

THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

HATE SPEECH  
IN THE PUBLIC  
ONLINE DEBATE



## **HATE SPEECH IN THE PUBLIC ONLINE DEBATE**

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## **ABOUT THE REPORT**

This report describes the results of a study about hate speech conducted in 2016. The objective of the study is to gain insight into how often hate speech appears in connection with news dissemination and debate.

The report's data consist of just under 3,000 comments taken from the Facebook pages of two major Danish news media, *DR Nyheder* and *TV 2 Nyhederne*. Based on these comments, we identify trends and patterns in an attempt to get an overview of the scope and nature of hate speech in a defined period.

We compare these findings with the results from a survey among Facebook users in Denmark, in which the respondents are asked about their experiences with regard to debates and the tone of debates on Facebook. Moreover, they are also asked whether their experiences affect their participation in the public online debate.

Moreover we review existing legislation in the area as well as the overall legal framework as stipulated in international human rights and Danish law.

Overall, in this study we examine the following:

- The scope of hate speech on the Facebook pages of two major Danish news media, *DR Nyheder* and *TV 2 Nyhederne*
- Topics that spur hate speech
- Who is responsible for hate speech?
- Who or what is the target of hate speech?
- The nature of hate speech
- The consequences of a harsh tone in the public debate on Facebook.

# SUMMARY

With this study we focus on hate speech in the online public debate, based on the Facebook pages of two major Danish news providers, *DR Nyheder* and *TV 2 Nyhederne*.

It is important to view the phenomenon of hate speech from a human rights perspective because hate speech touches upon the very core of our democracy: freedom of expression. Having said that, freedom of expression is not an absolute, and thus we are faced with a human rights dilemma. While freedom of expression should be respected, marginalised groups should be protected against acts motivated by hate, discrimination and racism.

The study's data consist of 2,996 comments taken from the Facebook pages of the two news providers *DR Nyheder* and *TV 2 Nyhederne*. The comments were collected *after* they had been edited by the two news providers and Facebook. The analysis shows that one in seven of the comments that were allowed to remain on the Facebook pages of the two news providers are hateful. This means that by far the majority of the comments (85%) were not hate speech. However, 15 % of the online public debate related to the news articles on the two Facebook pages consisted of hateful comments aimed at individuals or groups.

## **HATE IN POSTS ABOUT RELIGION, FOREIGNERS AND GENDER EQUALITY**

Hate speech is most common in connection with news posts on topics concerning religion, refugees, migration and asylum, and gender equality.

## **HATE BREEDS HATE**

A clear over-representation of hate speech is found in debates relating to news posts that also included hate speech, e.g. a quote from a source. Moreover, there is an increased risk that one hateful comment will lead to more hateful comments.

## **MEN RESPONSIBLE FOR MOST HATE SPEECH**

Male contributors are responsible for by far the majority of the hateful comments made (76%), and such comments typically targeted a group rather than a specific individual. In most instances, hate speech is targeted at other people's political beliefs or at individuals who are professional politicians. Areas that often draw hateful comments are religion and ethnicity. Particularly Islam and individuals from the Middle East or from countries in the Western world outside Denmark are the object of hate speech. Moreover, an individual's gender

is also targeted. Hate speech based on gender is more often targeted at women than men.

### **THE MEDIA REMOVE THE WORST COMMENTS**

The majority of the hateful comments were 'soft' when measured on a scale of extremity ranging from 1 to 5 that is used to measure the level of extremity in hate speech. This indicates that the news media have succeeded in weeding out comments that can be perceived as actual threats. However, the fact that one in seven comments is hateful indicates that the news media still do not quite know how to deal with hate speech that is not an actual threat.

### **HARSH TONE SCARES PEOPLE OFF**

A survey among Facebook users in Denmark shows that the users refrain from participating in a debate if the tone is harsh. The respondents especially steers clear of debates concerning refugees, migration, asylum, religion and integration, and more women than men avoid participating in debates on these topics. As a consequence of the harsh tone, many users surrender their freedom of expression and refrain from participating in the debate.

### **THE MEDIA'S RESPONSIBILITY FOR REMOVING HATEFUL COMMENTS**

A total of 77 % of the respondents believe that the media has a responsibility to remove offensive and derogatory comments. Thus, a majority of users believe that the media should be more proactive with regard to ensuring a civil tone in the debate. The question is, how should the media approach this task?

This report focuses on this issue and presents a number of recommendations. The objective of the recommendations is to identify measures to enhance the efforts to combat hate speech that appear in the online debate platforms of the news media.

### **RECOMMENDATIONS**

The Danish Institute for Human Rights recommends that:

- The news media ensure transparent and consistent moderation of their online debates. As a minimum, this entails that the media prepare clear guidelines for online debate that are easy to access in accordance with Danish press ethical rules, and that the media are consistent in their enforcement of these guidelines. Moreover, it should be made clear to users how they can complain about hate speech that appears in the online debate.
- The news media register their Facebook pages as well as any other social media platforms with the Danish Press Council (Pressenævnet). Registering a



Facebook page with the Press Council sends a clear signal that ethical rules for the press must be observed, and it makes it easier for users to file a complaint with the Press Council.

- The Media Liability Act (Medieansvarsloven) is revised to clarify the responsibility of the news media with regard to debates on the social media platforms that they facilitate through their news posts. The Media Liability Act should be adapted to reflect the reality of the media today, focusing in particular on the news media's increasing use of social media.
- The Danish Government prepares a national action plan concerning hate speech similar to what has been done in Norway and Sweden. The action plan should focus on both lawful and unlawful hate speech, and should identify areas of society that should receive particular attention, including the media. Moreover, the action plan should address how hate speech can be combatted through measures other than legislation and bans.
- The Danish Police provides statistics on reports of hate speech pursuant to Section 266 b of the Danish Criminal Code, where charges are dropped, and specifies the reason charges are dropped.
- Facebook publishes annual country-specific figures on the number of reports they have received concerning hate speech, including how many of these reports were acted upon.

# CHAPTER 1

## 1 INTRODUCTION

The tone of the public debate has increasingly been debated over the past years.<sup>1</sup> In line with social media having become a more integral part of our daily lives and of the media, the tone used in social media has increasingly become a part of this debate. On the one hand, social media has made it easier for many more people to use their freedom of expression and to participate in the public debate. On the other hand, the debate culture on social media is criticised for polarising, causing division and spreading hate.

This schism has brought to attention the phenomenon of hate speech, the rise of which is increasingly ascribed to social media, where comments are made public, shared and spread like wildfire.

### **1.1 THE DEMOCRATIC CONVERSATION UNDER PRESSURE**

Facebook has become Denmark's number one digital village hall where everyone can express themselves and voice their opinions. A study conducted by the Danish Agency for Culture<sup>2</sup> shows that 59 % of Danish 16-89-year-olds use Facebook every week. This is beneficial to the democratic conversation because it allows so many people to participate in debates with people they normally would never meet. In addition, the distance between the man in the street and decision makers has become shorter. However, the way in which the debate is conducted, also referred to as the tone of the debate, is often seen as being harsh, derogatory and polarising. It makes many people want to steer clear of the debate and to refrain from using their freedom of expression and from contributing to the democratic conversation.

In a representative study conducted by Statistics Denmark<sup>3</sup> in summer 2016, 50% of the respondents said that the tone in social media debates kept them from expressing their opinion and from participating in the debate. When one in two refrain from expressing their opinion because of a harsh tone, we are faced with a democratic problem that has consequences for the public debate.

### **1.1.1 POLITICIANS TARGETS OF HATE AND THREATS**

The increasing focus on the tone of the debate could also be seen in the Danish Prime Minister's alternative New Year's speech on 1 January 2016, in which he addressed the tone of the debate on Facebook. The Prime Minister encouraged the public to "keep a civil tone" in the political debate on Facebook, which he described as being Denmark's "largest debate forum, but certainly also a place where one has to have very broad shoulders."<sup>4</sup>

In addition to the tone of the debate deterring many people from participating in the public debate, the harsh words and comments also have consequences for those who choose to voice their opinion in public.

Several cases have shown that public figures, including journalists, debaters and politicians are particularly at risk of being the target of hate speech when they participate in the public debate.<sup>5</sup>

Comments can quickly evolve into actual threats. Mai Mercado, MP for the Conservative Party and since November 2016 Minister for Children and Social Affairs, experienced this firsthand when she wrote a post about Freetown Christiania on Facebook in June 2016. After she wrote the post, she received several death threats. The threats against Ms. Mercado further spurred the debate on the tone of the political debate on social media, and two people were convicted for threatening behaviour against the MP.<sup>6</sup>

An opinion poll conducted by the local TV station DR Syd among Denmark's 179 MPs shows that 46 of the 97 who responded have received an actual threat of violence. Moreover, 25 of 97 of the MPs had thought about resigning from their seat because of the tone of the debate.<sup>7</sup> In another opinion poll from January 2015 conducted by the national television broadcast station DR among 920 town councilors who are active users of social media, 65% of the respondents reported that they often feel the tone of the political debate is unpleasant. A total of 373 of the town councilors stated that they had refrained from posting comments on social media because they were concerned about being harassed.<sup>8</sup> The two polls are examples of how politicians can lose heart due to the unpleasant tone and possibly even refrain from participating in the political debate.

### **1.1.2 JOURNALISTS REFRAIN FROM ADDRESSING SPECIFIC TOPICS**

It is not just politicians who have to have broad shoulders; journalists have to too. In a Norwegian survey of 1341 Norwegian journalists and editors<sup>9</sup> just under 50 % reported that they had been defamed, harassed or subject to a smear campaign within the past year. Whereas women are more often harassed on the basis of gender, men are harassed on the basis of a specific topic they have been debating, or the harassment is directly linked to a comment they have made.

Moreover, the Norwegian survey shows that men are primarily responsible for the threats and harassment. Especially stories about immigration, political conflicts and equal rights/feminism trigger hateful comments targeted at journalists and editors. Such incidents lead to some journalists imposing self-censorship and refraining from writing about certain topics.

### **1.1.3 WOMEN ARE TARGETED BASED ON THEIR GENDER**

“Ti stille, kvinde” (Be quiet, woman), a series shown on DR, the Danish Broadcasting Corporation, in 2014, showed that women are more often targeted based on their gender. In the programme, a number of high-ranking female politicians talked about how they have been threatened and harassed on social media platforms. Sexist and derogatory comments about their gender are a part of these women’s everyday life. The series highlighted the fact that hate spread via the internet is often linked to issues of gender.<sup>10</sup>

### **1.1.4 HARSH DEBATE ABOUT REFUGEES**

The tone in the debate about refugees has been harsh. This spurred the British newspaper The Guardian in January 2016 to close its online comments section for news stories about refugees. The newspaper expressed that it no longer wished to be the channel for the hateful comments that it had seen in the aftermath of the European refugee crisis. Some people saw this step as an act of censorship. Mary Hamilton, The Guardian readers’ editor, responded to the criticism and explained that The Guardian wants “to be responsible hosts” and “to free the voices that struggle to be heard.”<sup>11</sup>

### **1.1.5 ROOM FOR DIFFERENT OPINIONS**

There is no doubt that Facebook and other social media allow a multitude of voices to be heard in the public debate. However, if we are to protect the democratic conversation that allows room for voicing different opinions without putting certain groups on the receiving end of abuse, we need to place requirements on those who participate actively in the debate, and on those who host debate platforms. This is especially true of the news media that use online platforms such as Facebook to distribute their journalistic products. They must take on the role of editor in the debates that spring from the news posts.

## **1.2 THE HUMAN RIGHTS DILEMMA**

Central to any study of hate speech is freedom of expression. Freedom of expression is protected in Article 19 of the UN Universal Declaration of Human Rights<sup>12</sup> and is also protected in Article 19 of the International Covenant on Civil and Political Rights<sup>13</sup>, in Article 10 of the European Convention of Human Rights<sup>13</sup>, and in Article 11 of the EU Charter of Fundamental Rights.<sup>14</sup>

Freedom of expression is a pillar of Danish democracy, and even though speaking openly is allowed, freedom of expression is not an absolute. The Danish Criminal Code criminalises some harsh statements; however, the law operates with a very high threshold with regard to when a comment is deemed illegal. The European Court of Human Rights has established that protecting freedom of expression is a significant factor, and that this freedom may only be restricted under very special conditions.<sup>15</sup>

That is, freedom of expression has a very broad scope. On the one hand, we must accept ideas and opinions with which we do not agree. On the other hand, with freedom of expression comes a responsibility to respect others as one's equal, e.g. by not inciting hate towards specific groups and thereby rendering these groups as being of lesser value. Seen in this light, freedom of expression also entails a fundamental responsibility of expression. This responsibility is not limited to being mindful of what you express before you express it, but also includes a responsibility to strike back against hate speech. This is not to deny individuals or groups that right to say something, but to point out untruths, invalid arguments, and erroneous conclusions and exaggerations that may escalate and incite hate.<sup>16</sup>

A balance must be struck between protecting freedom of expression and protecting vulnerable groups against discrimination. This follows from the principle of equal treatment and non-discrimination as stipulated in Article 2 of the UN Universal Declaration of Human Rights<sup>17</sup>, Article 14 of the European Convention of Human Rights<sup>18</sup>, and in Article 21 of the EU Charter of Fundamental Rights.<sup>19</sup>

Free debate is an inherent part of the execution of the freedom of expression, and dealing with and combatting hate speech is a delicate matter that requires clarity about where freedom of expression stops, and where responsibility of expression begins. In this context, the human-rights dilemma thus entails allowing a broad scope for freedom of expression, while at the same time protecting vulnerable groups against hate, discrimination and racism.

As this study addresses both lawful and unlawful statements, it is important to distinguish between the legal constraints for freedom of expression and the individual's fundamental responsibility of expression that is not based on law but rather on morals.

### **1.3 THE PUBLIC DEBATE**

The public debate is one of the cornerstones of our democratic society. This is not as a constitutional right or institution, but rather as something citizens and decision makers develop together, often using the media as an intermediary.

Two fundamental conditions are required in order for a free public debate to occur. The first condition is the freedoms that are laid down in the Danish Constitution and in the human rights conventions that Denmark has acceded to in which freedom of expression, freedom of association and freedom of assembly allow individuals and groups to congregate and express their opinions without restriction and censorship.

The second condition is access to information. If the opinion of the people is to carry any weight, the population must have access to relevant information to be able to form a qualified opinion of a specific matter in society. This is where journalists and the media play an important role in modern democracies: they provide and disseminate information, knowledge and opinions through printed, electronic and digital mass media.<sup>20</sup> The role of the media in a democracy also includes generating debate. They do this by providing transmission time and column space for selected discussion contributions and comments, thereby providing a forum for the public debate. The media also contribute to generating debate through their choice of news stories and themes, as well as the discussion contributions they choose to publish.

When the media provide a forum for the public's freedom of expression, they also take on a responsibility to ensure that the public media-mediated debate is morally sound and legal. Seen in this light, it is interesting to analyse how the debate on one of the newest and most popular debate platforms - Facebook - is conducted. As mentioned above, many people find that the online debate on social media is too harsh, and therefore they refrain from participating. But what is the situation when the debate takes place on specific Facebook pages moderated by news media that are used to editing news and debates in the field of tension between freedom of expression and responsibility of expression? In this report we will examine the tone of this debate on the Facebook pages of news media.

## CHAPTER 2

# 2 HATE AND HATEFUL RHETORIC

Hate can be defined as strong animosity or hostility toward someone or something. Hate can be linked to fear and other negative attitudes and feelings such as islamophobia and xenophobia. The rhetoric of hate can be defined as the use of derogatory language that may incite or enhance negative feelings, attitudes or opinions toward a group of people based on their race, ethnicity, gender, religion, sexual orientation, etc.

The rhetoric of hate disseminates negative attitudes and promotes intolerance.<sup>21</sup> In hate rhetoric, negative images and attitudes toward certain groups prevail, serving to denigrate a group of people and harm their reputation and social status. Thus hate rhetoric can contribute to legitimising a negative view of a group.<sup>22</sup> Seen from a (hate) rhetoric perspective, the power of hate speech is that it can harm a group or individual's status, reputation and right to be respected.<sup>23</sup>

Hate rhetoric is not only used to voice negative opinions toward groups and individuals; it is also just as used to convince others to see things in a certain way. Hateful rhetoric may, regardless of whether it is disseminated online or offline, incite discrimination, hate and violence.<sup>24</sup>

### 2.1 WHAT IS HATE SPEECH?

Hate speech is characterised by targeting an individual based on their affiliation to a specific group (e.g. based on their political beliefs, religion, sexual orientation, etc.). Hate speech may be insulting, intimidating and harassing in nature, and/or incite violence, hate and discrimination.<sup>25</sup> Thus hate speech not only has consequences for the individual at whom it is targeted, it also has consequences for the group to which the individual belongs or with which the individual identifies. Especially minority groups in society (e.g. ethnic minorities, religious minorities, etc.) are exposed to hate speech, but also men and women are targeted on the basis of their gender.<sup>26</sup>

No universally accepted definition of what constitutes hate speech exists with regard to international human rights, and the level of protection against hate speech varies at international, regional, and national level.<sup>27</sup> Most often, the individual nation relies on its own criminal code, which criminalises hate speech

targeted at specific groups that are protected. In Denmark certain hate speech statements are criminalised pursuant to section 266b of the Danish Criminal Code. The Code states that:

” Any person who, publically or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual inclination shall be liable to a fine or to imprisonment for any term not exceeding two years.<sup>28</sup>

In addition to criminalisation of **statements** motivated by hate toward certain groups, section 81 no. 6 criminalises **acts** motivated by hate. Pursuant to this section, it is considered an aggravating circumstance in sentencing when the crime is based on prejudice and hate toward an individual or group due to their race, ethnicity, religious beliefs, sexual orientation or similar.

Hate speech and hate acts must be viewed within the context that they appear and comprise both “lawful” and criminal (unlawful) statements and acts. In their most extreme form, hate speech acts serve as threats and incitement to violence or constitute an actual hate crime. Common to hate speech and hate acts is a negative perception of individuals and groups as being inferior, and it is relevant to combat both due to Denmark’s human rights commitments.

When using section 266b of the Criminal Code, the challenge is defining what actually constitutes hate speech without also including statements that are not considered criminal pursuant to the Danish Criminal Code, but that still have significant potential to harm the individual and society in general when put forward in a public-forum debate. Moreover, the provisions of the Danish Criminal Code do not cover all discriminatory grounds, for example disabilities and gender are not mentioned in specific.

The Council of the European Union defines illegal hate speech on the basis of the Council Framework Decision 2008/913/JHA of 28 November on combating certain forms and expressions of racism and xenophobia by means of criminal law.<sup>29</sup> This includes inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin. This definition is narrow and primarily focuses on racism and xenophobia.

The European Commission against Racism and Intolerance (ECRI) uses a broader definition that comprises the grounds of race, colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity,



sexual orientation and other personal characteristics or status.<sup>30</sup> According to ECRI, hate speech is defined as:

**” [...] the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of ‘race’, colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.”<sup>31</sup>**

The ECRI definition adds a broader and more clearly defined range of groups towards which hate speech may be directed. The strength of this definition is also that hate speech is not merely seen as a legal matter; instead the definition utilises a more nuanced perspective of the different types of statement that may occur in the context of a debate. Obviously, there is a difference between making an actual threat and making a statement that is stigmatising due to the way in which e.g. women, Christians or Kurds are depicted. It seems equally obvious that the host of a debate must respond differently depending on whether a participant in a debate makes a threat or a stigmatising statement directed at a specific group. Both actions may be extremely subversive to a public debate, because they may cause the participants of the debate to refrain from using their freedom of expression.

## **2.2 DEFINITION OF HATE SPEECH AS PRESENTED IN THIS STUDY**

In this report we base our definition of hate speech on the definition used by ECRI (see above), but we also add statements that target political beliefs and social status.

Thus, in the present study hate speech is defined as:

“Publically voiced stigmatising, derogatory, offensive, harassing and threatening statements that are directed at an individual or a group based on the individual’s or group’s gender, ethnicity, religion, disabilities, sexual orientation, age, political beliefs or social status.”

The eight grounds that we focus on here are all protected under human rights law.<sup>32</sup>

The definition does not explicitly concern the effects hate speech may have on the target of the hate speech, or on anyone who may read, see or hear the hate

speech. Implicit in this understanding of hate speech is that such statements are potentially harmful, thus placing less emphasis on whether a specifically hateful statement actually incites negative feelings in recipients. In contrast, the above definition places emphasis on the hateful statement being made in public - used in the same way as in section 266b of the Danish Criminal Code.

Hate speech may also target individuals and groups based on other grounds than the ones mentioned above. For example, hateful statements regarding lifestyle characteristics (e.g. obesity) are also directed at individuals, however, due to the human rights focus of this study, this type of hate speech falls beyond the scope of the present study.

### **2.3 WHAT IS KNOWN ABOUT HATE SPEECH?**

Overall, not enough is known about the scope and consequences of hate speech online.<sup>33</sup> Listed below are some of the most important national as well as international studies about the area.

A Slovenian study from 2009<sup>34</sup> analyses the content of hate speech that appears in debates that take place on a number of Slovenian news websites. Through discourse analysis, the researchers analyse the nature of the hate speech that takes place online. The study shows that hate speech is directed at race, nationality, political beliefs and religion. In addition to the discourse analysis, the study examines the motives for hate speech. Through qualitative interviews with individuals who spread hate speech on the news websites, the study highlights a number of characteristics and values of these individuals.

In the US, Pew Research Center conducted a large study in 2014<sup>35</sup> among 3,000 Americans about their experiences with online harassment. The study showed that 40 % of internet users had experienced harassment and 73 % had seen someone be harassed in some way online. More men than women reported having experienced online harassment; however women were much more likely to have been stalked online and to have been the target of sexual harassment. Moreover, the study showed that age plays an important role with regard to the risk of being the target of online harassment. In general, 18-29-year-olds experience more hate speech than older groups, and especially young women experience severe forms of online harassment.

A Finnish-American study<sup>36</sup> has shown that a large share of people exposed to online harassment and sexism are also more exposed to this type of bullying offline. The same tendency is seen in a Swedish report<sup>37</sup> about bullying and offensive behaviour among children and youths. The report shows that 35 % of the respondents who have been harassed online have also been harassed offline - and often by the same individuals.

The report "Experiences of Sexism"<sup>38</sup> by the European Social Survey shows that more women than men experience sexism in European countries. In Denmark, 26.8 % of women report that they have experienced sexism. In Sweden this figure is 37 % and in Norway it is 29.6 %. The corresponding figures for men in the three countries are 13.9 %, 17.1 % and 12.3 %, respectively.

The book *Meningers mot – netthat og ytringsfrihed i Norge*<sup>39</sup> (The courage to speak - online hate speech and freedom of expression in Norway, only available in Norwegian) documents that almost one in two Norwegian journalists and editors experience offensive behaviour, harassment and being the target of smear campaigns. The book also documents that women are more often the target of sexual harassment and threats than men, and that especially young women are targeted. The book also highlights the harmful effects of harassment and hate speech; the women journalists and editors reported how this type of harassment affected their behaviour and journalism negatively.

In 2014, *DR Nyheder* published the results of a poll they had conducted among 74 members of the Danish parliament that showed that 60 % of both male and female members had experienced online harassment. Around 30 % of the respondents, both male and female, have received death threats.<sup>40</sup>

Also a 2014 Norwegian survey<sup>41</sup> that addresses the status of freedom of expression shows that hate speech can have a harmful effect on people who participate in the public debate. The survey also shows that hate speech hits individuals with an ethnic-minority background harder than it hits individuals with a majority background. Whereas only 19 % of the majority population responded that their experiences with hate speech would affect their future participation in the public debate, a total of 36 % of respondents with a minority background responded the same. The large difference between these groups is due to the fact that minority respondents more often receive negative personal comments about their religion or their ethnic identity. For respondents with an ethnic majority background, unpleasant comments were much more often about a specific matter.

A study<sup>42</sup> conducted by researchers from Roskilde University that was published in 2014 analyses 149 posts and 3,800 comments on the Facebook pages of six news websites (eb.dk, bt.dk, politiken.dk, jp.dk, dr.dk and tv2.dk). Comments were collected over a period of seven days in 2012. The study showed that the majority of the comments analysed were neutral in tone (73 %) and 21 % were negative. That is, the language used in one in five comments was harsh or derogatory and targeted an individual or the media itself.

In October 2015, COWI published the report "Kortlægning af hadforbrydelser i Danmark" (Mapping hate crime in Denmark, only available in Danish). The report stated, among other things, that in the period 2000-2014, a total of 67 rulings were passed concerning violation of section 266b of the Danish Criminal Code. In these cases, the motives for hate speech were religious beliefs (36), ethnic origin and colour (30) and sexual orientation (1). The majority of the cases (40) were based on written statements, and most of them were spread online.<sup>43</sup>

In 2015 the Scandinavian journal Nordicom Information had a special issue on smear campaigns and hate online.<sup>44</sup> The publication sheds light on the dark side of digital development: the harassment, hate and threats spread online. Moreover, the articles focus on the different groups that are targeted, and the consequences of this online hate is examined. The Scandinavian perspective brings knowledge about the similarities and differences between the Scandinavian countries.

In connection with the work on the Norwegian government's strategy against hate speech<sup>45</sup>, the Norwegian Institute for Social Research prepared three scientific thematic reports about hate speech upon commission from the Norwegian Directorate for Children, Youth and Family Affairs.

"Delrapport 1: Forskning på art og omfang"<sup>46</sup> (thematic report 1: research on type and scope) collects research on the scope of online hate speech and identifies groups that are particularly targeted. Moreover, the report examines which media/platforms are especially used to spread hate speech as well as who spreads hate speech.

"Delrapport 2: Forskning på hat og diskriminering"<sup>47</sup> (thematic report 2: research on hate and discrimination) examines the correlation between hate speech and discrimination, and bullying and violence.

