telling immigrants and foreigners to leave the country
- Images or videos with the intention to insult or degrade a particular race, religion, nationality, or gender-identity

Why should you care about online hate speech³⁶?

Hate speech affects everyone, undermines human dignity and can have serious effects on people's mental health. It can also lead to violence, extremism and divides societies.

“Everyone has an equal right to be treated with dignity and respect”.

Below are the top seven reasons why we should care about hate speech:

1. Hate speech affects everyone's online experience
While hate speech affects those who are the victims most profoundly, even if you have never been a direct target of hate speech it also affects you, as an Internet user who may also be disturbed and angered by haters and feel helpless about what to do.
2. Hate speech especially affects young people
In a study of youth across four countries, 42% of young people reported having been exposed to hate speech online with Facebook and YouTube being the top two sites where hate material was found.
3. Hate speech undermines human dignity
Hate speech makes people feel unsafe, powerless, isolated, excluded and threatened. What's more, it's dehumanizing, degrading and undermines human dignity.

³⁵ Training Guide on Hate Speech, share Some Good, Australia. <http://sharesomegood.org/wp-content/uploads/2016/10/SSG-Toolkit-ProofFinal-Digital.pdf>

³⁶ Previous reference.

4. Hate speech can have significant consequences on people's mental health
The impact of online hate speech affects youth's mental health, in particular, the LGBTI.
5. Online hate speech can lead to real life violent crimes
Online hate speech often incites or promotes the use of violence against a certain group of people. Studies have shown that when there is an uptick in hate speech against a certain group of people, it is usually accompanied by an increase in hate crimes and identity-based violence.
6. Hate speech is a tool to spread violent extremism
Online hate speech is used by organized extremist groups to recruit young people to their cause and promote an "us-vs.-them" worldview. They use hate speech when talking about races, religions, or nationalities that are seen as "the other", or they make false claims against these groups, claiming they are terrorists, infidels, violent, etc.
7. Hate speech divides societies and reinforces discrimination and inequality
If hate speech remains unchallenged, over time it reinforces discrimination against already vulnerable groups and encourages their continued marginalization and isolation. It can also lead to increased social tensions, disputes and, in some cases, violent conflict.

“Hate speech online does not appear out of nowhere, but reflects the surrounding social and cultural climate”.

Did you know that the most common and widespread forms of online hate speech are based on race, nationality and sexuality, but hate based on religion is also on the rise.

What can you do about hate speech³⁷?

Many people feel helpless when they see hate speech online, believing there is nothing they can do about it and choosing to ignore it. But, we all have an obligation to work towards a world we want to live in and this includes creating an online space that is free of discrimination and hate. There are many ways to address online hate speech. Here are two simple and effective ways to respond to and prevent hate speech that anyone can do:

1. When you see hate speech online you can report it.
2. Be a part of the solution and actively promote positive alternative narratives.

Most websites, including Facebook, YouTube and Twitter, have clear policies against the use of hate speech on their sites. If you see something online that you believe is hate speech, you can report it.

Reporting it is easy and quick. If the site administrators determine that the post is considered hate speech, it may be removed. This means fewer people will view and share the post, and it sends a signal to the perpetrator that what they said isn't welcome on the platform.

7. Mechanisms of Countering Hate Speech

Positive messages, dissemination of the culture of affection, acceptance of others, dissemination of anti-hate speech was one of the first and most important steps to address this speech and to avoid its disastrous consequences. Some mechanisms that help to reduce the spread of hate culture and hate speech can be listed as follows:

In a UN paper draft entitled “Preventing incitement: Policy options for action”, issued by the United Nations Office on Genocide Prevention and the Responsibility to Protect³⁸. The office has urged states to:

³⁷ Previous reference.