In the report "Delrapport 3: Grenseoppgangen mellom ytringsfrihet og strafferettslig vern mot hatefulle ytringer"<sup>48</sup> (thematic report 3: the borderline between freedom of expression and legal protection against hate speech), the authors point to the fact that interpretation and use of the provisions of the criminal code on hate speech must be compatible with freedom of expression. The report reviews the practice of the European Court of Human Rights in cases concerning hate speech versus freedom of expression.

In a report from November 2016<sup>49</sup>, the European Union Agency for Fundamental Rights (FRA) examines how media content and political discourses online as well as offline may contribute to inciting discrimination, hate or violence in EU Member States. The report explains European and international law for the area,

and presents supporting, relevant examples from European case law. The publication stresses the need for EU institutions and Member States to address the effect incitement to hatred may have on the groups targeted.

Surveys that examine people's attitudes toward, and experiences with, participating in public debates seem to be the most widespread method for examining the tone of the online debate. Overall, these surveys show that many people have experienced or been the target of differing levels of online harassment. Only few studies have examined how common a negative or harsh tone is in online debate. Thus in a Danish context, there is only one study that indicates that one in five comments on the Facebook pages of news media are negative. However, this study does not address whether these statements can also be considered hate speech and whether they target specific groups.

### **2.3.1 POLITICAL INITIATIVES IN THE NORDIC COUNTRIES**

In its collaboration programme, the Nordic Council of Ministers focuses on hate speech and sexism through the initiative "Køn, ligestilling og det offentlige rum" (Gender, equality and the public arena), which deals with men and women's opportunities to participate in the public debate.<sup>50</sup> Similarly, in 2016, in its working plan, the Finnish Presidency of the Council, presented an initiative concerning equality in the public arena, including the role of the media and hate speech with regard to democracy.<sup>51</sup> In connection with this, the Council has initiated a survey of legislation in the area in the Nordic countries.<sup>52</sup>

On 21 November 2016, the Norwegian government launched its strategy to combat hate speech 2016-2020. With this strategy, the Norwegian government wishes to prevent and create awareness of hate speech in the public debate and in the public arena. Moreover, the strategy also focuses on the consequences of hate speech. Four areas are prioritised in the strategy: schools and education, worklife, the judicial system and the media sector. Specific initiatives, e.g. developing teaching and information material for children and use of national statistics on hate speech in the judicial system, have been formulated for each area.<sup>53</sup> Norway will take over the Presidency of the Nordic Council of Ministers in 2017, and hate speech will be one of the four focus areas for the Nordic collaboration on equality.<sup>54</sup>

On 23 November 2016, only two days after the Norwegian government launched its hate speech strategy, the Swedish government launched its national action plan to combat racism and other similar forms of online hostility and hate crimes. This action plan forms the foundation for the government's work to combat racism and hate crimes within strategic areas, including knowledge, education and research, civil society and the judicial system.<sup>55</sup>

## **2.4 WHAT DO WE KNOW ABOUT THE CONSEQUENCES OF HATE SPEECH?**

Hate speech can have consequences both for the individual and for society. Through the language used in hate speech, an individual or a group is ascribed characteristics or behaviour that indicate that they are to be seen as being of inferior value or as inferior citizens in society. Hate speech may contribute to reinforcing existing negative stereotypes in society about individuals and groups based on characteristics such as gender, ethnicity and religion. Thus hate speech may contribute to polarisation and distrust and to legitimising discriminatory behaviour by indicating to the targeted groups/individuals that they are not wanted in society. Moreover, the chosen use of language may contribute to groups/individuals feeling excluded, threatened and insecure. A consequence of hate speech may also be that targeted groups cannot participate on the same footing as others can in the social and political arena, because they are perceived as being inferior. Thus hate speech limits the possibilities for the targeted groups and individuals. Furthermore, it is also important to remember that hate speech may cause fear and anxiety among those who are bystanders, and thus invoke and reinforce hatred and negative feelings against the groups targeted by the hate speech.<sup>56</sup>

Experience from Norway indicates that hate speech creates a climate that weakens democracy by limiting different groups' participation in the public debate.<sup>57</sup> Research conducted at the Norwegian Police University College shows a clear correlation between online hate speech and the capacity and willingness to commit violence.<sup>58</sup> In the long run through its dehumanisation of a group of individuals, hate speech may breed acceptance of violence among a bigger audience<sup>59</sup> and may in its most extreme form evolve into radicalisation and violent extremism.

The population survey that was mentioned in the beginning of this study shows a clear example of how the tone of the public debate may lead to people not wanting to express their opinion openly. Thus this constitutes a problem for democracy that weakens the public debate and ultimately results in 50 percent of the population not wanting to contribute to the public debate. This figure is supported by a survey among Facebook users, which was conducted as a supplement to the content analysis (see more about this in Chapter 7).

## CHAPTER 3

### 3 FACEBOOK AND NEWS MEDIA

Over the years, Facebook has grown into more than just a global social community. Today, Facebook is a central media platform, also in Denmark, offering a forum for debate and distribution of news. Facebook produces no actual content itself, but allows newsmakers and users to distribute content on Facebook in order to generate debate, or to attract readers, viewers and listeners to the news media websites.

A survey carried out by Roskilde University in 2015 showed that 47 % of Danes use social media such as Facebook as a news channel.<sup>60</sup> A public-service report published by the Danish Ministry of Culture in November 2016 showed that particularly young Danes use social media, including Facebook, as a primary source of information. Consequently, social media play an important role as provider of news<sup>61</sup>

According to figures from Statistics Denmark, approximately 2.7 million Danes have a profile on Facebook<sup>62</sup>, and Denmark has one of the world's highest proportions of Facebook users relative to its population.

In other words, when investigating the nature of public online debate reaching large numbers of people and potentially involving a broad section of the Danish population, Facebook pages of news media are an obvious place to look for data.

However, using Facebook as a medium for distributing news and as a forum for debate is not without problems, as Facebook controls news distribution through algorithms that are often non-transparent to makers and users of news alike. The algorithms are frequently accused of generating 'consensus bubbles', because they control the content presented to users in their newsfeeds. Content is controlled through user interaction on Facebook. Therefore, pages, posts and updates from profiles that users have previously reacted and commented on show up most frequently in the feeds. The implication is that users are typically shown content and viewpoints that they agree with, and this is how the consensus bubbles are created. Another concern raised in the public-service report is that, increasingly, young people use social media as their preferred or only source of news. This creates a risk that young people almost exclusively

encounter 'news' and views from like-minded environments, whereas they rarely come across opposing views and more comprehensive and nuanced news coverage.<sup>63</sup>

In some cases, Facebook modifies and censors content according to a set of guidelines rooted in American norms, and sometimes the guidelines appear random and inconsistent. This has given rise to heated debate, for example when Facebook removed an image and a post from the Facebook page of Aftenposten, a Norwegian newspaper, in September 2016.<sup>64</sup> The image was an iconic photo from the Vietnam War from 1972 of a naked girl running away from the scene of a napalm attack. Consequently, when news media choose to use Facebook, they cannot know how much of their editorial power, and thereby journalistic freedom, they might surrender to the distributor of news.

### **3.1 THE MEDIA LIABILITY ACT**

As common users of Facebook, the media are covered by Facebook's general user terms, and consequently they may experience that their Facebook content is modified or removed. Although Facebook edits and removes content, the media are not denied the freedom to decide on the nature and volume of news published on Facebook, nor are they denied of the opportunity to edit discussions on their Facebook pages in response to content they have posted. When news media edit discussions, be it on Facebook, on their own websites, in newspapers or on radio and television, the editing may take different forms depending on the norms of the news industry as a whole and of the individual news media. The Danish Media Liability Act lays down a set of general and formal guidelines for news media activities.

The Danish Media Liability Act<sup>65</sup> dates back to 1992 and has only been revised in few areas since then. Thus, the Act has not been amended to take account of the increased use of social media platforms for news distribution and debate. The implication is that news media's online practice is not subject to independent statutory regulation in the same way as print or electronic news media. According to the Media Liability Act, the Danish Press Council has the authority to determine whether a news media publisher covered by the Danish Media Liability Act observes the advisory rules on sound press ethics. Sound press ethics has not been defined by any Act, but is a so-called 'legal standard', which may also be described as good conduct.<sup>66</sup> Section 34 of the Danish Media Liability Act states that: "The content and conduct of the mass media shall be in conformity with sound press ethics."<sup>67</sup> Ultimately, what constitutes good conduct in a given case relies on a judgment from the Press Council.<sup>68</sup>

The advisory rules on sound press ethics are of a general nature and do not explicitly refer to hate speech or to norms governing debates in media covered



by the the Danish Media Liability Act and the advisory rules. However, the press ethical rules do express the fundamental view that: “(...) the media should recognise that the individual citizen is entitled to respect for his/her personal integrity as well as the sanctity of his/her private life and the need for protection against unjustified violation hereof”<sup>69</sup>, but without any further specifications.

### **3.2 THE PRESS COUNCIL**

The function of the Press Council is to ensure a high level of press ethics in Danish media. The Press Council is not authorised to impose sanctions or orders for compensation, but it may voice its criticism of a news media publisher and demand that it publishes a reply as well as the criticism from the Press Council in a specific manner.<sup>70</sup>

Online news media must actively register with the Press Council in order to be covered by the advantages and obligations of the Danish Media Liability Act. At the start of November 2016, far from all news media had registered their Facebook pages with the Press Council.<sup>71</sup> None of the large national media under the major Danish news groups JP/Politikens Hus and Berlingske Media had registered their Facebook pages with the Press Council on 1 November 2016. The same applies to the Facebook pages of TV 2, a major Danish TV channel, whereas the Danish Broadcasting Corporation (DR) had registered its Facebook pages.

If a news media company has not registered its Facebook page with the Press Council, the page is not covered by the Danish Media Liability Act, and thus formally, the press-ethical guidelines do not apply. Consequently, it goes beyond the authority of the Press Council to deal with complaints or inquiries regarding such pages. Two decisions from the autumn of 2016 are examples of this. In these cases, the Press Council was not able to handle complaints regarding content on the Facebook pages of two media organisations.<sup>72</sup>

However, this does not mean that the news media are not responsible for their Facebook pages. It is indeed true that their Facebook pages and Twitter accounts are only covered by the Danish Media Liability Act (and thereby the authority of the Press Council) if these pages and accounts have been registered with the Press Council. This applies even if the parent company in a news media group is registered. If no registration has been made, the publisher with overall responsibility is still legally responsible for the content, pursuant to general statutory regulations. This was established in a judgment by Copenhagen City Court on 13 May 2016 in a case concerning two Danish hostages in Somalia.<sup>73</sup>

#### **3.2.1 EDITED AND UNEDITED DISCUSSIONS**

The advisory rules on sound press ethics distinguish between two types of discussion contributions: edited and unedited discussion contributions. Edited

discussion contributions are subject to editorial review and prioritisation. These contributions are covered by the regulations of the Danish Media Liability Act in line with letters to the editor in print media, and consequently they fall within the authority of the Press Council. Unedited discussion contributions, as defined by the Press Council, are contributions published by the authors themselves on a media website, e.g. when commenting on an article or a discussion post. These contributions are not covered by the regulations of the Danish Media Liability Act, but are instead subject to general regulations under Danish law, including regulations concerning defamation and the offences against personal honour laid down in the Danish Criminal Code.<sup>74</sup>

The scope of the ethical rules of the press cover "(...) the editorial materials published in the media. The rules also cover edited discussion contributions". When publishing unedited discussion contributions, the media should follow clear and visible guidelines for the debate and ensure that people have access to an effective complaints procedure regarding discussion contributions.<sup>75</sup> In a decision from 2013, the Press Council addressed the difference between edited and unedited discussion contributions.<sup>76</sup>

In practice, however, user comments on Facebook and similar platforms are somewhere in between the two types of discussion contributions: The contributions are edited, but the editing takes place after publication, and is carried out by a news media editor/moderator who reads the contributions and decides either to keep them, delete them or hide them. On the one hand, these comments fall into the category of unedited contributions, as the author writes them directly on the media website, but on the other hand, many comments will in practice be subject to editing by the media. In connection with a potential revision of the Danish Media Liability Act, it is relevant to reconsider the interpretation of when a discussion is subject to editing, and consequently covered by the advisory rules on sound press ethics.

### **3.2.2 'BROADER SCOPE'**

With regard to letters to editors and reader debates on newspaper discussion pages, as well as discussion contributions on online debate forums, the Press Council applies an interpretation proposing a 'broader scope'<sup>77</sup> for statements made in the public debate than for similar statements in news articles.

When dealing with cases, the Press Council distinguishes between media-generated content and content submitted by readers/users, but subject to editing by the media publisher. The Press Council's primary motivation for accepting a broader scope in the public debate is that discussion contributions involve subjective views and assessments, thus allowing for more freedom in language use. It is not clear, however, how the 'broader scope' translates into

editing practice on Facebook and other social media. One of the most distinct differences between traditional letters to editors in newspapers and discussion contributions on news-media Facebook pages is that in the latter case, the contributions are published before the news media have a chance to read them. The possibility to edit letters prior to publication in newspapers does not exist to the same extent on social media. In connection with a possible revision of the Danish Media Liability Act, it is therefore relevant to reconsider the interpretation of a 'broader scope'.

This study will map and clarify hateful language in public debate, and thus provide the foundation for discussing desirable behaviour among responsible news media in online discussions on Facebook and similar platforms.

### **3.3 MODERATION ON FACEBOOK**

Facebook has developed a set of community standards encouraging respectful behaviour and describing the type of content to be reported to Facebook and subsequently removed. The standards apply to general user posts as well as news media pages. According to the community standards, 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
- Serious disabilities or diseases.<sup>78</sup>

Facebook remove content based on reports from users, and emphasise in their standards that they provide users with "tools to avoid distasteful or offensive content"<sup>79</sup>

As mentioned above, Facebook's editing of posts and comments has repeatedly led to intense debate concerning the way in which the editing is carried out in practice. Furthermore, Facebook has been criticised for its non-transparent editing practice, both with respect to statistics available, resources used for editing and translation of guidelines into specific editing practices.

The two Danish news providers, *DR Nyheder* and *TV 2 Nyhederne*, have established specific guidelines for Facebook discussions and made them available on their Facebook pages.

*DR Nyheder* stresses that contributions must show respect for the views and attitudes of others. Contributions which contain derogatory language, sidetrack the debate, harass other people, are hateful or have been written by fake profiles are not accepted.<sup>80</sup>

*TV 2 Nyhederne* encourage a decent tone in the debate. They state that they moderate content on the basis of Facebook guidelines, but that they have also established their own principles. According to these principles, offensive language, personal attacks, harassment and incitement to violence are not accepted. Furthermore, all users are required to write from their own profiles, indicating both first names and last names.<sup>81</sup>

The two news media organisations make clear that non-compliance with their guidelines may result in contributions being deleted, or in users being denied access to take part in online discussions.

Our interest in the concept of moderation in this context focuses on media surveillance and behaviour in connection with online discussions following a news post. The concept thus covers both monitoring, editing, active intervention and deletion of content. On Facebook, the media have the option to exclude/block users, delete their posts or hide posts so other contributors cannot see them. DR and TV 2 have employees who are responsible for managing their Facebook pages. The tasks of these employees include creation of news posts directing readers to news on DR's and TV 2's own media platforms, and monitoring and editing the discussions that are spurred by their Facebook news posts.

# CHAPTER 4

## 4 METHODS

This study of hate speech is primarily based on two methodological approaches presented in the following: a quantitative content analysis on Facebook, and a questionnaire survey carried out among Facebook users. Furthermore, the perspectives in the report are based on dialogue with DR employees and visits to *DR Nyheder*, a literature review of other research and surveys in the field, as well as an overview of human rights law and Danish law with regard to hate speech.

### 4.1 QUANTITATIVE CONTENT ANALYSIS

Quantitative content analysis is a methodology developed and applied in media research with a view to analysing content of mass media communication.<sup>82</sup> The methodology has been developed along with general developments in media communication, and today, it is frequently used for analysing web and social media content<sup>83</sup> and aims to map the messages being communicated through these channels. Quantitative content analysis is thus suitable for mapping the scope and nature of hate speech on the Facebook pages of *DR Nyheder* and *TV 2 Nyhederne*.

The empirical basis for the quantitative content analysis consists of 2,996 comments written by users in response to news posts published by DR and TV 2. The comments were collected manually over a four-month period from April to July 2016. They were randomly selected, the aim being to collect comments from as many different discussions as possible, taken from as many different places in the discussions as possible. The purpose of this data collection method is to ensure that the results genuinely reflect the scope and nature of hate speech, without bias from overrepresentation of special topics or from comments being placed at the top of comment threads due to the algorithms used by Facebook.

The comments were collected no sooner than 12 hours after they had been published. The 12-hour span was intended to allow DR or TV 2 time to edit and possibly delete comments conflicting with their guidelines. Consequently, the material analysed does not represent the total volume of hate speech comments actually formulated by users, but shows the volume and nature of hate speech comments still remaining as part of the debate after allowing DR and TV 2 reasonable time to remove comments conflicting with their guidelines.

Therefore, the results of this methodological approach show two things: 1) the scope and nature of hate speech comments facing users of the DR and TV 2 Facebook pages following editing, and 2) the scope and nature of hate speech accepted by DR and TV 2 on their Facebook pages.

Apart from the media's own editing, Facebook may also have edited comment threads based on their Community Standards.<sup>84</sup>

The Facebook pages of *DR Nyheder* and *TV 2 Nyhederne* were selected for the analysis because DR and TV 2 are the largest Danish media organisations on Facebook, and because, traditionally, they reach a broad range of Danes. Consequently, it is assumed that users participating in discussions on these pages represent the broadest possible spectrum of political views and social backgrounds found on the Facebook pages of Danish news media. Furthermore, both companies are covered by public-service contracts establishing a number of general and formal obligations in relation to the content they distribute.

Thus, this survey does not include findings on the general tone of the debate on all Danish Facebook pages or the percentage of hate speech on such pages. The results might be different, if we investigated closed Facebook groups or the comments threads of politicians' Facebook pages, for example. Focusing on some of the largest publicly available Facebook pages, managed by leading Danish media organisations that are considered the cornerstone of news distribution and discussion forums in Denmark, gives us an impression of how Facebook discussions concerning topics of great societal significance unfold.

#### **4.1.1 CODING**

As part of the methodological design, a coding manual describing the categories and variables on which the content analysis was based, and a coding sheet in which the registrations were made, have been developed.<sup>85</sup> The purpose of the coding manual was to ensure uniform registration, and the manual contains a set of clearly defined analytical units. Based on data registered in the coding sheet, it was possible to calculate the percentage of hate speech, the topics to which they relate, the nature of hate speech comments and a number of other characteristics that can give us an understanding of hate speech.

Our understanding of hate speech is based on the definition presented in chapter 2. All comments were considered in relation to this definition, assessing whether the hate speech comment related to gender, ethnicity, religion, disability, sexual orientation, age, colour, political belief or social status. Furthermore, the comments were coded according to severity on a scale which seeks to categorise the degree of hatred in relation to the definition applied. The scale comprises five levels, with 1 being the mildest and 5 the most severe

degree of hatred. The levels were translated into five concepts: 1) stigmatising, 2) derogatory, 3) offensive, 4) harassing, and 5) threatening.

The scale acknowledges the need for a more nuanced understanding of hatred, as hatred may take many different forms and vary in strength. Also, a more nuanced understanding of hatred may help identify ways of dealing with it.

Coding accuracy was evaluated by means of reliability tests on 10 % of all collected data material. The tests showed that 20 variables in the study had accuracy values in the range of 0.78-0.993 when calculated using Krippendorff's alpha. A calculation of the percentage agreement between the original coding and the test coding revealed accuracy values above 95 % in all categories tested. Overall this indicates that the understanding of the concepts on which the coding is based is general and reproducible, and that the results of the study provide an accurate picture.

#### **4.2 QUESTIONNAIRE SURVEY**

The Danish Institute for Human Rights wanted to examine Danish Facebook users' experience of participating in Facebook discussions, and find out how much the tone in the debate influences users' willingness to get involved in public debate. To this end, a survey was carried out on a sample of Danish citizens.

The survey was performed by Megafon, an opinion-research institute, as an online survey using members of the Megafon panel who provided anonymous responses. The survey, which was carried out especially for the Danish Institute for Human Rights, was conducted in the period 3 June to 7 June 2016. The target group was people aged 18 years or more who had a Facebook profile.

Emails were sent to 2,772 panel members, and 1254 responded. This corresponds to a response rate of 47%. The number of respondents who had a Facebook profile was 1045, and only this group was included in the analysis. Half of the respondents who had a Facebook profile had been involved in Facebook discussions (n = 511), and the analysis focused on the experiences of this group. When significant gender differences occur, the report will indicate so.

The results of the Megafon survey have not been weighted, because the data available on Danish Facebook users are insufficient for weighting to be meaningful. However, we have made a comparison of responses from the Megafon survey with estimates of Facebook users and the Danish population. This kind of survey is subject to uncertainty due to selection bias, because panel members decide themselves whether they wish to participate in the survey.

If the respondent group comprised less than 50 persons, the statistical uncertainty was so significant that the group has not been included in our discussion of the results. Among the 18-29-year-olds, only 57 respondents had participated in Facebook discussions or commented on discussions. As a result, responses from this group were associated with more uncertainty than the other age groups. We decided to use data material from this group despite the greater uncertainty, because there are often considerable differences between this and the other age groups.



# CHAPTER 5

## 5 OVERVIEW OF LEGISLATION

In this chapter, we will take a closer look at the protection against hate speech provided by human rights law and Danish law.<sup>86</sup> As described in Chapter 2, in this report we apply a broad definition of hate speech, covering lawful as well as unlawful hate speech.

### 5.1 HUMAN RIGHTS PROTECTION

According to human rights law, hate speech can be divided into three categories:

- 1) Lawful hate speech
- 2) Lawful hate speech that may be restricted, and
- 3) Unlawful hate speech that must be restricted.

Hate speech that **must** be restricted: States are required to prohibit the most severe forms of hate speech, i.e. incitement to violence, discrimination or hostility.

Hate speech that **may** be restricted: Human rights law allows restrictions on hate speech to protect the rights or reputation of others.

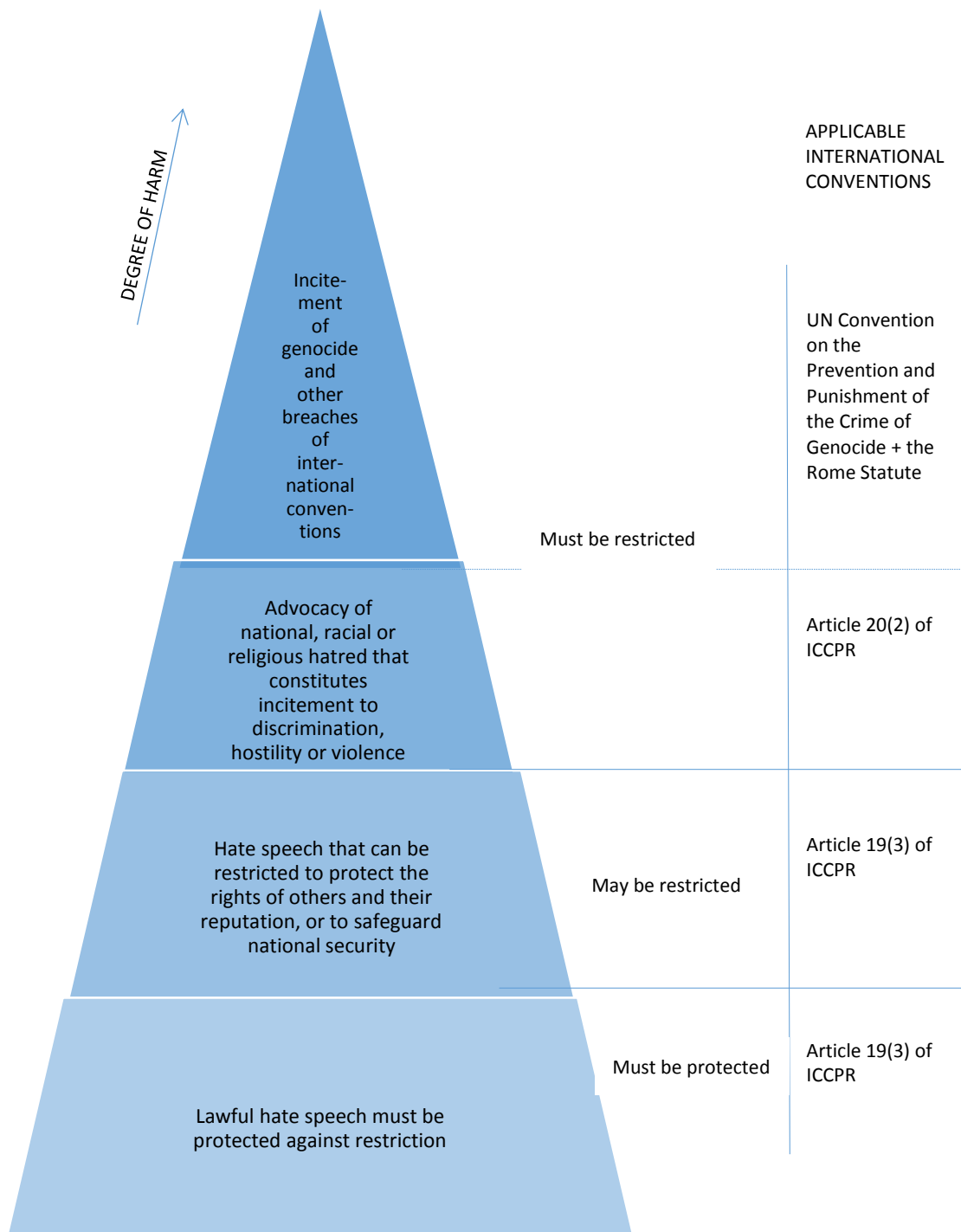


FIGURE 1: The Hate Speech Pyramid, inspired by Article 19.

### **5.1.1 THE RIGHT TO FREEDOM OF EXPRESSION**

Freedom of expression is a basic human right and a prerequisite for democracy. By far the majority of statements are allowed in Denmark. In some cases, however, it may be necessary for a state to restrict freedom of expression, for example to prevent violence, hatred and assaults. The following is a review of the legal protection against hate speech laid down in human rights law as well as in Danish law. The review also discusses when a statement is considered to cross the line for lawful hate speech, and thus constitutes an unlawful act.

The right to freedom of expression is secured by a number of international conventions. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) contains a legal obligation to refrain from interference in the right to hold opinions, either orally, in writing or in print, in the form of art, or through any other media.

According to Article 10 of the European Convention on Human Rights (ECHR), everyone has the right to freedom of expression. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

In its comprehensive practice in the area of freedom of expression, the European Court of Human Rights (ECHR) has continuously highlighted the fundamental importance of freedom of expression in a democratic society, and that freedom of expression not only comprises information and ideas that are accepted or neutral, but also those which chock, offend, insult or worry the public authorities or parts of the population. This follows from the requirements on pluralism, tolerance and broadmindedness without which there is no "democratic society".<sup>87</sup>

However, freedom of expression brings special obligations and a special responsibility, and therefore, in some situations it needs to be restricted.

### **5.1.2 RESTRICTIONS ON FREEDOM OF EXPRESSION IN ICCPR, CERD AND ECHR**

The ICCPR, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the ECHR include provisions aimed at preventing actions that intend to abuse or circumvent the intent of the rights secured by these conventions, including freedom of expression. Since restrictions are an exception to the general rule of freedom of expression, in cases of doubt, they are to be interpreted as limitations.<sup>88</sup> According to the ICCPR, restrictions must be provided by law and be necessary for respect of the rights or reputations of others and/or for the protection of national security or of public order, or of public health or morals.<sup>89</sup>

Furthermore, ICCPR contains more specific restrictions on the freedom of expression. Pursuant to Article 20(2) of ICCPR, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence must be prohibited by law. Furthermore, Article 2(3) of ICCPR includes an obligation to ensure effective legal protection and investigation through a national remedy in order to protect the rights stipulated by the Covenant.

According to CERD (the International Convention on Racial Discrimination), the States Parties are committed to taking measures to combat any incitement to or acts of racial discrimination. In particular, states are obliged to criminalise dissemination of ideas based on racial superiority or racial hatred, incitement to racial discrimination, acts of violence or incitement to such acts against persons of other ethnic origin.<sup>90</sup>

In the ECHR the restrictions are formulated such that freedom of expression may be subject to formalities, conditions, restrictions or penalties which are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.<sup>91</sup>

In a large number of cases, the ECHR has decided on the issues of incitement to hatred and freedom of expression. When dealing with such cases, the ECHR uses either Article 17 (prohibition of abuse of rights stipulated in the convention) or Article 10(2) (permissible restrictions in the right to freedom of expression). The ECHR has thus rejected a complaint concerning violation of freedom of expression with reference to Article 17, because the complainant had published a series of articles comprising hate speech directed at Jews, which was a violation of ECHR's values of tolerance and non-discrimination.<sup>92</sup> Article 10(2) of the ECHR applies to cases where hate speech is involved, but of a less severe nature, thereby not undermining the fundamental rights secured by the Convention.<sup>93</sup>

In the so-called Delfi judgment from 2015, the European Court of Human Rights decided for the first time on the issue of responsibility for comments posted on websites in relation to Article 10 of the ECHR. The case concerned a news portal which had been fined in a defamation lawsuit due to comments posted in response to a news article. The ECHR found that the news portal was to be held responsible with reference to the extreme nature of the comments, and to the news portal not taking the necessary steps to remove the comments without

delay. This decision constituted a lawful restriction of the complainant's freedom of expression.<sup>94</sup> In a similar case from February 2016, the ECHR came to the opposite conclusion and found that a violation of the freedom of expression had taken place.<sup>95</sup> The case concerned the responsibility of an internet provider and a news portal for comments posted on their websites. To a large extent, the ECHR referred to the Delfi judgment, but following an assessment of the content of the comments, the ECHR arrived at the opposite conclusion. The ECHR stated, for instance, that although the comments were to be considered gross, they did not constitute an obvious case of unlawful hate speech, such as incitement to violence.

### **5.1.3 OTHER INTERNATIONAL STANDARDS**

According to the Additional Protocol to the Council of Europe Convention on Cybercrime, member states are obliged to criminalise statements disseminated to the general public through a computer system that advocate, promote or incite hatred, discrimination or violence against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these discrimination factors.<sup>96</sup> The Additional Protocol takes account of member states' established principles relating to freedom of expression and accepts reservations with respect to criminalisation of discriminating statements.

The Council of Europe Convention on Cybercrime<sup>97</sup> from 2001 and the Additional Protocol<sup>98</sup> from 2003 govern hate speech motivated by racism and xenophobia. The Additional Protocol requires member states to criminalise online statements of a racist or xenophobic nature. Denmark has ratified both the Convention and the Additional Protocol.

Furthermore, the EU Framework Decision on combating racism and xenophobia from 2008 requires member states to ensure that intentional conduct related to publicly inciting to violence or hatred against individuals or groups of individuals defined by reference to race, colour, religion, descent or national or ethnic origin is punishable. Consequently, in relation to the International Convention on the Elimination of All Forms of Racial Discrimination, protection has been expanded to include religious affiliation. Moreover, the Framework Decision criminalises intentional conduct "publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes (...) directed against a group of persons or a member of such a group".<sup>99</sup> According to the Framework Decision, Denmark is obliged to introduce penalties which are effective, proportionate and dissuasive.

In May 2016, the European Commission entered into collaboration with Facebook, Twitter, YouTube and Microsoft to combat unlawful online hate speech. With a common Code of Conduct,<sup>100</sup> the IT companies have committed themselves to reviewing reports of hate speech on their platforms and to responding to unlawful content within 24 hours. The parties define unlawful hate speech on the basis of the 2008 Council of Europe Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law.<sup>101</sup> The definition thus includes public incitement to violence or hatred directed at a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin. The Code of Conduct stresses the crucial importance of freedom of expression. Furthermore, it underlines that the spread of hate speech online not only affects the groups or individuals that it targets, it also has a chilling effect on the democratic discourse on online platforms. Moreover, the Code of Conduct stresses the special role of civil society organisations in preventing hate speech online and promoting non-discrimination, tolerance and respect.

A statement from December 2016 from Věra Jourová, European Commissioner for Justice, Consumers and Gender Equality, showed that out of 600 reports submitted to the IT companies, 40 % were reviewed within 24 hours. After 48 hours, 80 % of the reports had been reviewed. In this connection, the Commissioner stated that the companies need to act faster to convince consumers that the non-legislative approach can efficiently combat hate speech online.<sup>102</sup>

#### **5.1.4 RECOMMENDATIONS AND DECISIONS FROM UN COMMITTEES ETC. RELATED TO COMBATING HATE SPEECH**

Numerous legally non-binding recommendations and guidelines are being prepared on an ongoing basis by the UN, in particular the UN Human Rights Committee and the UN Committee on the Elimination of Racial Discrimination, through the UPR process<sup>103</sup>, and by relevant Special Rapporteurs. Moreover, recommendations are prepared by the Council of Europe, in particular the European Commission Against Racism and Intolerance (ECRI), the Council of Europe Commissioner for Human Rights and by the EU.<sup>104</sup> Recommendations and guidelines are usually prepared in connection with periodic review through international monitoring tools used to track implementation of convention commitments in Denmark and other countries, or in connection with general interpretation contributions. The UN Human Rights Committee and the UN Committee on the Elimination of Racial Discrimination, who monitor the implementation of ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination, can process complaints concerning violation of the freedom of expression, the commitment to criminalise incitement to religious and ethnic hatred, the commitment to criminalise racist statements, as

well as ineffective protection against racial discrimination. The UN Committee on the Elimination of Racial Discrimination (CERD) presents non-binding decisions on individual complaints. Relevant decisions will be described under the individual themes below.

In a General Recommendation, the UN Committee on the Elimination of Racial Discrimination (CERD) states that the prohibition of the dissemination of ideas based upon racial superiority or hatred is compatible with the right to freedom of expression.<sup>105</sup>

Furthermore, in another General Recommendation, CERD<sup>106</sup> recommends that only the most serious examples of racist statements should be criminalised; less serious racist statements should be addressed by other means.<sup>107</sup> The application of criminal law should be governed by the principle that any case must be proven beyond a reasonable doubt, and by the principles of legality, proportionality and necessity. On the qualification of hate speech as an offence punishable by law, CERD recommends that the following criteria be taken into account: the content and form of the speech; the economic, social and political climate prevalent at the time the speech was made; the position or status of the speaker in society; the reach of the speech and the objectives of the speech.

In a 2005 decision, CERD stated that grossly offensive statements may be considered incitement to racial discrimination, if not violence, and that the International Convention on the Elimination of All Forms of Racial Discrimination secures a right to effective remedies against such statements.<sup>108</sup>

In its most recent concluding observations on Denmark from June 2015, CERD expressed concerns over the growing xenophobia and political propaganda against foreigners. In this context, CERD referred, for instance, to racist publications in the media, growing islamophobia, the terrorist attack against the Jewish community in early 2015, stigmatisation of the Roma community, and the display at the Danish Parliament building of racist pictures by Swedish artist Dan Park that can be seen to incite violence. CERD recommended that Denmark reinforces efforts to combat violence, xenophobia and intolerance, and urged for Danish politicians not to forget their commitment to encourage tolerance and intercultural understanding between different groups of society. Furthermore, CERD recommended that Denmark develops a national action plan against racism focusing in particular on combating hate crime, and that Denmark presents detailed information describing the measures taken to map hate crime in Denmark, as well as the monitoring system used by the Danish National Police to account for specific results achieved. Finally, CERD highlights General Recommendation no. 35 on racist hate speech, calling attention to the fact that the right to freedom of expression is not unlimited, but may be subject to

restrictions. This applies, for example, to any form of hate speech undermining fundamental human rights principles of human dignity and equality, and seeking to degrade the standing of individuals and groups in the estimation society. CERD recommends that Denmark takes effective action to combat hate speech, including racist hate speech online, while at the same time respecting the freedom of expression.<sup>109</sup>

In 2011, the UN Office of the High Commissioner for Human Rights (OHCHR) organised a series of expert workshops in different parts of the world, focusing on the prohibition of incitement to national, racial or religious hatred, and resulting in the so-called Rabat Plan of Action.<sup>110</sup> Surveys showed, among other things, that jurisprudence on hate crime was scarce, at global level, which may be due to insufficient effective legislation. One of the recommendations in the action plan was that Member States' hate crime legislation include clear and robust definitions of key terms such as of hatred, discrimination, hostility and violence, bearing in mind the close interrelationship between articles 19 (concerning freedom of expression) and 20 of the ICCPR.<sup>111</sup> Furthermore, the action plan recommends that national and regional courts of law be updated regularly about international standards and jurisprudence relating to hate crime, that Member States should promote intercultural understanding, and that systematic collection of data in relation to incitement to hate crime take place.

In the 2011 Universal Periodic Review (UPR) of Denmark, one of the recommendations was that Denmark maintained section 266b of the Criminal Code prohibiting hate speech. A further recommendation was for Denmark to take measures that would discourage the prosecuting authority from giving up cases involving racial or religious hatred, and discourage victims from reporting hate crimes that would result in offender impunity.<sup>112</sup> In the most recent UPR of Denmark, conducted in 2016, one of the recommendations was that that Denmark prepares a national action plan to combat racism and discrimination, and that Denmark combats hate speech and promotes tolerance and respect for cultural diversity, including tolerance and respect for political statements and campaigns.<sup>113</sup> During the examination, Denmark argued that hate speech and hate crime, including hate speech and hate crime online, are high-priority areas in the combating of crime, and that a monitoring programme had been launched, the result of which should provide better means for planning and implementing future national strategies for hate crime prevention.

The Council of Europe Commissioner for Human Rights has expressed concerns about the scope of hate speech in the Danish public debate with respect to ethnic and religious minorities, in particular Muslims and Roma, and has drawn attention to the special responsibilities of politicians and the media. However, the Commissioner welcomed the guidelines issued by the Director of Public



Prosecutions concerning processing of such cases, but noted that the number of convictions in hate speech cases is low.<sup>114</sup>

The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>115</sup> and the European Commission against Racism and Intolerance (ECRI) have expressed similar concerns.<sup>116</sup>

In December 2015, ECRI published a General Policy Recommendation comprising ten recommendations to combat hate speech. For example, ECRI recommended that Member States provide support for self-regulation by public and private institutions, including the adoption of ethical codes of conduct, and that hate speech be monitored in the workplace. Furthermore, ECRI recommended that all financial support and other forms of support be withdrawn from public sector bodies or political parties that support hate speech.<sup>117</sup>

The Camden Principles were prepared by Article 19, a British human rights organisation focusing on freedom of expression, in consultation with UN officials and civil society and academic experts. The Camden Principles were introduced in April 2009. The objective of the principles is to foster greater understanding of the relationship between respect for freedom of expression and the right to non-discrimination. The principles are not legally binding, but Article 19 encourages individuals, organisations and decision-makers alike to endorse the Camden Principles<sup>118</sup>.

## **5.2 THE SITUATION IN DENMARK**

In accordance with human rights law, Danish law prohibits certain types of hate speech.

Thus the Danish Criminal Code contains provisions that protect against serious hate speech (section 266b), threats (section 266) and offences against personal honour (sections 267-274). Moreover, section 81, no. 6 stipulates that it must be considered an aggravating circumstance if the offence, e.g. a threat or an act of violence, stems from the victim's ethnic origins, religious beliefs or sexual orientation. According to section 81, no. 7, it should also be considered an aggravating circumstance if the offence stems from the injured party's lawful expressions in the public debate.

Danish legislation on discrimination protects against harassment on the labour market on grounds of gender, race, ethnicity, religion, sexual orientation and disabilities.

Danish legislation also protects against harassment on grounds of gender, ethnicity and race outside the labour market. Protection covers large parts of

social life, however it does not cover activities of a purely private nature. Statements made by private individuals to other private individuals on Facebook that are not covered by the provisions in the Criminal Code will therefore generally fall outside the statutory protection against discrimination.<sup>119</sup>

#### **5.2.1 SECTION 266B OF THE CRIMINAL CODE – THE ‘RACISM SECTION’**

Section 266b(1) of the Criminal Code criminalises anyone who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual inclination.

The provision was given its current wording in 1971, so that Denmark could ratify the UN International Convention on the Elimination of All Forms of Racial Discrimination. As stated in section 266b, the provisions far from criminalise all types of hate speech and thereby does not criminalise statements regarding, for example, disability and gender (table 1).

GROUNDS FOR PROTECTION	PROTECTION
Gender	No
Ethnicity	Yes
Religion	Yes
Disability	No
Sexual orientation	Yes
Age	No
Colour	Yes
Political belief	No

**TABLE 1:** Overview of discriminatory grounds covered by section 266b of the Danish Criminal Code.

The preparatory legislative material for the provision states that, in contrast to the provisions in the Criminal Code regarding offences against personal honour for individuals, the aim of section 266b is to protect the human dignity of specific groups of the population. The core of the provision is statements that target specific groups stating that they generally lack value as human beings as well as subjective, generalising allegations about serious crime and immorality.<sup>120</sup>

Statements on religion or ideologies etc. are not covered by the scope of the provisions, unless these are threatening, insulting or degrading statements about one of the groups protected. Statements about Islam or any other religion are thus not covered by section 266b. In other words, a distinction must be drawn between religions and believers etc., and it is generally not possible to equate statements about a religion and its followers. Furthermore, threatening, insulting or degrading statements, for example about the consequence of a multi-ethnic society, are not covered by the scope of section 266b. The statement must be about one of the protected groups.<sup>121</sup> Scientifically presented theories about racial, national or ethnic differences assumed not to be covered by the convention also fall outside the scope of section 266b.<sup>122</sup>

Unlike some European countries, it is generally not a criminal offence under Danish law to deny, grossly trivialise, condone or justify historical genocide or crimes against humanity (e.g. the so-called Auschwitz lies which deny the genocide in the camp of Auschwitz). However, such comments are punishable if they are made intentionally to insult or degrade a group of people mentioned in section 266b of the Criminal Code.<sup>123</sup> The Director of Public Prosecutions assumes that degrading comments referred to in section 266b must be of a certain gravity to take into account the freedom of expression.<sup>124</sup>

In connection with Denmark's reply in the Universal Periodic Review process in 2011, the Danish Government emphasised that in criminal cases concerning hate speech, the courts will have to assess whether a specific statement is protected or conflicts with the Criminal Code, and that this assessment must focus on freedom of expression.<sup>125</sup>

Especially communication on social media, such as Facebook, has made it unclear as to when a comment is intended for wider or indefinite dissemination, which is a prerequisite for violating section 266b in the Criminal Code. The announcement from the Director of Public Prosecutions regarding hate crime states that if the statement was made in a forum not accessible to the public, e.g. on a closed Facebook account, the statement must have been made with the intention of wider dissemination, and this requires documentation on the number of people who have access to the account or the forum, and on how the account has been set up.<sup>126</sup>

In a case from 2014 from the High Court of Eastern Denmark (appealed by the prosecuting authority), the court ruled that a message posted on a private Facebook account in fact could be considered as having been posted with the intention of wider dissemination. In this case, the High Court of Eastern Denmark placed emphasis on the number of friends (around 900 people) and on the fact that the defendant was aware that information from the private account could be disseminated to a wide, indefinite circle of people. The decision stressed the consideration for freedom of expression and the political activity of the defendant. The defendant was acquitted.<sup>127</sup> In a ruling from August 2015, the District Court of Odense acquitted two persons of violating section 266b in a case regarding sharing of photos on Facebook accompanied by a short text which could indicate a similarity between Muslims and pigs. The court did not find that the dissemination criterion and the seriousness criterion were met.<sup>128</sup>

On 1 February 2016, a politician was found guilty by the High Court of Eastern Denmark of violating section 266b of the Criminal Code for making a statement on Twitter that read: "About the Jews' situation in Europe: Muslims are carrying on Hitler's work. Only the treatment Hitler got will change this situation". The court declared that these statements linked Muslims with serious crime and could instigate hate crimes against Muslims.<sup>129</sup> With this ruling, the court made it clear that there are limits to the extended degree of freedom of expression enjoyed by politicians in general.

Most recently, in a ruling of 11 February 2016, the District Court of Elsinore sentenced a man to pay a fine for violating section 266b of the Criminal Code for having written on another person's Facebook wall "...the ideology of Islam is just

as detestable, atrocious, repressive and misanthropic as Nazism. The massive migration of Islamists into Denmark is the most detrimental development in the newer history of Danish society". The court assessed that the statements in their entirety were generalising allegations, because the statements regarding "the ideology of Islam" could be perceived as relating to Islam in general and not only to the extreme aspects of Islam.<sup>130</sup> The ruling was appealed to the High Court of Eastern Denmark, which acquitted the man for violating section 266b of the Criminal Code on the grounds that the statement was aimed at Islamic ideology and Islamists, and that the protection in section 266b of the Criminal Code does not cover insults etc. of a group of people on grounds of their ideology.<sup>131</sup>

With reference to decisions by the UN Committee on the Elimination of Racial Discrimination (CERD), in an announcement on hate crime, the Director of Public Prosecutions stated that it is an infringement of the International Convention on the Elimination of All Forms of Racial Discrimination if effective investigation is not carried out in order to determine whether racial discrimination has taken place. The Director of Public Prosecutions also stated that in two specific cases, the UN Committee on the Elimination of Racial Discrimination (CERD) found that Denmark had violated the International Convention on the Elimination of All Forms of Racial Discrimination by not carrying out effective investigation in order to determine whether racial discrimination had taken place.<sup>132</sup>

The Director of Public Prosecutions publishes regular announcements regarding cases on violation of section 266b of the Criminal Code and lists of court practices to ensure consistent processing of cases.<sup>133</sup> There are currently no publicly available statistics of the number of cases where charges are dropped, or of the reason charges are dropped.

The following figures are stated in electronic extracts from the police record system (POLSAS):<sup>134</sup>

REPORT, SECTION 266B OF THE CRIMINAL CODE	2013	2014	2015
Ruling	1	–	–
Fine	3	3	4
Judgment/ruling, sections 68-70 of the Criminal Code (unfit for punishment etc.)	1	1	–
Conditional sentence	2	1	5
Judgment by default	–	2	1
Acquitted	4	3	2
Settled with fixed-penalty notice	–	3	2
Absolute discharge (estimated insignificant penalty)	1	–	–
Charges dropped	16	12	30
Absolute discharge (difficulties and costs of the case are disproportionate to the significance of the case and estimated penalty)	1	–	–
Charge unfounded	1	1	1
<b>Total</b>	<b>30</b>	<b>26</b>	<b>45</b>

**TABLE 2:** Extracts from the police record system (POLSAS) of reports of cases pursuant to section 266b of the Criminal Code.

The figures show a stable number of decisions with an increase in 2015. The majority of cases ends with the prosecuting authority dropping the charges. Previously, the reason for dropping charges was that the statements did not live up to the minimum requirement of seriousness, which is a criterion in the provision. Another reason was that the statements could not be considered as being communicated ‘publicly’ or with the intention of wider dissemination.<sup>135</sup> In this connection, the prosecuting authority pointed out that the prosecuting authority must ensure that the culpable parties are held liable.

However, the authority must also ensure that innocent people are not prosecuted (“the principle of objectivity”).<sup>136</sup>

In order to strengthen the knowledge base and to gain more insight into the assessment behind a decision to investigate and press charges – or dismiss charges – in a case pursuant to section 266b of the Criminal Code, according to the Danish Institute for Human Rights, the police should publish information about the number of charges dropped, the police investigation and the assessment by the prosecuting authority regarding whether charges should be pressed in hate speech cases pursuant to section 266b of the Criminal Code.

### **5.2.2 OTHER PROVISIONS OF THE DANISH CRIMINAL CODE**

If a statement is not made publicly or made to a wide circle of people, the person who made the statement may still be punished under the provisions on threats and offences against personal honour in the Danish Criminal Code with the aggravating circumstance that the statements are motivated by the injured party's ethnical origin, religious beliefs and sexual orientation (section 81, no. 6 of the Criminal Code), or on grounds of the injured party's lawful expressions (section 81, no. 7 of the Criminal Code).<sup>137</sup>

Section 267 of the Criminal Code on offences against personal honour stipulates that any person who violates the personal honour of another by offensive words or conduct or by making or spreading allegations of an act likely to disparage him in the esteem of his fellow citizens, shall be punished. This provision is rarely applied today, and developments in human rights have meant that the main emphasis of older legislation on protecting individuals has been replaced by an emphasis on protecting freedom of expression.

In May 2015, the Danish Ministry of Justice prepared “*Straffelovrådets kommissorium om krænkelse af privatlivets fred og ærekrænkelse*” (the Criminal Law Council terms of reference regarding invasion of privacy and offences against personal honour). The terms of reference state that the Criminal Law Council must assess whether the provisions on invasion of privacy and offences against personal honour in the Danish Criminal Code need to be updated or otherwise amended. The council must assess whether conditions covered by the current provisions should no longer be regarded as a crime, for example because the intention of the regulations can be safeguarded more appropriately in another manner. Also, the council must assess whether conditions currently not considered a crime, should be.<sup>138</sup> The Danish Minister for Justice stated that the Criminal Law Council is expected to submit a report about updates and amendments of the Criminal Code in early 2017, and that the Criminal Law Council has yet to begin work on section 266b of the Criminal Code. Moreover, the Minister for Justice stated that the Ministry is preparing to set up an

additional criminal law commission. In this connection, the commission will be asked to review all areas of criminal law. This also includes an assessment of the possibilities to amend the provision in section 266b of the Danish Criminal Code within Denmark's international obligations.<sup>139</sup>

Section 81, no. 6 of the Danish Criminal Code stipulates that it must be considered an aggravating circumstance if the offence stems from the victim's ethnical origin, religious beliefs or sexual orientation, for example. The provision aims at situations in which the motive of the offence is wholly or partly attributable to such conditions. The scope should be understood in accordance with section 266b of the Criminal Code, but not limited to this type of crime. The tightening of the provision could also be applied to racially motivated violence or economic crime committed to support racist activities. In a case from 2010, a person was found guilty in attempted murder of three Israeli nationals and two other people. It was considered an aggravating circumstance that the attempted murders against three of the persons were on grounds of their nationality.<sup>140</sup>

According to section 81, no. 7, it should also be considered an aggravating circumstance if the offence stems from the injured party's lawful expressions in the public debate. According to the preparatory legislative material, the aim of the provision is to strengthen criminal law protection against assaults aimed at individuals exercising their right to freely express their opinion in public. The provision covers cases in which a crime, for example violence or threatening behaviour, is committed as a reaction to the injured party's lawful expressions in the public debate. The preparatory preliminary material includes examples of public debate on societal issues of political, religious or ethical nature. Like section 266b, the provision covers statements made to a wide circle of people. The provision does not cover statements made by the injured party in a private context.