³⁸ Preventing incitement: Policy options for action, Nations Office on Genocide Prevention and the Responsibility to Protect.
http://www.un.org/ar/preventgenocide/adviser/pdf/prevention_of_incitement_policy_options.pdf

- Encourage positive messages of inclusivity, and the use of positive and alternative speech as a way to prevent and respond to incitement to violence that could lead to atrocity crimes. This could include, inter alia, the public rejection of hate speech by political, religious and community leaders and the provision of objective and accurate information about events as an antidote to rumors.
- Promoting a diversity of voices and conversations on the Internet, including through social media, is crucial to prevent incitement to violence that could lead to atrocities. States should adopt effective and concrete policies and strategies to make the Internet widely available, accessible and affordable to all to counter the dissemination of ideas based on racial and ethnic superiority or hatred; to promote equality, non-discrimination and diversity, to foster mutual understanding and build a culture of peace.
- States should ensure that minority rights are respected and that diversity is not only tolerated but understood as a positive value and as contributing to the richness of societies. In this context, States should safeguard the historic memory of all population groups, including minorities, including by developing and protecting national archives, in particular in those countries that have experienced atrocity crimes.

Furthermore, States should not neglect the below sectors for their significant role in countering hate speech and emphasizing the mentioned above, namely³⁹:

1. The education sector, the development of school curricula and extracurricular activities that promote the principles of tolerance and acceptance of the other.
2. Media sector, social media: they have to assume their responsibilities so as to limit the promotion and dissemination of extremist, racist ideology and to train media agencies to distinguish between hate speech and freedom of expression.
3. Laws, legislations, legal regulations and controls: enact legislation that criminalizes and prevents the dissemination of hate speech or any speech that would incite violence or advocate discrimination.
4. Religious organization, religious discourse: no one denies the importance of religious discourse in shaping the culture of our societies. Therefore, extremist ideas should not be promoted and the values of love, tolerance and acceptance of the other affirmed by all religions should be emphasized.

³⁹ Same previous reference.

A language based on persuasion and logic understood by young people should be used.

5. Civil society, activating the role of civil society organizations should monitor data on any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and, in particular, hate speech that could constitute incitement to atrocity crimes.

As stated in the guide of the United National Educational, Scientific, and Cultural Organization (UNESCO) entitled “Journalism, Fake News, and Misinformation”⁴⁰ it is a time for news media to tack more closely to professional standards and ethics. Therefore, journalists whatever their political leanings, should avoid inadvertently and uncritically spreading disinformation and misinformation.

Building on this, the guide has listed the mechanism and standards for the selection of news:

- Accuracy and verification (is there a clear and accurate citation of the news resource)
- Strength of research (to what extent has the participant sought to find strong, relevant data/sources to support their arguments/findings?)
- Critical analysis (how thoughtfully does the participant interrogate the key issues for the audience)
- Originality
- Narrative strength (what is the impact of the story/production on readers/viewers/listeners?)
- Production values (e.g. strength of audio/video editing and multimedia elements)
- Written expression (spelling, grammar, punctuation, structure)
- Adherence to core ethical values expressed in professional codes

⁴⁰ the United National Educational, Scientific, and Cultural Organization (UNESCO) guide “Journalism, Fake News, and Misinformation” <http://unesdoc.unesco.org/images/0026/002655/265552E.pdf>

1. Recommendations

- To amend and harmonize local laws and regulations to comply with international laws to ensure that hate speech is clearly and explicitly reduced.
- Media organizations should provide continuous training for their staff to raise their professional capacities and provide them with the necessary skills to counter the hostile environment in which they work.
- That local media through media syndicates and unions should adopt public policies that renounce hatred and violence.
- The need for the Palestinian media agencies to adopt a speech that calls for tolerance and respect for others rather than denying the same, based on professional media terminology, without racism, incitement and defamation.
- Incorporate induction courses on hate speech in Palestinian universities to raise the awareness of students (especially media students) about the characteristics and definitions of this speech, and the mechanisms of fighting and reducing it.
- The need to respect the ruling authorities and the leaders of the parties and factions for the principle of freedom of opinion, accept the different partisan ideas, and promote the culture of acceptance of the other, constructive discussion and promote the concepts of brotherhood and tolerance.