The question of when a statement is lawful must be decided specifically on the basis of legislation. The fact that the offender may find the injured party's statement unlawful is not relevant if the court rules that the injured party's statement is lawful. According to the wording of the provision, it only covers cases in which the assault is aimed at the person who made lawful expressions. However, the list in section 81 is not exhaustive, and presumably it would also be an aggravating circumstance if the offender, on the basis of the statements, assaults close friends and family of the person who made the statements.<sup>141</sup>

In August 2016, a man was convicted for threats to a member of the Danish Parliament and for threatening the member in their capacity as a witness. The threat was made via Facebook after the member of the Danish Parliament had written on her Facebook wall: "Is there anything better than being on maternity



leave with a newborn baby? Yes there is - if TV2 News is running in the background showing the police smashing up hash stalls in Christiania! I love it!" The man then wrote that "you're playing with your life and the life of your child", and "I perfectly understand why someone would stab you and your baby". The judgment states that in its sentencing the court focused on the fact that the threats were based on the injured party's lawful expressions in the public debate," see section 81, no. 7 of the Criminal Code.<sup>142</sup>

With regard to information about the number of cases in which the sentence was increased pursuant to section 81, no. 7 (assault on the basis of lawful expressions), the Director of Public Prosecutions stated that it is not possible to retrieve such information electronically from POLSAS. This requires a manual review of specific cases in the police districts.

## CHAPTER 6

# 6 HATE SPEECH ON FACEBOOK PAGES OF NEWS MEDIA

This section presents the results from the content analysis of hate speech on the Facebook pages of *DR Nyheder* and *TV2 Nyhederne*. The figures are presented collectively for both DR and TV2, unless otherwise mentioned, as the purpose of the study is primarily to provide a general picture of the scope and nature of hate speech in the public debate on the Facebook pages of the two Danish news providers.

First the data basis is presented, and then follows a presentation of figures for the scope of hate speech, where it occurs, who makes hate speech and who is the target of hate speech, what is the nature of the hate speech, and what reactions are triggered by hate speech.

### 6.1 DATA BASIS FOR THE CONTENT ANALYSIS

The data for the content analysis are a random test consisting of a total of 2,996 comments on the basis of 1,763 news posts in the period from April to July 2016. News posts are posts that DR and TV2 post on their Facebook pages. They typically consists of a text field, a short body text, a photo or video clip and a link to the website of the news media, where the article can be read. The comments consist of input written by Facebook users in connection with the news post on the Facebook page. The input may be comments on the actual post and comments on other comments. It may also be links or photos.

In the period studied, *DR Nyheder* and *TV2 Nyhederne* posted around 8,000 news posts in total on their Facebook pages.<sup>143</sup> Data therefore consist of comments from almost one quarter of all news posts, and 1.7 comments were collected per news post on average.

	NUMBER OF POSTS	NUMBER OF COMMENTS	COMMENTS PER POST
<i>DR Nyheder</i>	918	1,500	1.63
<i>TV 2 Nyhederne</i>	845	1,496	1.77
<b>Total</b>	1,763	2,996	1.70

**TABLE 3:** Data for the content analysis. Number of posts and comments collected from the Facebook pages of *DR Nyheder* and *TV 2 Nyhederne*.

As there are no official or accessible figures for the general topics of the news posts, it is not possible to establish with certainty how the news posts included in the study differ from the news posts not included. However, the amount and dissemination of posts and comments included in the data minimise the uncertainty in the results considerably. Assessed as a random test, and based on already collected posts or all comments collected, the uncertainty is around 2 % in the results presented below. When the figures are broken down into smaller subsets, the uncertainty increases. However, the data are still so solid that the results reflect general trends and conclusions about the tone in the public debate on Facebook, even with the reservations related to the data's scope in time and news media organisations.

Table 4 shows the breakdown of the 2,996 comments into topics assessed on the basis of the topic of the news post. There is no equal distribution between the topics, nor is there an equal distribution between the topics posted by the two news media organisations on their Facebook pages.

The largest category of topic is "Violence, crime and the legal system". We know from research on journalism that news about crime and the legal system is a predominant area in news coverage.<sup>144</sup> This is also the case on Facebook, where especially TV 2 posts many news posts on this topic. "Politics (other)" is the topic with second most posts and a topic that DR is more likely than TV 2 to post about. This is a broad category which covers posts about international politics (e.g. the EU) as well as posts about national and local politics which could not be placed in other categories.

"Entertainment" and "Sport" together are also quite dominant on the Facebook pages of the two news media organisations, whereas the rest of the topics are evenly distributed with smaller shares. There are a few distinct differences

between DR and TV 2 in the topics they prioritise posting on their Facebook pages. The most distinct difference is "Sport" which only accounts for 3 % of the content on the Facebook page of *DR Nyheder*, whereas it accounts for 10 % on TV 2's page. Moreover, the most predominant topics of the two news media organisations also differ. Overall, there is a relatively similar pattern for the two news media organisations in terms of what topics they post most news posts about, and what topics are given less attention.

	TOTAL NUMBER OF COMMENTS	TOTAL BREAKDOWN OF TOPICS	DR, BREAKDOWN OF TOPICS	TV 2, BREAKDOWN OF TOPICS
Violence, crime and the legal system	471	16%	12%	19%
Politics (other)	357	12%	15%	9%
Entertainment	256	9%	9%	8%
Environment, nature and climate	245	8%	8%	8%
Sport	186	6%	3%	10%
Economy	185	6%	6%	7%
Other	173	6%	4%	7%
Health	166	6%	7%	4%
Culture and recreation	134	5%	6%	3%
Refugees, migration and asylum	131	4%	5%	4%
Gender equality	110	4%	5%	2%
Terrorism	80	3%	3%	3%
Social and care area	80	3%	3%	2%
Family life	75	3%	3%	2%
Science and technology	75	3%	3%	2%
Labour market	57	2%	2%	2%
War and disasters	56	2%	2%	2%
Education	49	2%	2%	2%
Religion and faith	48	2%	2%	2%
Children/young people	33	1%	1%	1%
Integration	29	1%	1%	1%
<b>Total</b>	<b>2,996</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**TABLE 4:** Data for the content analysis, topic. 2,996 Facebook comments categorised by the topic of the news posts (code category 5a).

Another way of describing the data is on the basis of the geographical associations to the topics (table 5). This shows a broader correlation between the topics posted by the two news media organisations on Facebook. Just over half of the topics are only about Denmark and local Danish matters, whereas around one quarter are only about international news. The remaining part can either not be determined or are about both Danish and international matters.

	TOTAL NUMBER OF COMMENTS	TOTAL BREAKDOWN OF TOPICS	DR, BREAKDOWN OF TOPICS	TV 2, BREAKDOWN OF TOPICS
Only about DK	1,645	55%	57%	53%
Only outside DK	822	27%	28%	27%
Both DK and outside DK	189	6%	7%	6%
Unclear/not applicable	340	11%	8%	15%
<b>Total</b>	<b>2,996</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**TABLE 5:** Data for the content analysis, geography. 2,996 Facebook comments categorised by the geography of the news posts (code category 5b).

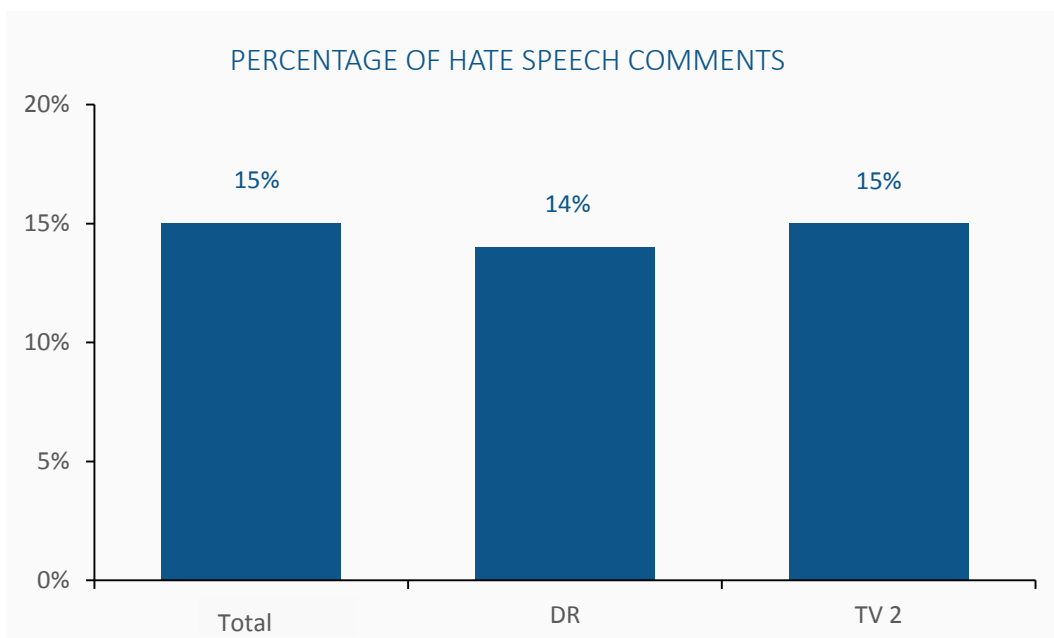
One criterion for the data collection was that there had to be a spread in the location of the comments collected – not only with regard to posts and topics, but also with regard to the location of the comments in the debate threads. As shown in table 6, there were six categories for location of a comment. Location relates to the default setting of Facebook, which sorts the comments according to popularity. The objective was not to collect uniform amounts for the different categories, but only to make sure that there was a spread in the location of comments. The comments collected therefore stem from the top, middle and bottom comment threads for news posts. However, most comments were collected from the top. It was an intentional choice to collect the majority of comments from the top. This is also reflected in the asymmetric classification in categories (top 5, from top 6 to top 20 and outside top 20) resulting in an overrepresentation of the comments at the top. In this way, the collection of comments ensures as much variation as possible and also weights the comments assumed to have the largest audience.

	TOTAL	%
Comments in top 5	629	21%
Reply to comment in top 5	521	17%
Comments in top 20	623	21%
Reply to comment in top 20	454	15%
Comments outside top 20	469	16%
Reply to comment outside top 20	300	10%
<b>Total</b>	<b>2,996</b>	<b>100%</b>

**TABLE 6:** Data for the content analysis, location. 2,996 Facebook comments categorised by the location of the comments in the debate threads at the time of collection (code category 31C).

## 6.2 THE EXTENT OF HATE SPEECH

As is apparent from figure 2, there is no significant difference in the amount of hate speech on the two Facebook pages in this survey.



**FIGURE 2:** Percentage of hate speech comments. The column "Total" is based on 2,996 Facebook comments taken from the Facebook pages of *DR Nyheder* and *TV 2 Nyheder*. The column "DR" is based on 1,500 comments from the *DR Nyheder* Facebook page. The column "TV 2" is based on 1,496 comments from the *TV 2 Nyheder* Facebook page (code category 35b).

439 of the 2,996 comments that were analysed have been categorised as hate speech based on the definition in chapter 2. This corresponds to hate speech in every seventh comment in the public debate on the Facebook pages of *DR Nyheder* and *TV 2 Nyheder*.

This means that by far the majority of the comments (85 %) were not hate speech. However, this also means that 15 % of the online public debate related to news on the two Facebook pages consisted of hateful comments aimed at individuals or groups. Note that this is based on registration of comments carried out at least 12 hours after the comments had been written. The news media have therefore had time to intervene if they felt that comments crossed the line. Users have also had the opportunity to report hate speech to Facebook, and Facebook might have removed these comments if they did not follow Facebook's guidelines.

### **6.3 WHERE DO HATE SPEECH COMMENTS APPEAR?**

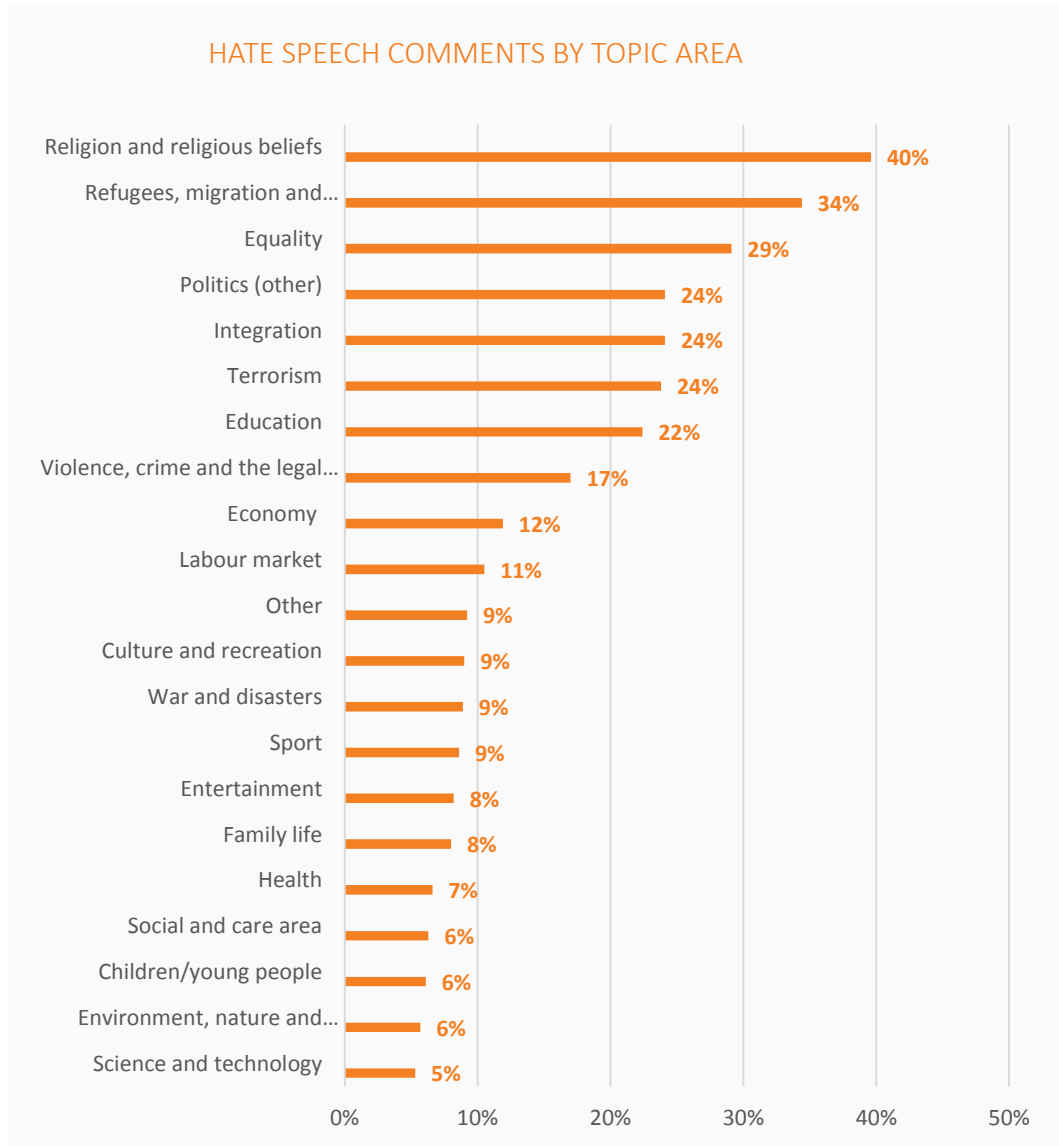
The topic of the post affects how often hate speech appears during the debate. Hate speech was most common in connection with topics concerning religion and religious beliefs; refugees, migration and asylum; and gender equality. Almost every third comment in debates on these three topics is hateful. Hate speech appears in almost every fourth comment in debates connected to news posts on integration, terror, education or politics (other)<sup>145</sup>.

There are a number of topics that seem particularly to give rise to hate speech, and the media should pay particular attention to these. This could be by the news media ensuring that the debate on topics where there is a high risk of hate speech is moderated.

The fact that the majority of hate speech appears in the topics "religion and religious beliefs", "refugees, migration and asylum", and "gender equality" does not mean that this is where we found the largest amount of hate speech comments in the dataset. The topic "Religion and religious beliefs" is not a topic often covered by news posts. There are only 48 comments in the dataset related to the topic "Religion and religious beliefs", and of these, 19 comments were hate speech.

"Politics (other)" and "Violence, crime and justice" are topics which account for the largest number of hate speech comments, with 86 and 80 hateful comments, respectively. However, these two topic areas also received the most comments in total.

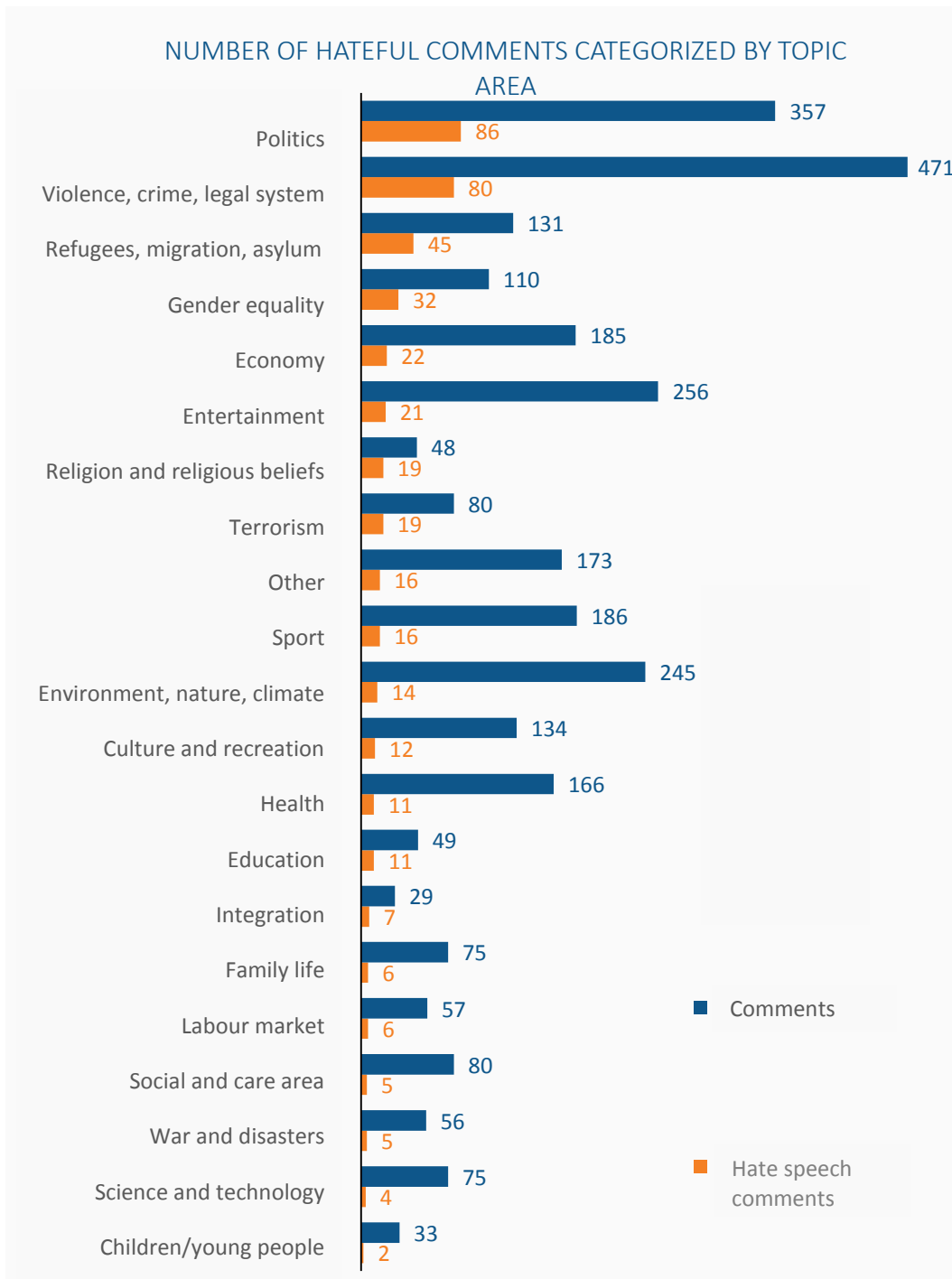
Figure 3 shows the percentage of hate speech comments in relation to each topic area.



**FIGURE 3:** Percentage of hate speech comments categorised by the topic of the news post. Listed in order, with the topic (code category 5a) with highest percentage of hateful comments first. Based on 2,996 Facebook comments. The percentage of hate speech comments (code category 35b) are indicated by bars next to each topic.

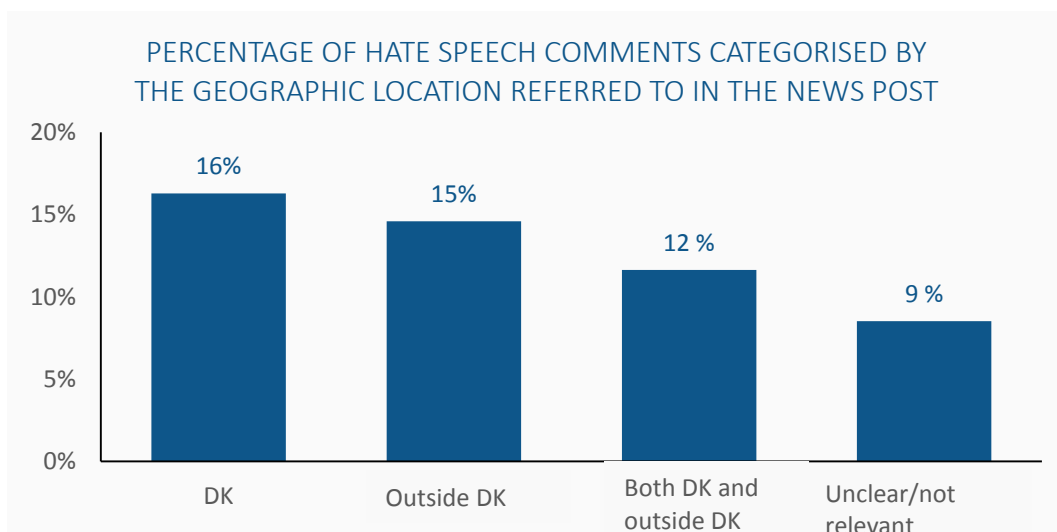
Figure 4 shows the ratio between the total number of comments on a topic area and the number of hate speech comments on a topic area.





**FIGURE 4:** Number of hateful comments based on topic area. The ratio between the total number of comments and the number of comments containing hate speech categorised by the topic area of a news post. Listed in order, with the topic (code category 5a) with highest percentage of hateful comments first. Based on 2,996 Facebook comments. The total number of comments and the number of hateful comments (code category 35b) are indicated by bars next to each topic.

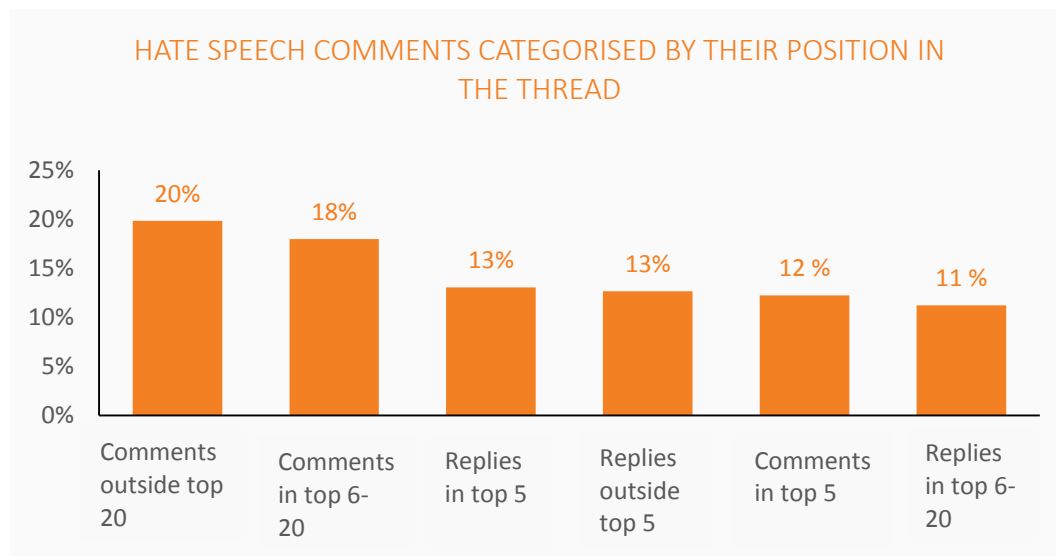
Whereas there is a clear connection between the occurrence of hate speech and the topic of a news post, there is no significant connection between the geographic location referred to in a post and the occurrence of hate speech. There is no significant difference between posts on domestic news and posts on foreign news. The fewest occurrences of hate speech are on posts which do not refer to a specific geographic location. This group contains a high percentage of comments under the topic areas of "Health" and "Entertainment", which are two of the areas with the lowest percentage of hateful comments. This indicates that the topic of a news post is more important than geographic location when it comes to the presence of hate speech in the debate.



**FIGURE 5:** Percentage of hate speech comments categorized by the geographic location referred to in the news post. Listed according to the geographical area (code category 5b) with the highest percentage of hateful comments first. Based on 2,996 Facebook comments. The percentage of hate speech comments (code category 35b) is indicated by columns above each geographical area. The column "DK" is based on 1,645 comments, "International" on 822 comments, "DK and International" on 189 comments, and "Unclear/not relevant" on 340 comments.

The highest percentage of hate speech comments is in comments further down the top 5 comments in a comment thread. On the one hand, this means that

when editing, news media should not focus solely on the debates that play out in extension of the top comments. On the other hand, this also shows that Facebook's popularity filter affects the placement of hate speech comments so that they are rarely found in the top comments which most users are presented with.

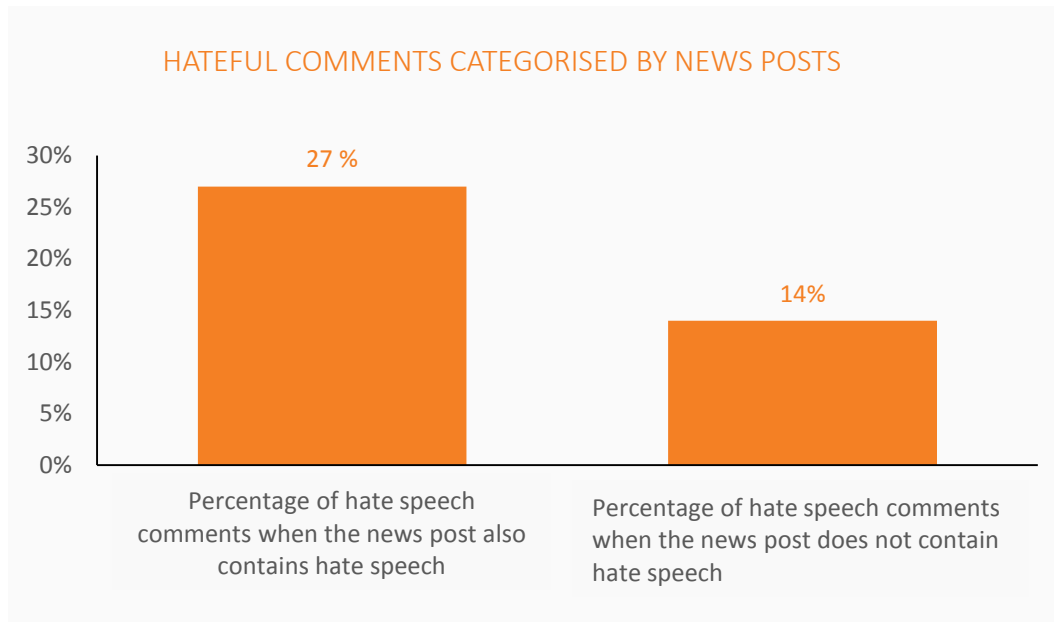


**FIGURE 6:** Percentage of hate speech comments categorised by their position in the thread. Categorised according to position (code category 31c) with the highest percentage of hateful comments. Based on 2,996 Facebook comments. The percentage of hate speech comments (code category 35b) is indicated by columns above each position. The column "Comments outside top 20" is based on 469 comments, "Comments in top 6-20" is based on 623 comments, "Replies in top 5" is based on 521 comments, "Replies outside top 20" is based on 300 comments, "Comments in top 5" is based on 629 comments, and "Replies in top 6-20" is based on 454 comments.

The analysis of the data material also examined whether there was hate speech in the news post itself published on Facebook by the news media. It could e.g. be in the form of a quote from a source making a hateful comment, a text playing on prejudices or stigmatising illustrations. A total of 66 of the comments collected were taken from debates on news posts containing hate speech. Firstly, this shows that news posts very rarely contain hate speech, but it also shows - as is apparent in figure 7 - that hateful comments often appear in debates where there is hate speech in the news post from which the debates stem.

There are twice as many hateful comments in debates in connection with news posts that contain hate speech. Even though the data basis in this is small (27 % of 66 comments), it indicates that the manner in which news media present a

news post has significant influence on how the subsequent debate will unfold. In other words, news media can influence the tone of debate negatively.

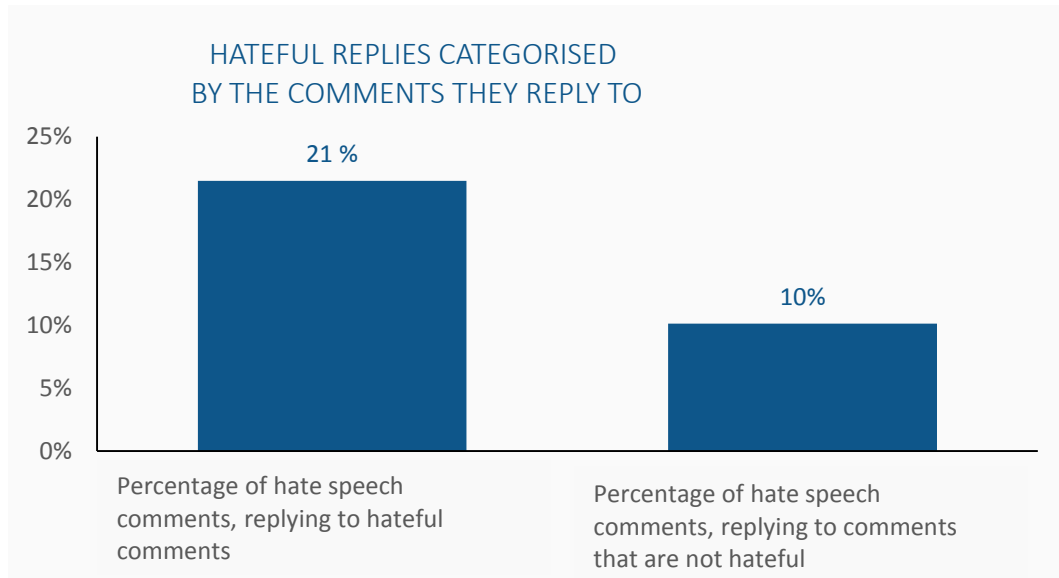


**FIGURE 7:** Percentage of hateful comments categorised by whether or not the news post contains hate speech. Categorised by posts with/without hate speech (code category 8) Based on 2,996 Facebook comments. The percentage of hate speech comments (code category 35b) is indicated by columns above each type of post. The column representing news posts containing hate speech is based on 66 comments. The column representing news posts which do not contain hate speech is based on 2,930 comments.

Hate speech comments are not only the result of the topic being debated, they are also the result of other comments in the debate thread. The data reveals that when an individual replies to a hateful comment, there is an increased risk that the reply will also contain hate speech.

Of the 1,263 comments that are replies to other users, 157 of them contain hate speech. This means that 12% of the replies contain hate speech. Subdividing the hateful comments by whether they are a reply to another hateful comment, it becomes apparent - as shown in figure 8 - that 21 % of replies that contain hate speech are replies to comments that also contain hate speech. Only 10 % of the hateful replies are replies to comments which do not contain hate speech. As is also the case with the correlation between a news post that contains hate speech and the percentage of hate speech comments in the following debate (figure 7), figure 8 shows that there is an increased risk of hateful comments if there are already hateful comments in the debate thread. Therefore, the data indicates that hateful comments give rise to even more hateful comments. In

other words, the data material documents that hate brings hate and that news media can reduce hate by focusing on the type of language and tone used by themselves and users when editing posts and debates.



**FIGURE 8:** Percentage of hateful replies categorised by whether or not they are replies to comments that contain hate speech. Categorised by comments with/without hate speech (code category 34b). Based on 1,263 Facebook comments in reply to other comments. The percentage of hate speech comments (code category 35b) is indicated by columns above each group of comments. The column representing comments which contain hate speech is based on 256 replies. The column representing comments which do not contain hate speech is based on 1,007 replies.

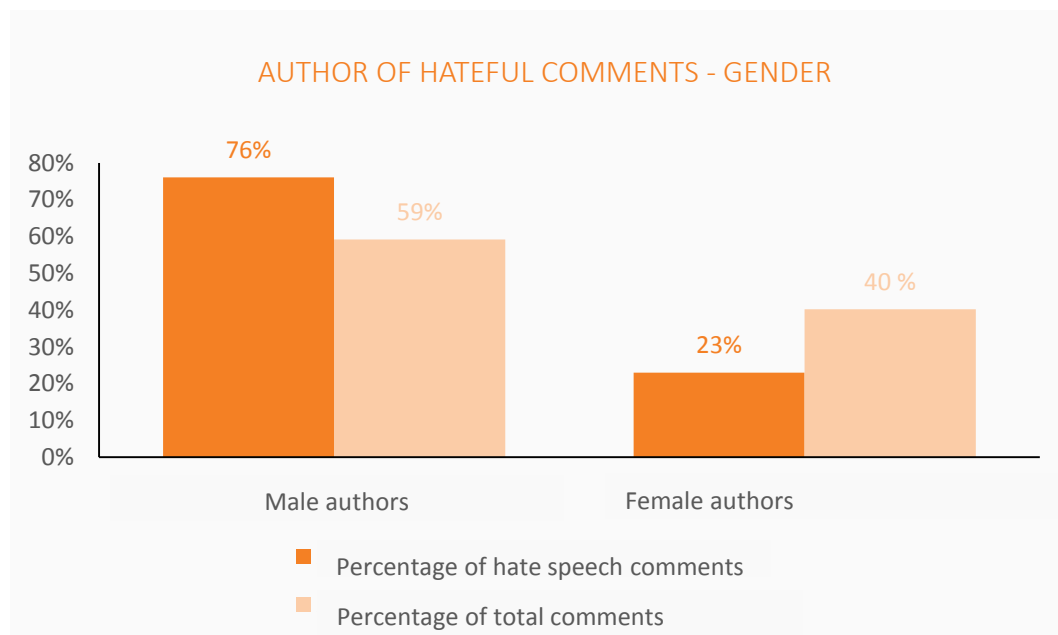
#### 6.4 THE AUTHOR OF HATE SPEECH

There is an element of uncertainty attached to determining the gender and ethnicity of the users, as the profiles of Facebook users are not validated. Therefore, it has not been possible to take into account whether profiles were fake and so-called trolls.

An assessment of gender and ethnicity has been carried out based on the name and profile picture of the user in order to determine whether there is an overrepresentation of a specific gender or ethnicity amongst the authors of the hateful comments. This is the case with regard to gender but there are no significant differences with regard to the categorisation of ethnicity used in this analysis.

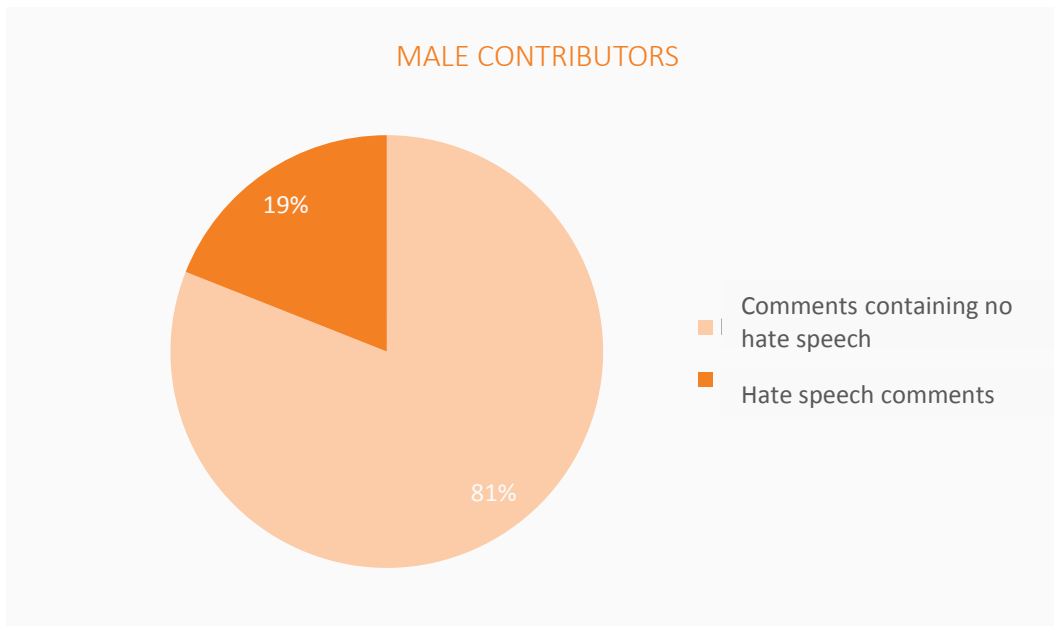
76 % of hate speech stems from men and 23 % stems from women. As previously mentioned, gender has primarily been assessed on the basis of names and, in part, on pictures and thereafter categorised on the basis of a binary

understanding of gender as either men or women. It was not possible to categorise 1 % of the debate participants. The excessive over-representation of men as authors of hate speech should be seen in light of the fact that 59 % of the comments in the data material are written by men. However, this does not alter the fact that experiencing hateful comments is more likely in debates with a man than in debates with a woman.

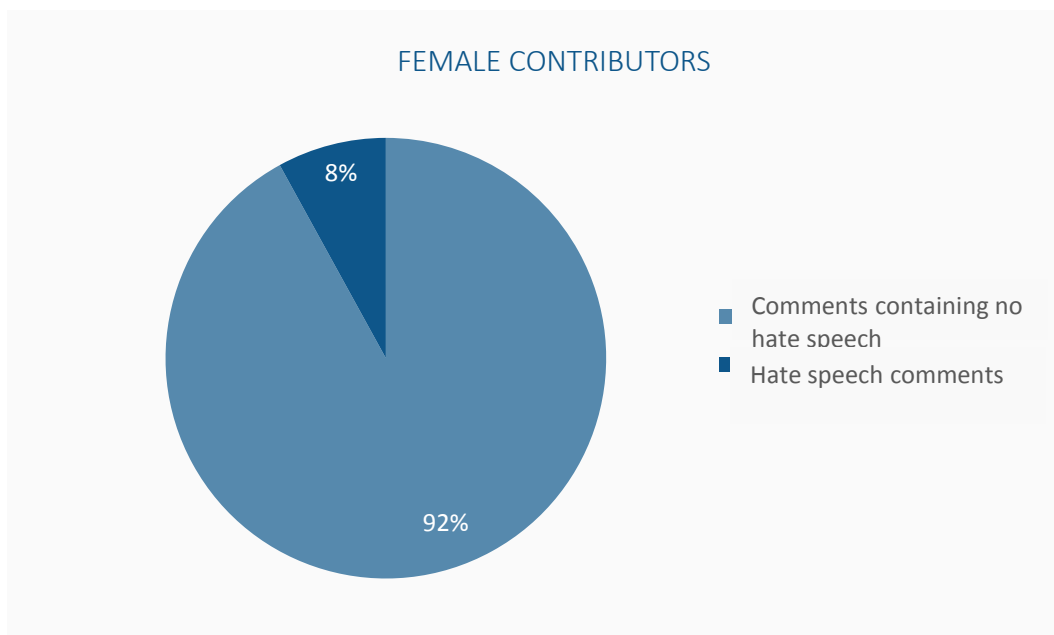


**FIGURE 9:** Percentage of comments in total and percentage of comments containing hate speech categorised by the gender of the person who wrote the comment (code category 33a). Based on 2,979 Facebook comments, of which 1,774 were written by men (Facebook profiles that appear to be of men) and 1,205 were written by women (Facebook profiles that appear to be women). The columns representing the percentage of hateful comments by men and women are based on 435 Facebook comments containing hate speech (code category 35b).

If we look more closely at the total amount of comments stemming from men, we find that 19 % of these comments contain hate speech. This is only the case for 8 % of total comments from women, as is shown in figures 10 and 11.

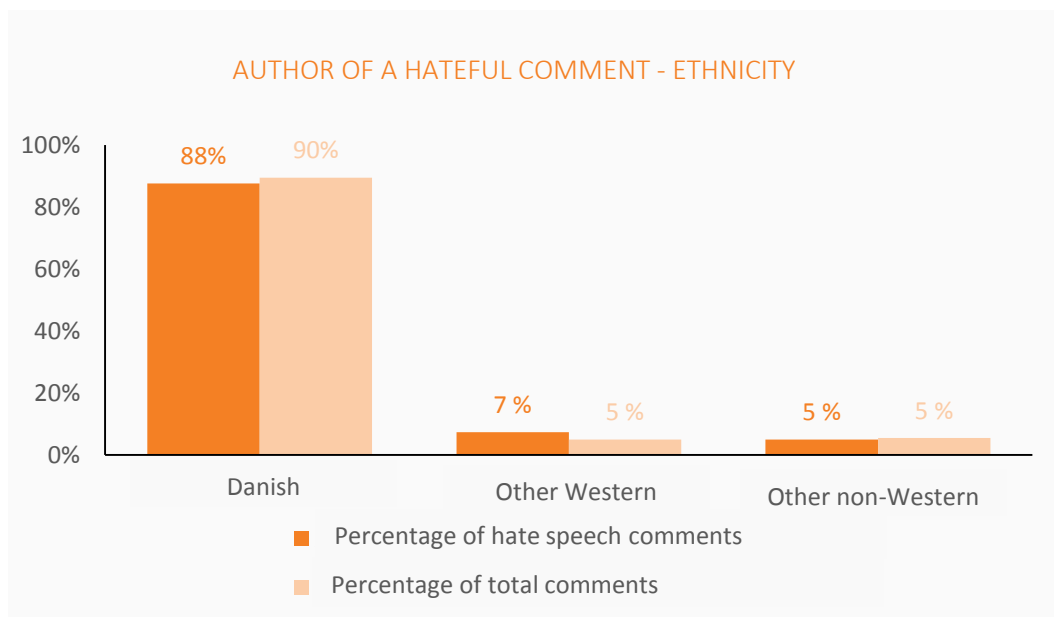


**FIGURE 10:** Percentage of comments with and without hate written by men (code category 33a). Based on 1,774 Facebook comments and categorised on the basis of whether the comment was hateful or not (code category 35b).



**FIGURE 11:** Percentage of comments with and without hate written by women (code category 33a). Based on 1,205 Facebook comments and categorised on the basis of whether the comment was hateful or not (code category 35b).

In general, women use Facebook more often than men. 49 % of female internet users visit Facebook at least once a week, which only applies to 41 % of men<sup>146</sup>. However, this is not reflected by the percentage of women who participate in public debates on news media Facebook pages. The overrepresentation of men in the public debate is not confined to Facebook debates on news media pages. It also applies for sources used by news media, in letters to the editor, and otherwise in the gender distribution of candidates for political office<sup>147</sup>.

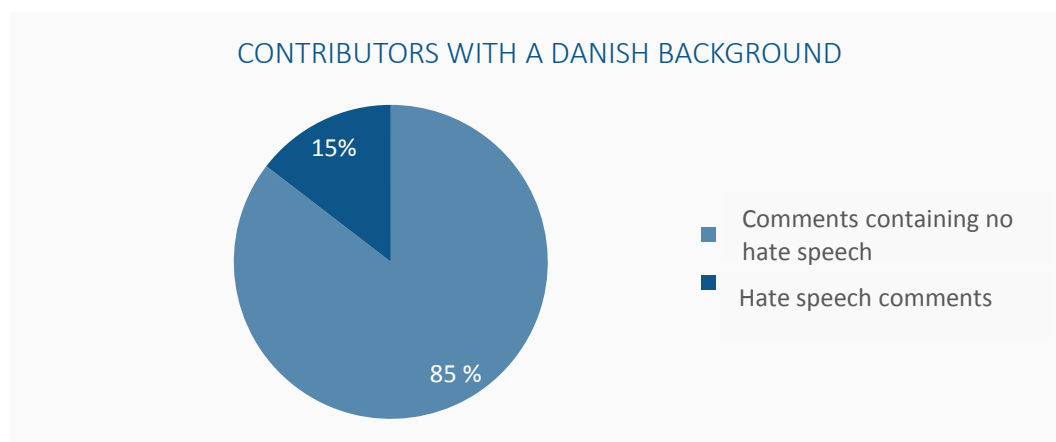


**FIGURE 12:** Percentage of total comments and percentage of comments containing hate speech categorised by the ethnicity of the person who wrote the comment (code category 33b). Based on 2,830 Facebook comments, whereof 2,533 are written by ethnic Danes (Facebook profiles that appear to be of ethnic Danes), 142 are written by people with another western ethnicity (Facebook profiles that appear to be of another western ethnicity) and 155 written by people with a non-western ethnic background (Facebook profiles that appear to be of a non-western background). The columns representing the percentage of hateful comments by each group are based on 421 Facebook comments containing hate speech (code category 35b).

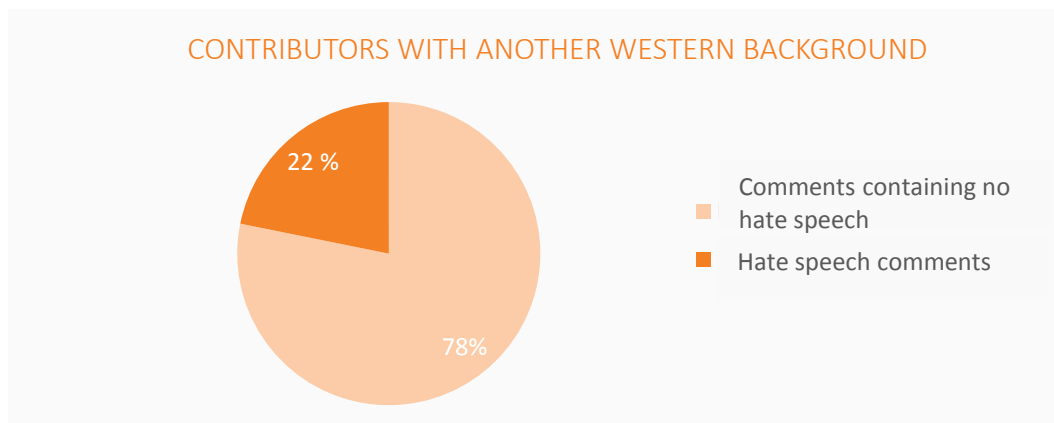
The ethnicity of authors (figure 12) is also assessed based on their name and profile picture. There is even more uncertainty connected with assessing ethnic background as there may be cases where the ethnic background cannot be determined based on the name or profile picture. Ethnicity is divided into three categories: ethnic Dane, other western ethnicity, non-Danish/non-western ethnic background. It was not possible to categorise the ethnicity of authors in 166 cases. The remaining 2,830 comments were all placed into one of the three categories, and of these 2,830, 9 out of 10 were categorised as ethnic Danes. Consequently, ethnic Danes also account for the majority of hateful comments - 88 %, as shown in figure 12. Note however this is a lower percentage than the percentage of ethnic Danes in the total number of comments.



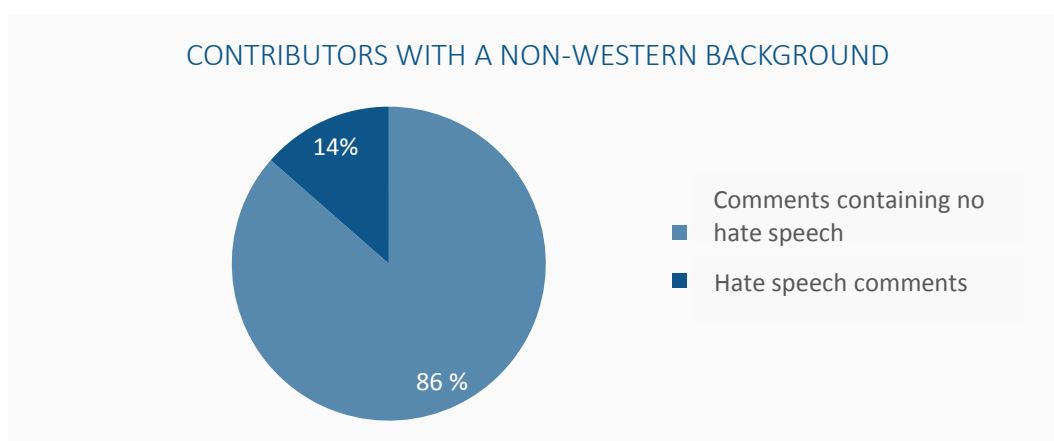
15 % of comments by ethnic Danes are categorised as hateful, 14 % of comments by users with a non-western ethnicity are likewise categorised as hateful, while 22 % of comments from users with another western ethnicity other than Danish contain hate speech. As the amount of comments from the two latter groups is quite modest, there is a level of uncertainty with regard to these numbers. Overall, however, there is tendency that ethnicity in contrast to gender is not a determining factor with regard to hateful comments.



**FIGURE 13:** Percentage of hateful/non-hateful comments written by persons with Danish ethnicity (code category 33b). Based on 2,533 Facebook comments and categorised based on whether the comment was hateful or not (code category 35b).



**FIGURE 14:** Percentage of hateful/non-hateful comment written by persons with another ethnic background other than Danish (code category 33b). Based on 142 Facebook comments and categorised based on whether the comment was hateful or not (code category 35b).



**FIGURE 15:** Percentage of hateful/non-hateful comments written by persons with a non-western background (code category 33b). Based on 155 Facebook comments and categorised based on whether the comment was hateful or not (code category 35b).

The distribution of the three ethnic groups corresponds well with the general demographic of Denmark. As of 1 January 2016, 87.7% of the population were ethnic Danes, 7,9% were immigrants and descendants from non-western countries and 4,4% were immigrants and descendants from western countries.

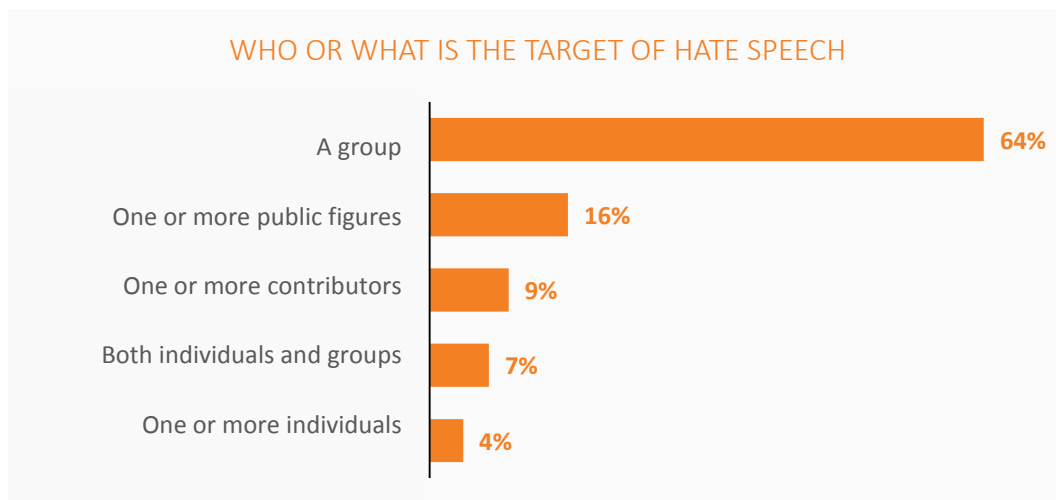
148

## 6.5 WHO IS AFFECTED BY HATE SPEECH?

All hateful comments were examined in order to determine who the comment was explicitly aimed at. There was a clear tendency of hateful comments overwhelmingly being directed at groups of people e.g. Muslims, women or

right-wingers. This applies to 64 % of hateful comments, while an additional 7 % are directed towards both a group and individuals.

There is a long way down to the next category containing the second highest amount of hateful comments: public persons (16 %), followed by the category where comments are directed at one or more specific contributors (9 %). On overall terms, in 7 out of 10 cases, hate speech is directed at groups of people, and in 3 out of 10 cases, the object of hate speech is a specific person.

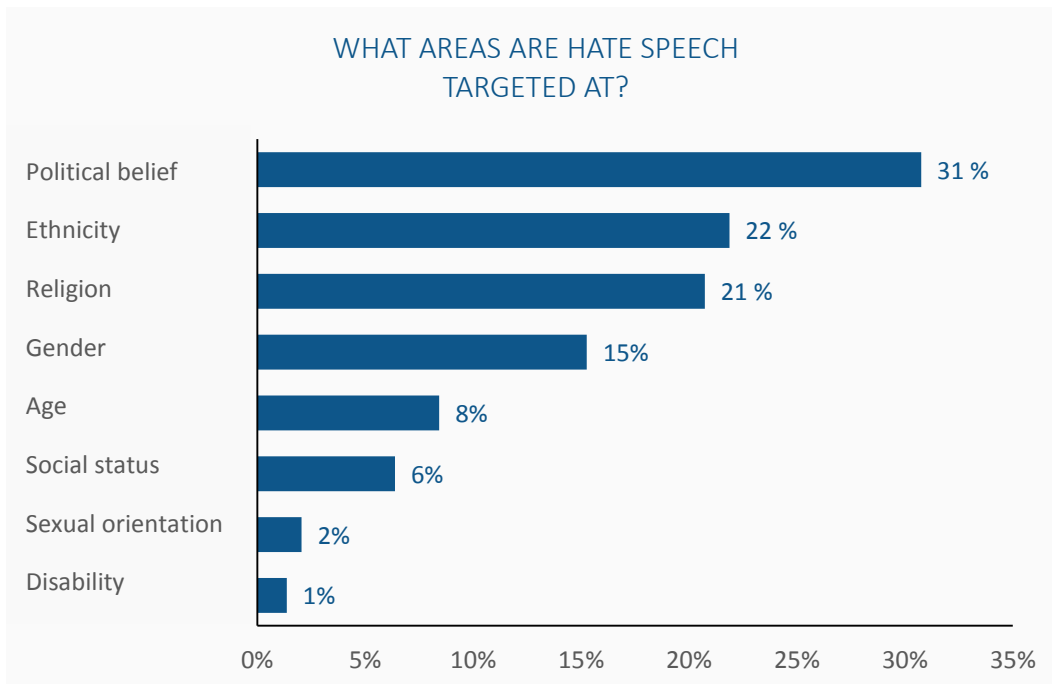


**FIGURE 16:** Percentage of hateful comments categorised by the target of the hateful comment. Listed according to the most common targets of hate speech (code category 36a). Based on 439 Facebook comments containing hate speech.

### 6.5.1 THE EIGHT AREAS OF THE DEFINITION

Eight areas were mentioned in the definition of hate speech in order to delimit the analysis - gender, ethnicity, religion, disability, sexual orientation, age, political belief and social status.

All the hateful comments included in the analysis were registered on the basis of which of the eight areas the comment targets. It has been possible to register some comments under several areas which means that there are a total of 469 targets for hate speech from the 439 comments. This can be hateful comments directed at both gender and religion for example. However, this doesn't alter the fact that the total number of hateful comments is still 439. Hateful comments are most often directed at political belief. These comments make up 31 % of the 439 comments that contained hate speech. Ethnicity, religion and gender are areas that are also often targets for hateful comments, while sexual orientation or disability are rarely targeted.



**FIGURE 17:** Percentage of hateful comments categorised by the area they are targeted at. Listed after the area which receives the most hateful comments (code category 37-45). Based on 439 Facebook comments containing at least one hateful comment.

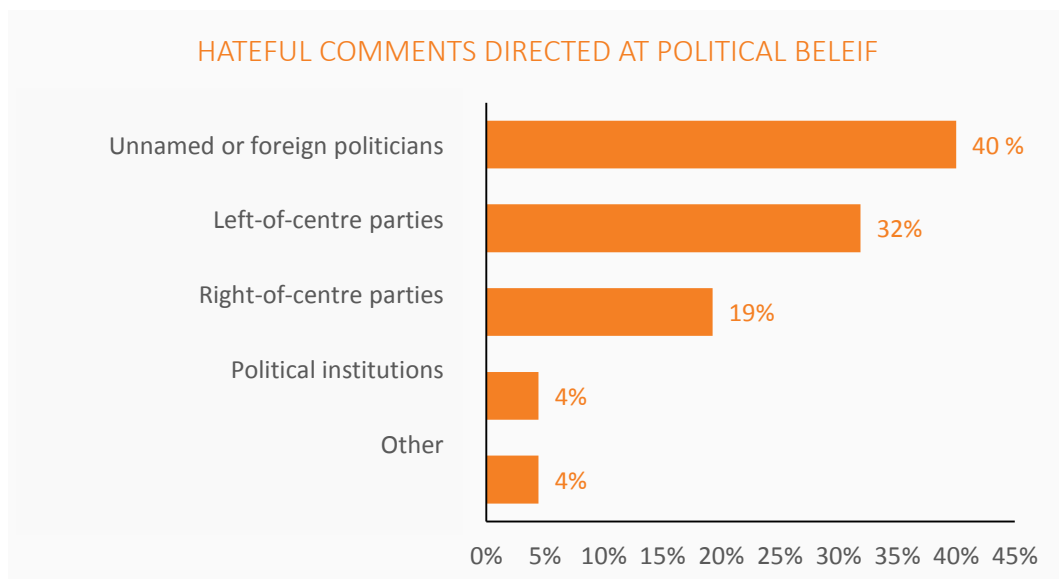
The following section will look into hate speech in the four areas that receive the most hateful comments: political belief, ethnicity, religion and gender. Each area has a number of sub-categories which make it possible to gain more nuanced knowledge about the specific target.

### 6.5.2 POLITICAL BELIEF

Hateful comments directed at political belief make up 31 %, and thereby the majority, of the 439 hateful comments. A total of 135 hateful comments were directed at political belief. The hateful comments were directed at a broad scope within the political spectrum, as illustrated by figure 18. Thus, hate speech does not solely target a single political persuasion, although hateful comments towards left-wing political parties are predominant. Hate speech is most commonly directed at the Alternative party, the Social Liberal Party and the Danish People's Party.

**” He's just a Nazi with a lot of stupid ideas**

Politicians (unnamed or foreign politicians) who are outside the two blocks in Danish politics are targets of the majority of hateful comments, as 40 % of the 135 hateful comments were directed at this category. The category covers both foreign politicians, politicians in international institutions and unnamed Danish politicians.

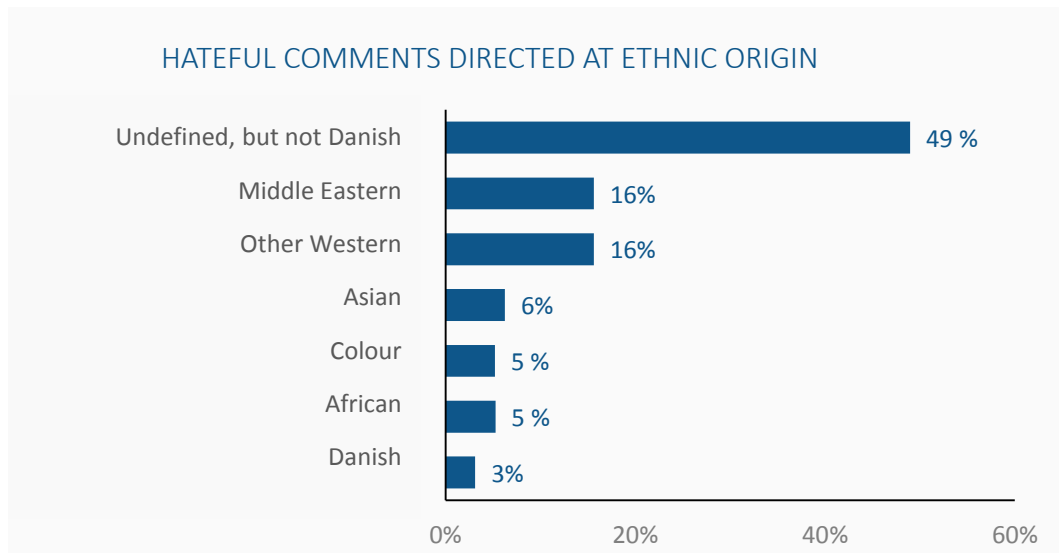


**FIGURE 18:** Percentage of hateful comments (code category 35b) directed at political belief and listed according to political groupings (code category 44a and 44b). Based on 135 Facebook comments containing hate speech directed at political belief.

### 6.5.3 ETHNICITY

Hate speech directed at ethnic origin makes up 22 % of the total number of hateful comments. 96 hateful comments are about ethnicity. However in almost half these cases, it has not been possible to determine a more precise ethnic origin other than that the targets are of another ethnic background than Danish. This is because non-specific labels are used in the comments e.g. "second generation immigrants", "migrants", etc. Among the remaining 49 hateful comments, 16 % are directed at middle eastern ethnic origins and 16 % are directed at other western ethnic backgrounds than Danish. 5% of the hateful comments categorised under ethnicity do not actually target ethnic origin, but rather, they target color. Overall, only 3 % of hate speech directed at ethnicity is directed at Danish ethnicity, while almost 80 % is directed at non-western ethnic backgrounds.

## ” Those damn Arabs only spread death and destruction

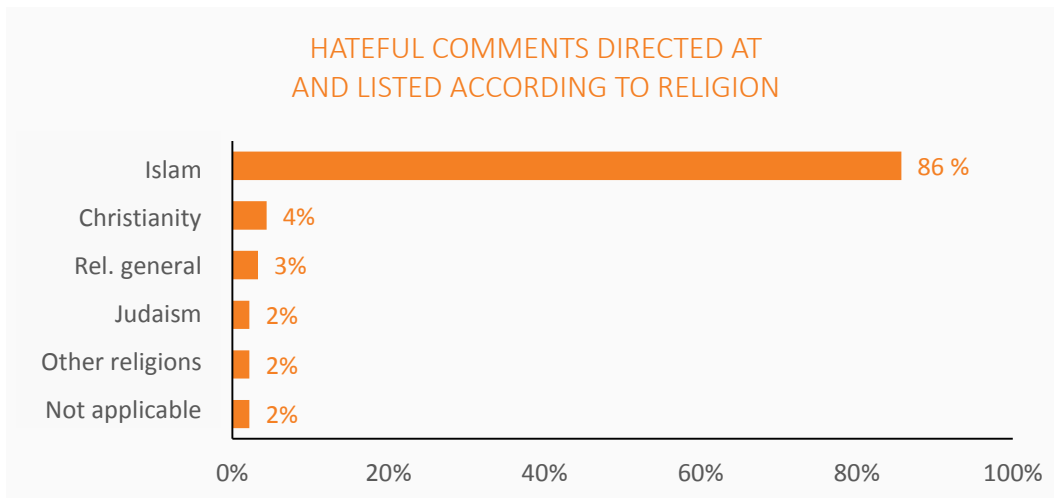


**FIGURE 19:** Percentage of hateful comments (code category 35b) directed at and listed according to ethnic origin (code categories 38a and 38b). Based on 96 Facebook comments containing hate speech directed at ethnic origin.

### 6.5.4 RELIGION

Hate speech directed at religion makes up 21 % (91 comments) of the 439 hateful comments, and is thereby the category that accounts for the third highest amount of hate speech. By far, the majority of hateful comments are directed at Islam. These make up 86 % of all hateful comments directed at religion. Hate speech directed at Christianity and Judaism occurs very rarely in the material.

## ” Muslims are the most cowardly "people" on earth

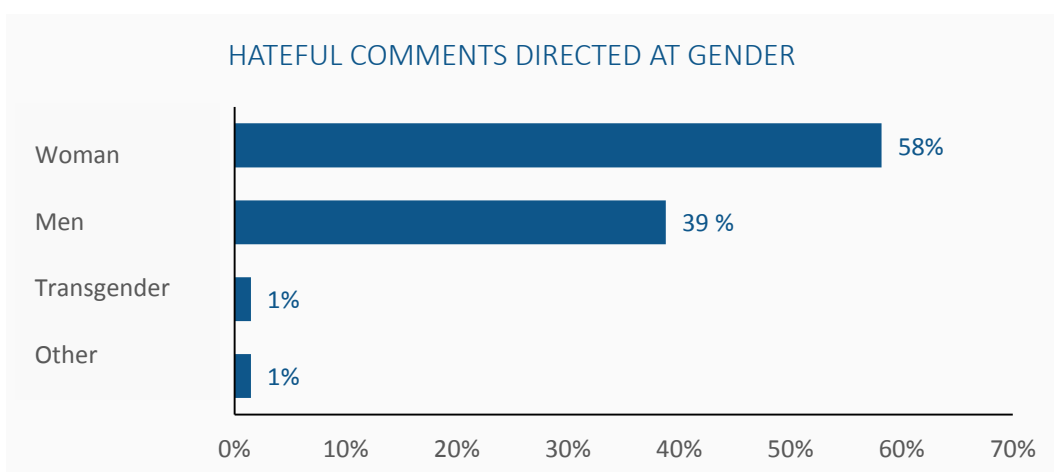


**FIGURE 20:** Percentage of hateful comments (code category 35b) directed at and listed according to religion (code categories 39a and 39b). Based on 91 Facebook comments containing hate speech directed at religious conviction.

### 6.5.5 GENDER

Hate speech directed at gender makes up 15 % of all the hateful comments, corresponding to 67 comments. The majority of the hateful comments in this category are about women (58 %) while 4 out of 10 hateful comments directed at gender are about men.

**” Long blond hair and nice breasts ;) I always mute the TV when she's on :)**



**FIGURE 21:** Percentage of hateful comments (code category 35b) directed at and listed according to gender (code categories 37a and 37b). Based on 67 Facebook comments containing hate speech directed at gender.

### **6.5.6 AGE, SOCIAL STATUS, SEXUAL ORIENTATION AND DISABILITY**

The percentage of hate speech directed at the four other areas is so small that there is great uncertainty attached to further dividing them. They will therefore not be presented in detail. The amount of data for these categories is limited to 37 hateful comments directed at age, 28 directed at social status, 9 directed at sexual orientation and 6 directed at disability. It's worth noting that hate speech is more often directed at young people than the elderly, more often at the elite and upper class than the lower class and poor, that all hateful comments directed at sexual orientation were about homosexuality and that 5 out of 6 hateful comments directed at disability were hate speech directed at the mentally disabled.

### **6.6 THE NATURE OF HATE SPEECH**

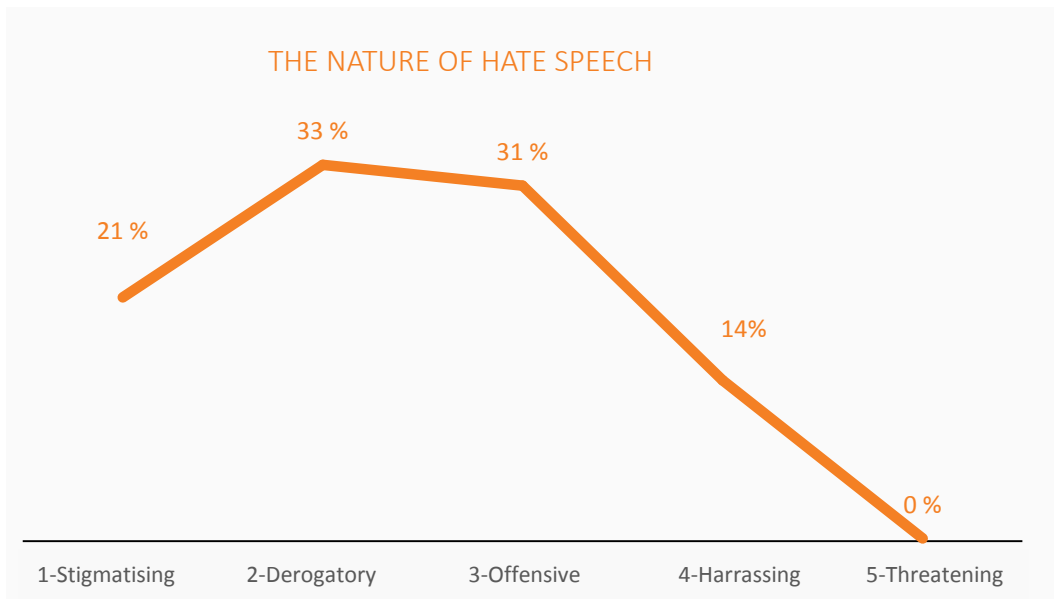
Hate is not just hate. Hate speech can be expressed in many different ways and with varying degrees of language. The definition of hate speech divides the strength of the hate speech into 5 levels: stigmatising, derogatory, offensive, harassing and threatening. The levels are used as indicators on a scale from 1 to 5, where 1 is the mildest level of hate (stigmatising comments) and 5 is the most severe level (actual threats).

Almost half of all the hateful comments are on the lower level in the form of stigmatising or derogatory comments. If the third level of the scale is included, then the three lower levels make up 85 % of all hate speech. Only one comment in the data set was registered as a threat. It is important to note that the data material was collected after the news media had had a minimum of 12 hours to edit the debate. The Facebook debate-guidelines of the examined news media explicitly state that threats will not be tolerated and it was ascertained they were able to removed threats from the debate. After examining comments which are at least 12 hours old, the moderation of severe hate speech seems to be working as intended.

Around every seventh hateful comment falls under the second severest category, harassing. DR and TV 2 have specific guidelines for harassment. There is however room for improvement, as every seventh comment is of a harassing nature according to the analysis.

If you compare DR and TV 2, there are slightly more stigmatising, derogatory and offensive comments on DR (levels 1-3 on the scale) whereas there are more harassing comments (level 4 on the scale) and one threat on TV 2.

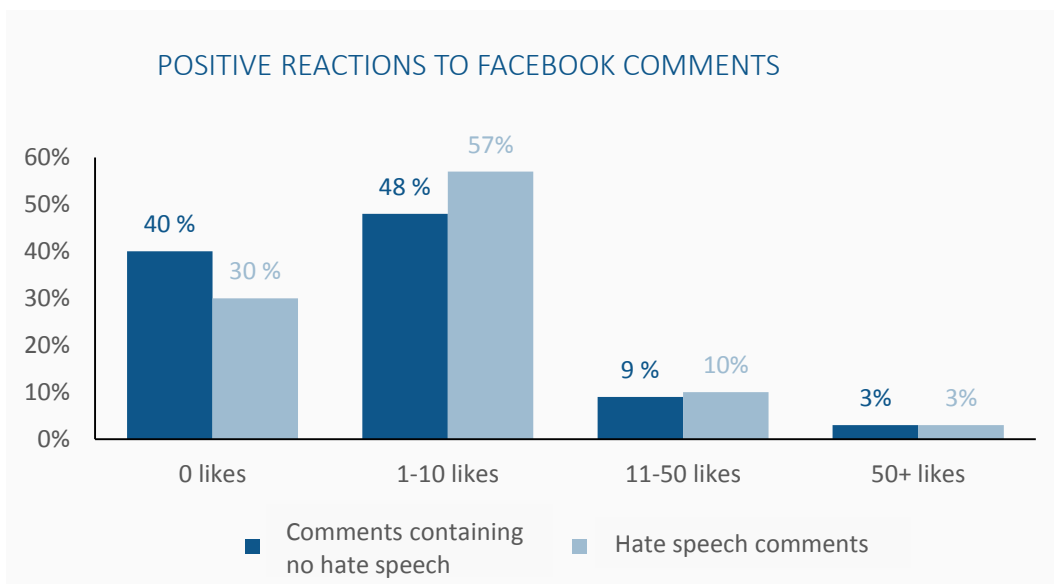




**FIGURE 22:** Percentage of hateful comments (code category 35b) categorised by the nature of the hateful comments. Based on 439 Facebook comments containing hate speech.

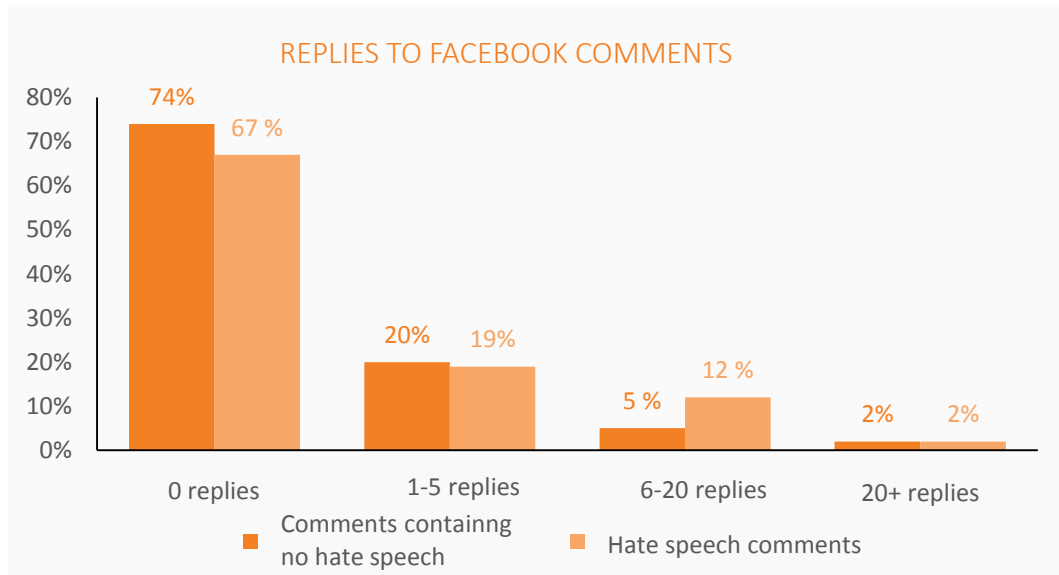
### 6.7 REACTIONS TO HATE SPEECH

Facebook-users did not unanimously distance themselves from hateful comments. There are no significant differences between the number of likes given to hateful comments and the number of likes given to comments which are not hateful. The differences observed actually indicate the hateful comments have a tendency to garner more likes.



**FIGURE 23:** Percentage of comments that contain or do not contain hate speech, respectively (code category 35b) categorised by number of likes which the comment had received at the time

of data collection (code category 32a). Based on 2,557 Facebook comments without hate speech and 439 Facebook comments with hate speech.



**FIGURE 24:** Percentage of comments that contain or do not contain hate speech (code category 35b) categorised by the number of replies the comment had received at the time of data collection (code category 32b). Based on 2,557 Facebook comments without hate speech and 439 Facebook comments with hate speech.

Looking at the number of replies comments receive, there is no indication that hate speech is ignored. On the other hand, there are indications that the debate arising from hate speech is not necessarily in support of the hateful message but could equally be arguments against the hateful comment. This is an example of counter speech where users actively oppose the negative comment.

## 6.8 SUMMARY

Based on the almost 3,000 Facebook comments on the Facebook pages of *DR Nyheder* and *TV 2 Nyhederne*, we can ascertain that every seventh comment which is allowed to remain after the media has edited the comments, contains hate speech.

Hate speech was most common in connection with news posts on topics concerning religious beliefs, refugees, migration and asylum, and gender equality. Overall, the topics that attracted the most hate speech comments were violence, crime and the legal system, as well as topics relating to foreign policy matters and other political topics (i.e. political topics that do not fit into the existing categories, e.g. news about the EU). This is because these are the topics

which the news media post about most frequently. Most often, hateful comments are not among the top comments of a debate thread.

A clear over-representation of hate speech was found in debates relating to news posts that also included hate speech. Moreover, there is an increased risk that one hateful comment will lead to more hateful comments.

Male contributors are responsible for by far the majority of the hateful comments made, and such comments typically targeted a group rather than a specific individual. In most instances, hate speech was targeted at other people's political beliefs or individuals who are professional politicians. Areas that also often drew hateful comments are religion and ethnicity. Particularly Islam and individuals from the Middle East or from countries in the Western world outside Denmark were the object of hate speech.

The majority of the hateful comments were on the lower end of the scale of extremity that is used to measure the level of extremity in hate speech. This indicates that the news media have succeeded in weeding out comments that can be perceived as actual threats. However, the fact that one in seven comments is hateful indicates that the news media still do not quite know how to deal with hate speech that is not an actual threat. When considering user interactions on the Facebook pages of the news media, we can see that the users themselves do not deal with hateful comments by simply ignoring them. On the contrary, hateful comments seem to generate interaction.

## CHAPTER 4

# 7 SURVEY OF FACEBOOK USERS

The results of the questionnaire survey carried out by Megafon for the Danish Institute for Human Rights will be presented in this chapter. Unless otherwise stated, the results are presented by figures which represent the entire Danish population, as the intention is to demonstrate how Facebook users generally use and deal with debates on Facebook.

The first section will present the data basis for the analysis. The second section will cover how Danes use and experience Facebook debates, particularly with regard to the tone and language used in the debates. The final section will focus on what the survey shows about Danes' attitudes towards editing of online debates.

### 7.1 DATA

This section is based on a Megafon survey on the experiences of Facebook users. 1,045 Facebook users participated in the survey. We compare the composition of participants in the Megafon survey to Danish Facebook users.<sup>149</sup> As the education level and political beliefs of Facebook users is unknown, we have instead chosen to compare with the Danish population in total.

Facebook is the biggest social network in Denmark. A total of 2.5 million Danes log on to Facebook at least once a week. Women log on to Facebook the most – 49 % of female internet users<sup>150</sup> log on to Facebook at least once a week compared to only 41 % of the male users.<sup>151</sup> A similar gender distribution can also be found in the Megafon survey where 54 % (n 568) of the 1,045 Facebook users are women.

In the Megafon survey, the youngest age group is underrepresented and the oldest is overrepresented in comparison to the age distribution of Facebook users.

The Megafon survey had more participants with a post-secondary education and fewer participants with a vocational qualification than the population in general.<sup>152</sup>

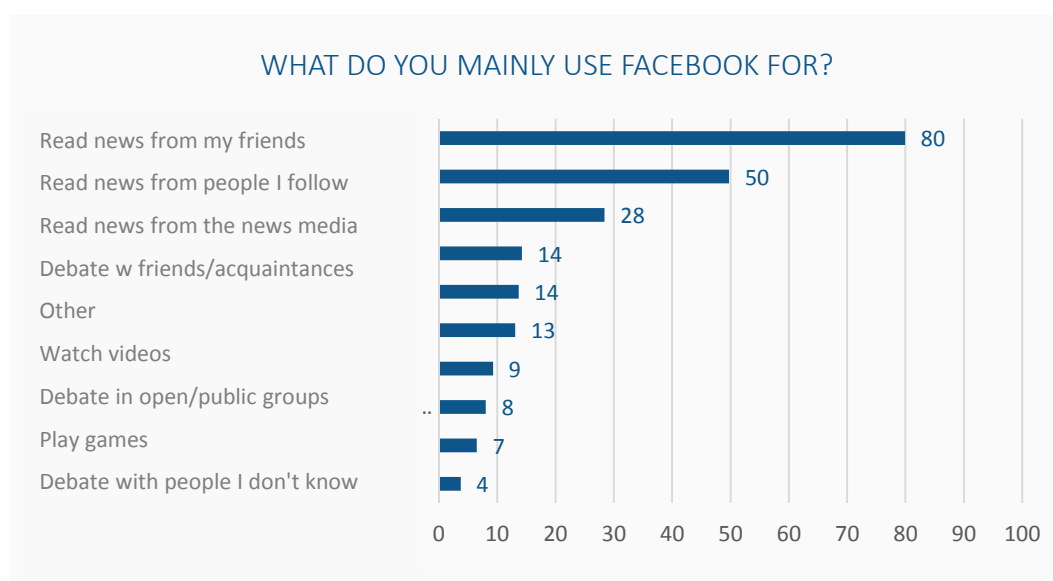
A total of 61.4 % of participants of the Megafon survey voted for left-wing political parties, compared to only 47.7 % during the 2015 election. The right-wing political parties received 52.3 % of the vote in 2015, while only 38.6 % of respondents in the Megafon survey voted for these parties.

Voter turnout among participants of the Megafon survey is higher than among the general population. Voter turnout for the 2015 general election was 86 %<sup>153</sup>, whereas it was 94 % in the Megafon survey.<sup>154</sup> In general, people who voted for the Danish People's Party and Denmark's Liberal Party were underrepresented compared to the general population, while people who voted for the Danish Red-Green Alliance, the Alternative, the Socialist People's Party and the Danish Social Liberal Party were overrepresented.

We assume that the effect of the uneven distribution is minimal as, in general, there are few differences in the responses from the various population groups. When age, gender or political belief affects the results, this will be commented on.

## 7.2 RESULTS

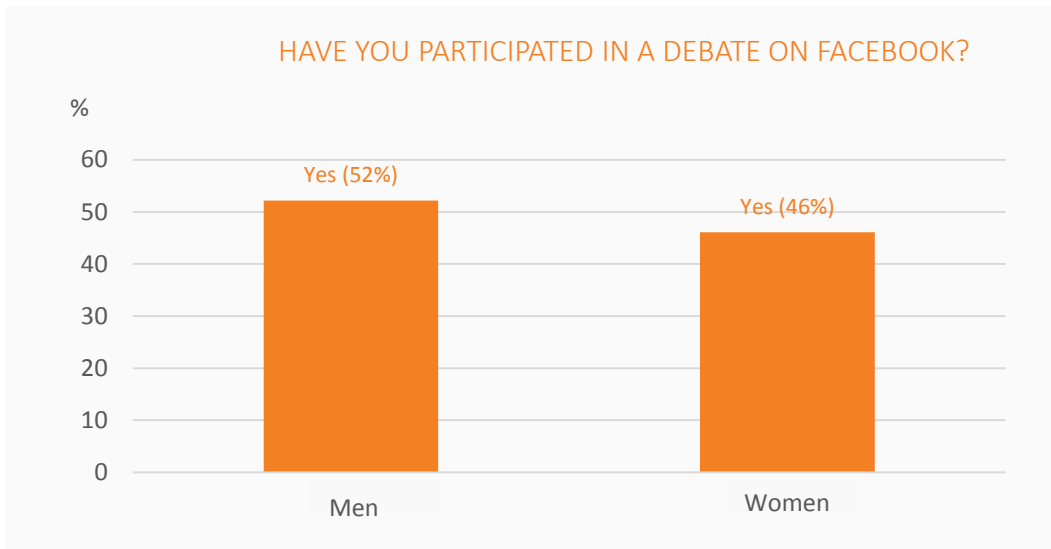
Facebook is the preferred social network in Denmark. It is most often used to read news from friends or the people you follow. Many also use Facebook to read news, making Facebook a central source of news. 28 % (n 297) of the 1,045 respondents responded that one of their three most common activities on Facebook was reading news articles. Every third respondent, 31 % (n 321), replied that one of their three most common activities on Facebook was participating in debates in some way or another.



**FIGURE 25:** Facebook use. Source: Megafon survey. 1,045 respondents. Question: "What do you mainly use Facebook for? [Select a maximum of three responses]"

### 7.2.1 WHO PARTICIPATES IN THE DEBATE?

About half of respondents (49 % n 511) reply that they have participated in debates on Facebook. 52 % of men and 46 % of women reply that they have participated in debates on Facebook.



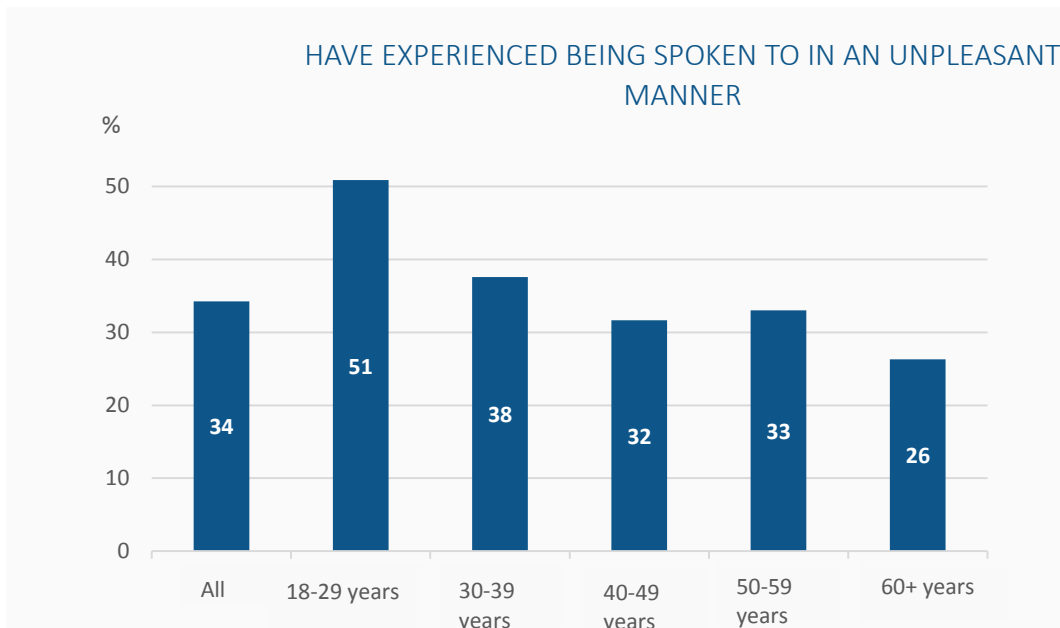
**FIGURE 26:** Participation in Facebook debates. Source: Megafon survey. Respondents: 1,045 people with Facebook profiles. Question: "Have you previously debated or commented a post on Facebook?"

The 18-29-year-olds were the most reluctant to participate in a debate. A total of 64 % (n 157) reply that they have not participated in Facebook debates. For the other age groups, this figure is between 47 % and 56 %.

Among those who participate in Facebook debates, 32 % reply that they debate at least two times a week. 30 % of women and 34 % of men debate more than two times a week. For 38 % of the 511 respondents who debate on Facebook, the debates take place on the pages of news media.

### 7.2.2 HOW DO USERS EXPERIENCE THE DEBATE?

34 % (n 175) of those who participate in debates - just as many men as women - have experienced being spoken to in an unpleasant manner during debates on Facebook.

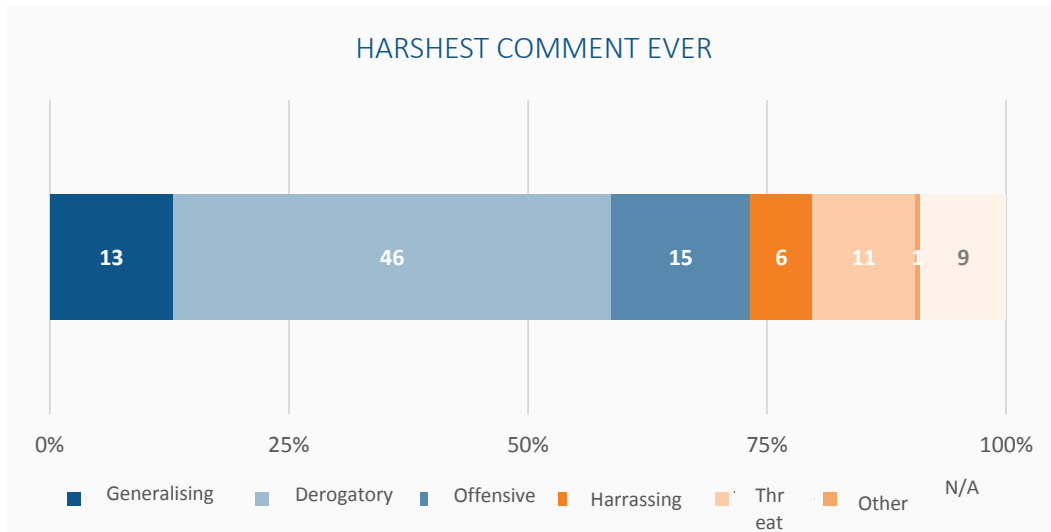


**FIGURE 27:** Have experienced being spoken to in an unpleasant manner. Source: Megafon survey. Respondents: 511 who have participated in Facebook debates. Question: "Have you ever experienced being spoken to in an unpleasant manner during debates on Facebook? (e.g. the use of derogatory or abusive terms)?"

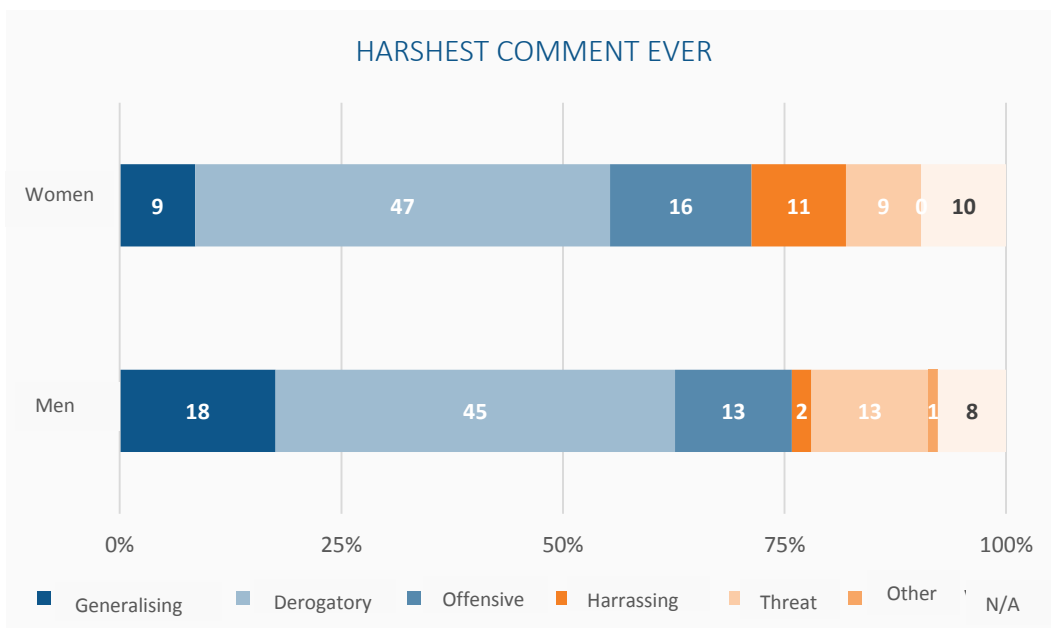
The youngest age group, the 18-29-year-olds, have to greater extent experienced being spoken to in an unpleasant manner compared to the other age groups.

Respondents were asked to consider the worst comment that they have **ever** experienced and the worst comment they have experienced **most recently**. Respondents were introduced to the same 1-5 severity scale that was used in the content analysis.

Among those who have experienced being spoken to in an unpleasant manner during debates on Facebook, 46 % (n 86) reply that the harshest comment they had **ever** received was derogatory in nature (level 2 on the scale). Men and women were equally represented in this group.



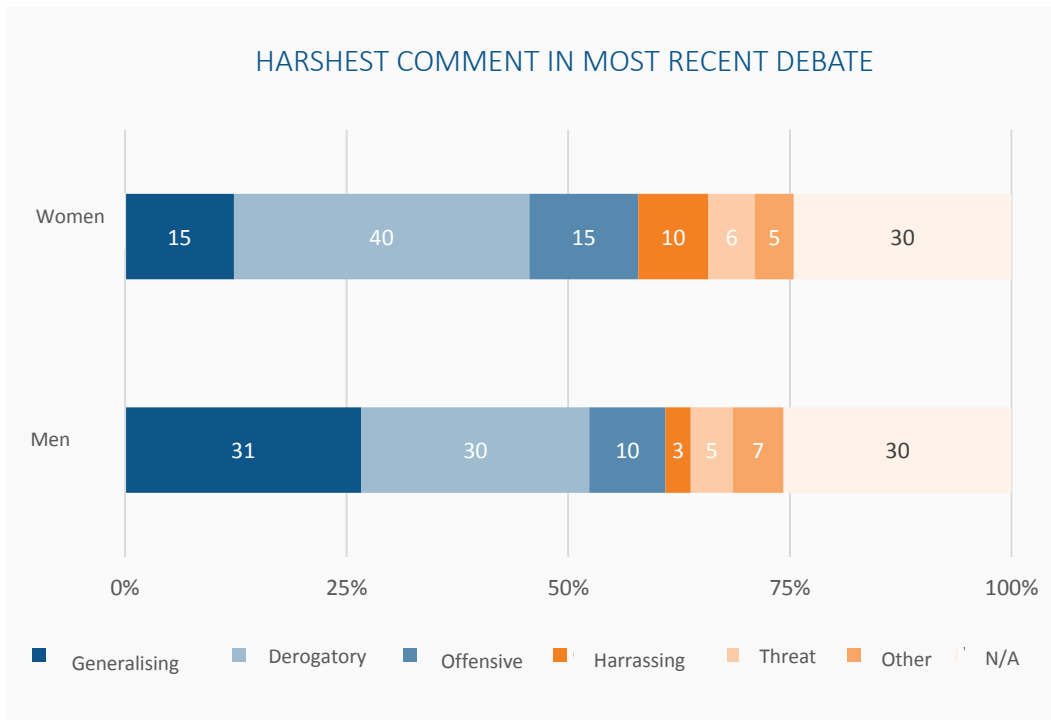
**FIGURE 28:** The harshest comment ever. Source: Megafon survey. 185 respondents who have experienced being spoken to in an unpleasant manner during debates on Facebook. Question: "Recall the harshest comment ever directed at you during a Facebook debate. Which of the following 5 statements best apply to that comment?"



**FIGURE 29:** The harshest comment ever. Source: Megafon survey. 185 respondents, divided by gender, who have experienced being spoken to in an unpleasant manner during debates on Facebook. Question: "Recall the harshest comment ever directed at you during a Facebook debate. Which of the following 5 statements best apply to that comment?"

Men most often experience that the harshest comment they have ever received was stigmatising (level 1 on the scale), while women more often experience harrasing comments (level 4 on the scale). Thus we see a difference between how men and women experience the tone of debate, and more women receive harsh comments than men.





**FIGURE 30:** The harshest comment experienced during the most recent debate. Source: Megafon survey. 185 respondents who have experienced being spoken to in an unpleasant manner during debates on Facebook debates. Question: "If you recall the most recent debate on Facebook in which you debated with others, how would you characterise the worst comment directed at you? Which of the following 5 statements best apply to that comment?"

Once again, we see significant differences between the responses given by men and women when asked about the harshest comment they have received in their **most recent** debate. Women experience derogatory, offensive and harassing comments (levels 2, 3 and 4, respectively) more often than men. Men experience more stigmatising comments (level 1 on the scale) compared to women.

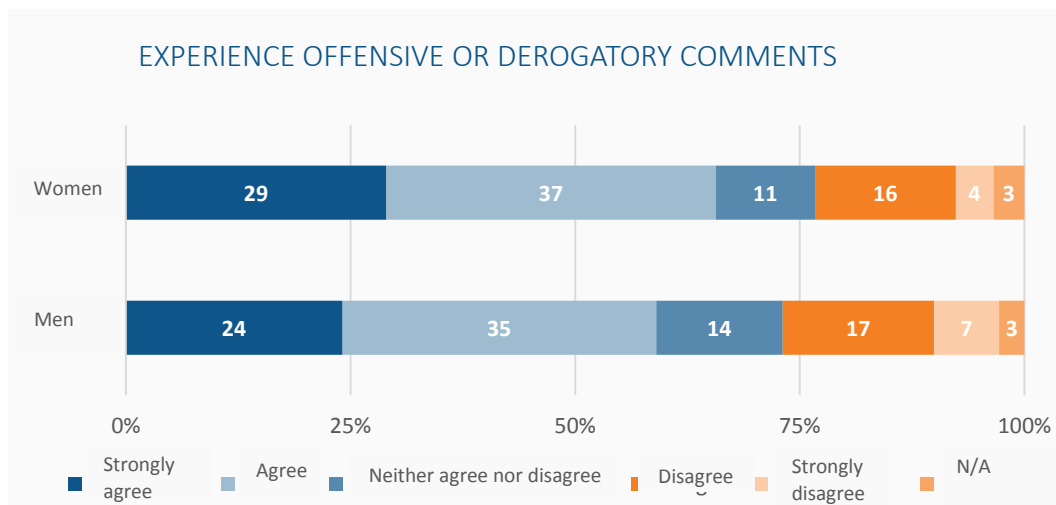
Among those who have experienced being spoken to in an unpleasant manner, the comments are often targeted at their political belief, gender or social status. A number of respondents replied that the comment was aimed at other circumstances that were not specified. The response rate in the other categories was too small and therefore contains some uncertainty. This means that no trends can be derived from these responses.

HARSHEST COMMENT IN MOST RECENT DEBATE  
BASED ON THE FOUR MOST COMMON RESPONSES.

PERCENTAGE OF RESPONDENTS	ALL	MEN	WOMEN
Political belief	46	54	38
Gender	11	5	17
Social status (poor, middle class, wealthy)	14	18	10
Other	33	26	39

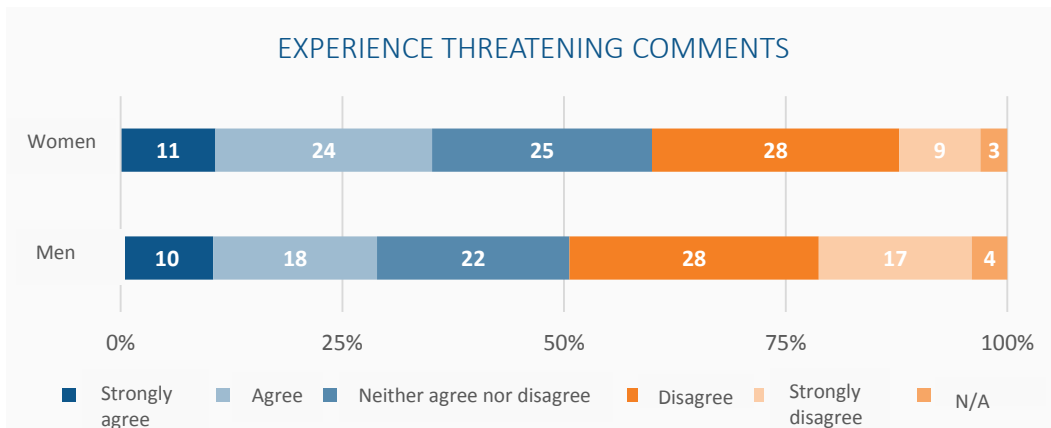
**TABLE 7:** Harshest comment in most recent debate. Source: Megafon survey. 185 respondents who have experienced being spoken to in an unpleasant manner. Question: "If you recall the last time you experienced being spoken to in an unpleasant manner on Facebook, which of the below statements was the comment aimed at? It is possible to select several answers."

63 % (n 321) replied that they strongly agree or agree that they experience that other people write derogatory or offensive comments during a Facebook debate. Of this group, 66 % were women (n 174) and 59 % were men (n 147).



**FIGURE 31:** Often experience offensive or derogatory comments. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "Please indicate whether you agree or disagree with the following statement: "I often experience that other people write something derogatory or offensive during a Facebook debate."

One in three (32 %, n 164) strongly agree or agree that they often experience that others write something threatening during a Facebook debate.



**FIGURE 32:** Often experience threatening comments during Facebook debates. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "Please indicate whether you agree or disagree with the following statement: I often experience that other people write something threatening during a debate on Facebook."

### 7.2.3 REFRAINING FROM PARTICIPATING IN DEBATES

In general, women tend to refrain from joining debates to a much higher degree than men, which can be seen in table 8.

TOP 7: TOPICS WHICH MAKE PEOPLE REFRAIN FROM PARTICIPATING IN A DEBATE			
PERCENTAGE OF RESPONDENTS	ALL	MEN	WOMEN
Refugees, migration and asylum	31	26	35
Religion and faith	24	22	27
Integration	20	14	26
Terrorism	15	14	16
War and disasters	11	8	13
Violence, crime and the legal system	10	10	11
Gender and equality	8	8	7

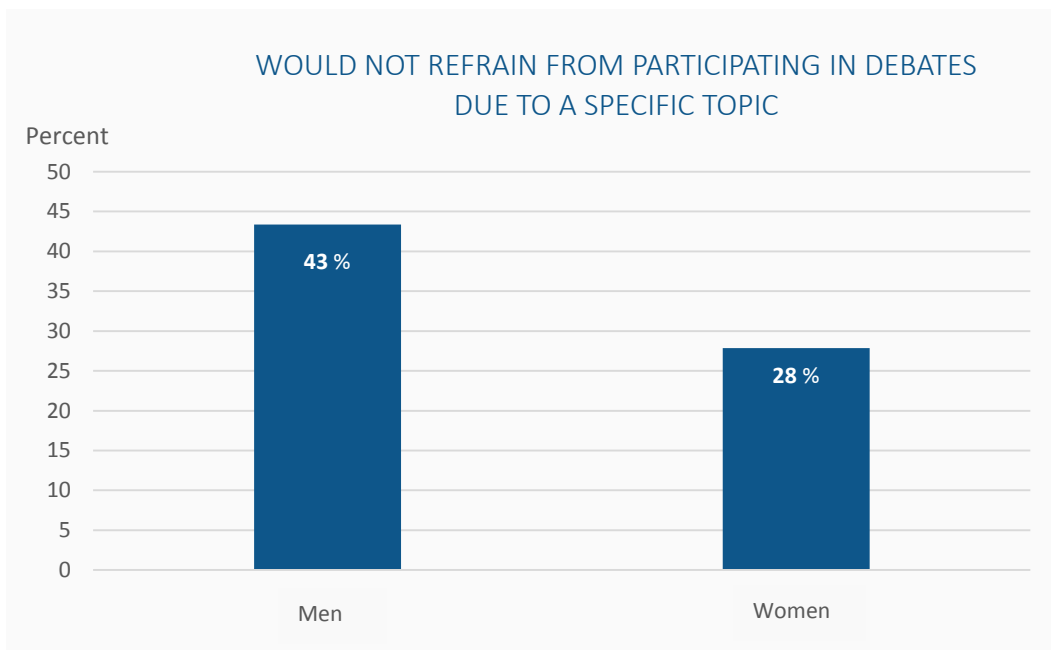
**TABLE 8:** Topics which make people refrain from participating in the debate. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "Are there any particular topics which would make you refrain from participating in a debate? If yes, which ones? It is possible to select several answers."

Refugees, migration and asylum are the topics which most users who participate in debates (n511) refrain from debating, because of the tone of the debate (31 %

(n158)). This is followed by the topics of religion and faith with 24 % (n 125), and integration with 20 % (n 103). It should be noted that 57 % (n 292) responded that there are no particular topics that keep them from participating in a debate or that other circumstances keep them from participating. It has not been possible to specify what those other circumstances might be.

In general, the different age groups avoid the same topics, however, the 18-29-year-olds stand out on one point. 18 % of this age group avoid debates on gender and equality, whereas only 6 % of the other age groups avoid this topic. This is a significant difference.

To the question of whether there are specific topics which would keep one from debating, 43 % of men (n 108) and 28 % (n73) of women respond that there are no specific topics that would keep them from debating. 18 % of men and 25 % of women refrain from participating in debates for other reasons.



**FIGURE 33:** Would not refrain from participating in Facebook debates due to a specific topic. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "Are there any particular topics which would make you refrain from participating in a debate? If yes, which ones? It is possible to select several answers."

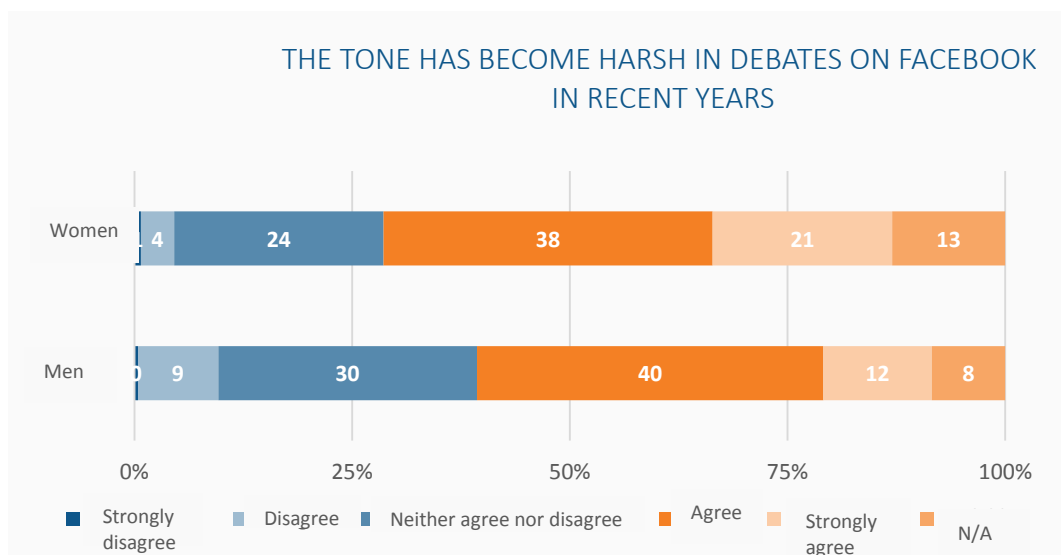
When asking this group of respondents why they choose to not participate in Facebook debates because of the topic or other circumstances, the most common response is that the debate has gone off the rails or that it is unbalanced. Other common reasons for not debating are that the debate is too time consuming or that the debates contain threats.<sup>155</sup>

### WHAT IS THE MAIN REASON FOR CHOOSING NOT TO PARTICIPATE IN DEBATES ON FACEBOOK?

PERCENTAGE OF RESPONDENTS	MEN	WOMEN
The debate has gone off the rails	28	40
The debate seems too unbalanced	28	23
Other	11	14
The debate contains threats	11	11
It is too time consuming	11	8
There are too many comments	9	3
The debate is boring	4	2

**TABLE 9:** Main reason for choosing to not participate in debates on Facebook. Source: Megafon survey. 330 respondents who choose to not participate in Facebook debates due to specific topics or other circumstances. Question: What is the main reason for choosing to not participate in debates on Facebook?"

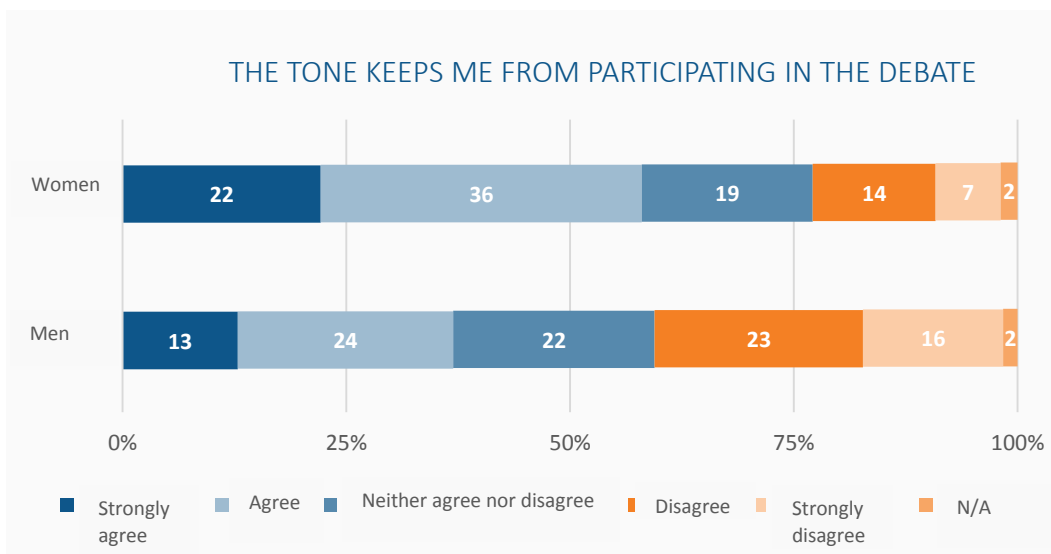
#### 7.2.4 THE TONE OF THE DEBATE



**FIGURE 34:** The tone of debates on Facebook. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: To what extent do you agree with the following statement? The debate tone on Facebook has become increasingly harsh in recent years.

55 % (n 283) of people who participate in debates on Facebook strongly agree or agree that the debate tone on Facebook has become increasingly harsh in recent years. This was stated by 58 % (n 153) of the women and 52 % (n 130) of the men.

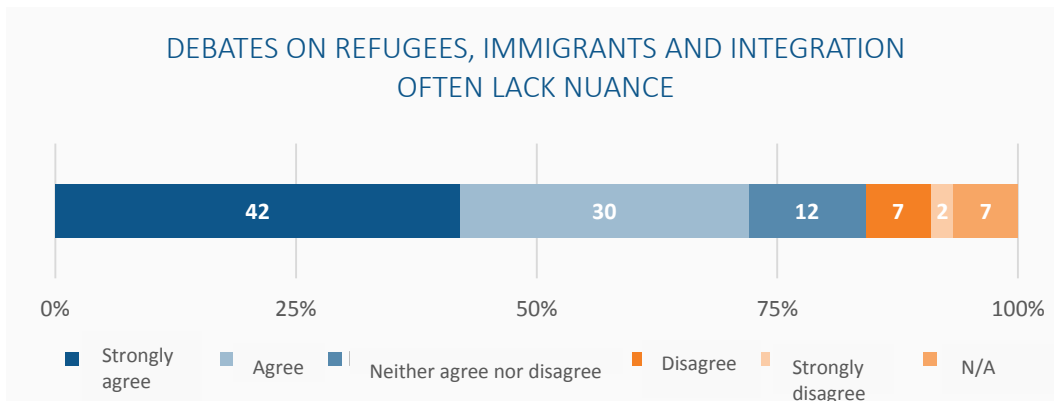
48 % (n 244) of respondents who participate in debates stated that they strongly agree or agree that the tone in debates keep them from participating. Women choose not to participate more often than men. The tone of the debate can keep 37 % of men and 58 % of women from participating in a debate.



**Figure 35:** Refraining from debate because of the tone. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "Please indicate whether you agree or disagree with the following statement: The tone in a debate on Facebook keeps me from participating in the debate"

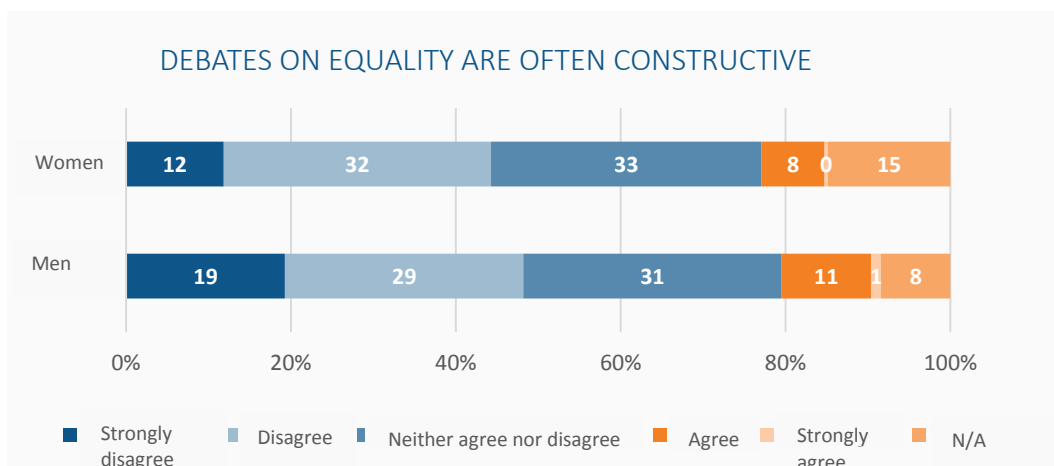
### 7.2.5 THE LEVEL OF THE DEBATE

72 % (n 368) strongly agree or agree that debates on refugees, immigrants and integration often lack nuance.



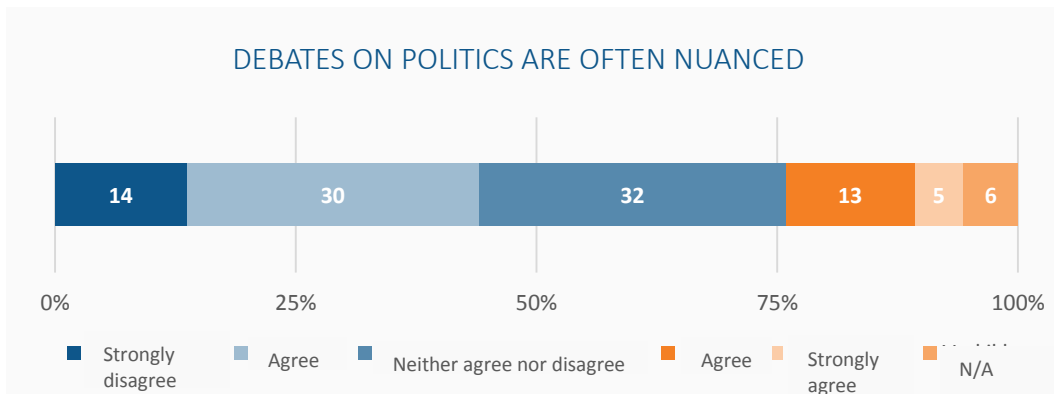
**FIGURE 36:** Debates on refugees, immigrants and integration. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "To what extent do you agree with the following statement: Debates on refugees, immigrants and integration often lack nuance."

46 % (n 236) strongly disagree or disagree that debates on gender equality often are constructive. This was stated by 44 % (n 116) of the women and 48 % (n 120) of the men.



**FIGURE 37:** Debates on equality. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "To what extent do you agree with the following statement: Debates on equality are often constructive."

44 % (n 225) strongly disagree or disagree with the statement that political debates are often nuanced. There are no significant differences between the responses from men and women.



**FIGURE 38:** Debates on politics. Source: Megafon survey. 511 respondents who participate in debates on Facebook. Question: "To what extent do you agree with the following statement: Debates on politics are often nuanced."

### 7.2.6 MOST-TARGETED GROUPS ON FACEBOOK

46 % (n 481) of the 1,045 respondents believe that politically active people are the most at risk of receiving harsh comments. 39 % (n 409) assess that people with a non-Danish background are the most targeted. 37 % (n 348) assess that public figures are most targeted, 19 % (n 199) believe that women are most targeted, 17 % (n 180) that people of faith are most targeted and 10 % (n 104) that LGBT people are most targeted (homosexual, bisexual and transgender). 21 % (n 221) replied "I don't know".

#### TOP 7: MOST-TARGETED GROUPS ON FACEBOOK

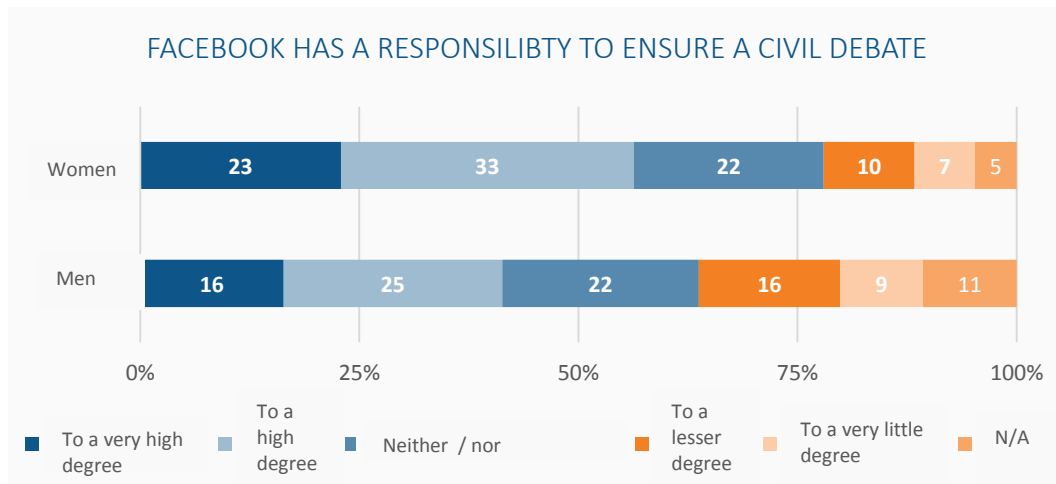
PERCENTAGE OF RESPONDENTS	ALL
Politically active individuals	46
Individuals with a non-Danish background	39
Public figures	37
Women	19
People of faith	17
LGBT (homosexual, bisexual and transgender)	10
Children and young people	9

**TABLE 10:** Most-targeted groups on Facebook. Source: Megafon survey. 1,045 respondents with a Facebook profile. Question: "Based on your assessment, which groups are most at risk of receiving harsh comments on Facebook? It is possible to select up to three answers."



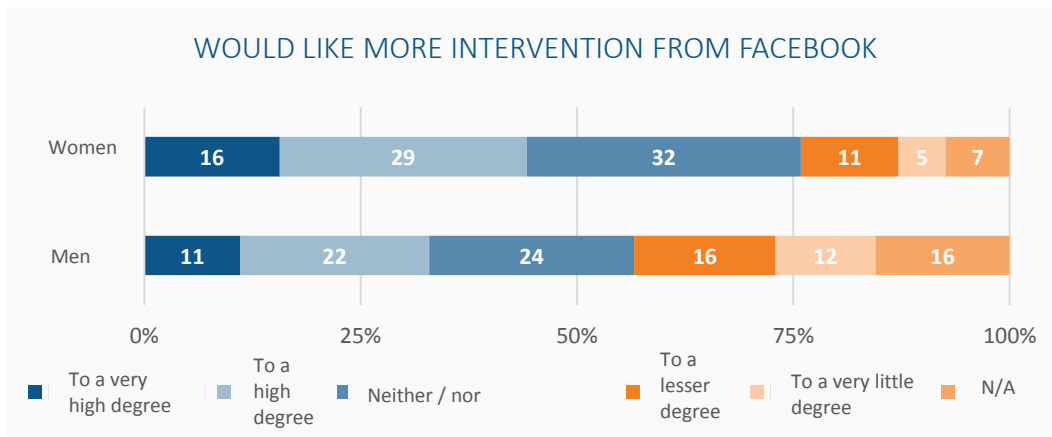
### 7.2.7 THE RESPONSIBILITY OF FACEBOOK AND THE MEDIA

In general, respondents feel that both Facebook and the media have a responsibility to ensure a good debate and to edit derogatory and offensive comments from the comment thread. However, a majority of users feel that the media, rather than Facebook, have this responsibility. 49 % (n 517) out of 1,045 respondents strongly agree or agree that Facebook has a responsibility to ensure a civil debate. This was stated by 56 % (n 320) of the women and 41 % (n 197) of the men.



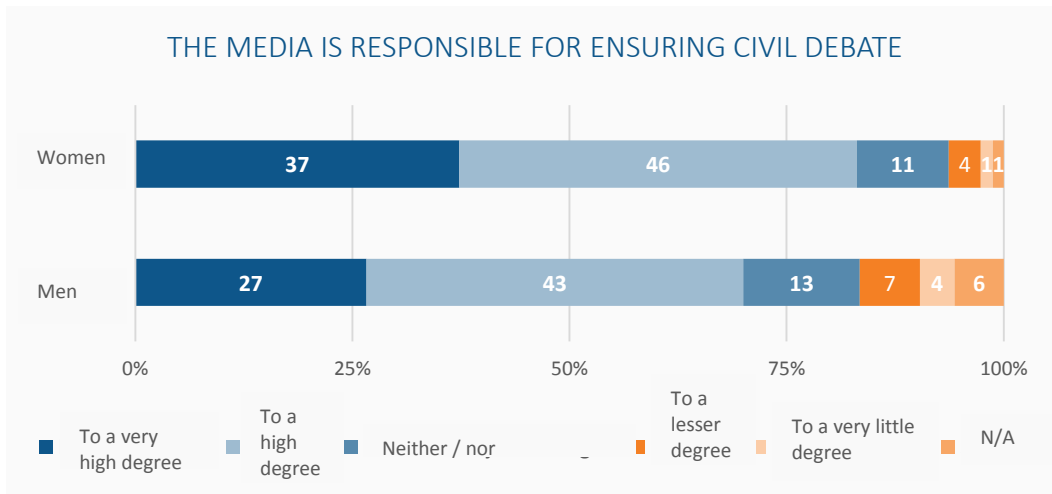
**Figure 39:** Facebook's responsibility. Source: Megafon survey. 1,045 respondents with a Facebook profile. Question: "To what degree do you feel that Facebook is responsible for ensuring a good debate and for editing derogatory and offensive comments from the comment thread?"

A higher percentage of women than men want more intervention from Facebook with regard to ensuring a civil tone in the debates. This applies to 45 % (n 251) of the women and 33 % (n 157) of the men.



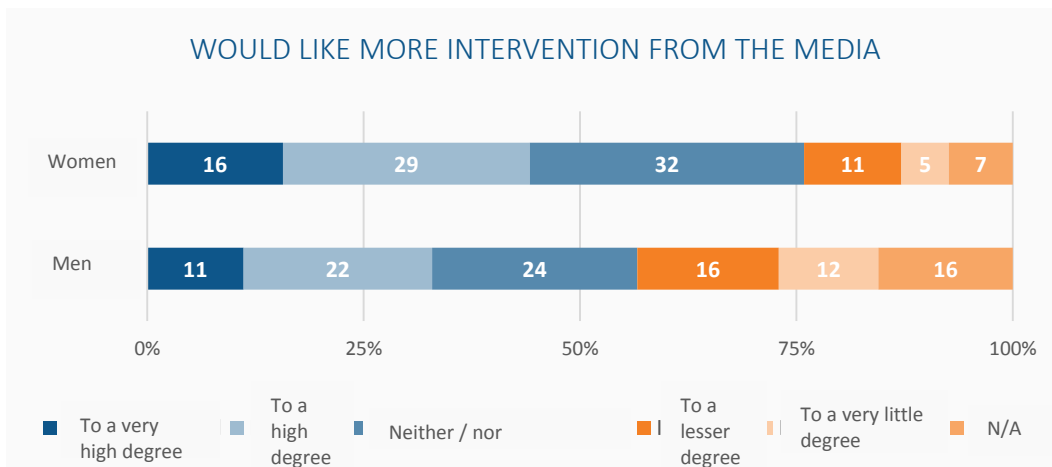
**FIGURE 40:** Intervention from Facebook. Source: Megafon survey. 1,045 respondents with a Facebook profile. Question: "To what degree would you like more intervention from Facebook with regard to ensuring a civil debate tone on Facebook in general?"

77 % (n 806) of 1,045 respondents responded that they believe that the media to a very high/high degree has a responsibility to ensure a civil debate and edit derogatory and offensive comments. This is believed by 70 % of men (n 334) and 83 % of women (n 472).



**FIGURE 41:** The responsibility of the media. Source: Megafon survey. 1,045 respondents with a Facebook profile. Question: "To what degree do you believe that the media (DR, TV 2 Nyhederne, Politiken, etc.) are responsible for ensuring a civil debate and for editing derogatory and offensive comments from their own Facebook pages?"

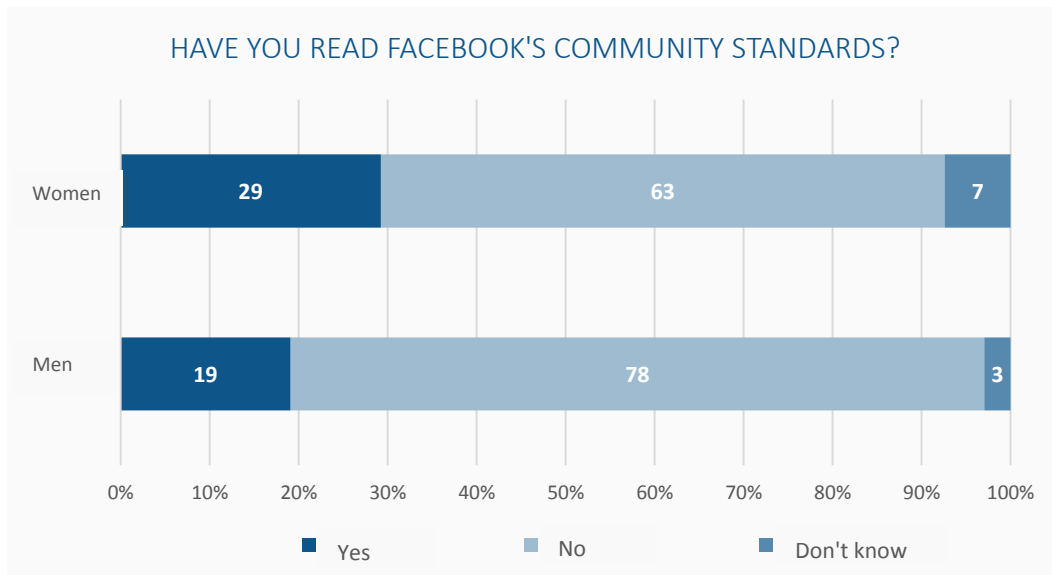
58 % (n 603) of respondents responded that they would to a very high/high degree like more intervention from the media with regard to ensuring a civil debate tone on their Facebook pages. This was stated by 65 % (n 371) of the women and 49 % (n 232) of the men.



**FIGURE 42:** Intervention from the media. Source: Megafon survey. 1,045 respondents with a Facebook profile. Question: "To what degree would you like more intervention from the media (DR, TV 2 Nyhederne, Politiken, etc.) with regard to ensuring a civil debate tone on their own Facebook pages?"

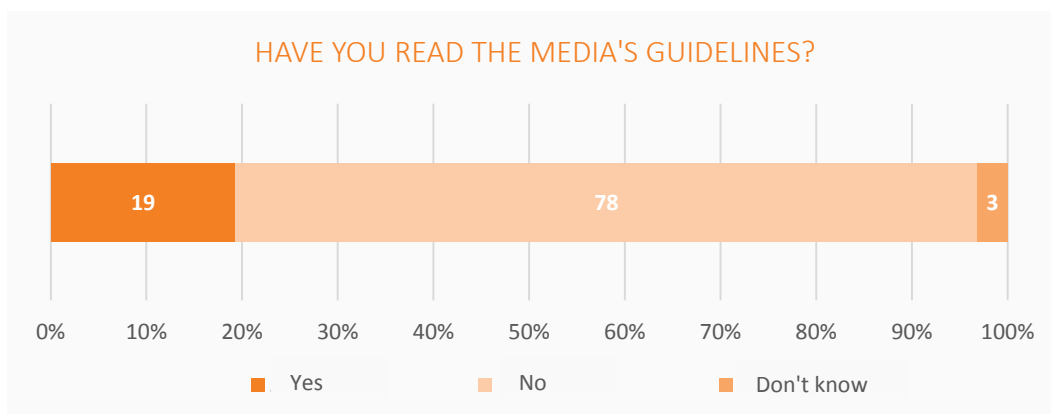
### 7.2.8 KNOWLEDGE OF COMMUNITY STANDARDS

Women have, to a higher degree than men, read Facebook's community standards for a civil debate. 29 % of women have read the standards and 19 % of men.



**FIGURE 43:** Have read Facebook's community standards. Source: Megafon survey. 1,045 respondents who have a Facebook profile. Question: "Have you read all - or parts of - Facebook's community standards for respectful behavior?"

There is no difference between men and women with regard to their knowledge of the media's guidelines. 78 % have not read the media's guidelines for participating in debates on their Facebook pages. This corresponds to only one in five being familiar with the guidelines.



**FIGURE 44:** Have read the media's guidelines. Source: Megafon survey. 1,045 respondents with a Facebook profile. Question: "Have you read all - or parts of - media (e.g. DR, TV 2 *Nyhederne*, Politiken, etc.) guidelines for participating in debates on their Facebook pages?"

The numbers show that users have very limited knowledge of Facebook's community standards and the media's guidelines for debate. It is therefore not sufficient to refer to a set of guidelines since very few people read them. As a consequence, the media must think of other ways to draw attention to their existing debate guidelines.

### 7.3 SUMMARY

The survey is based on responses from 1,045 respondents with a Facebook profile. Almost half of the respondents (n 511) have participated in debates on Facebook, and their experiences are the main basis of the analysis. In this survey, more men than women have debated on Facebook. The 18-29-year-olds are the most reluctant to participate in a debate.

34 % of those who participate in debates - just as many men as women - have experienced being spoken to in an unpleasant manner during debates on Facebook. Women refrain from participating in debates due the tone more often than men. A majority of men respond that there are no specific topics which they would refrain from debating. The topics which Facebook users most often refrain from debating due to the tone are refugees, migration and asylum, religion and faith, and integration.

A majority (72 %) of the questioned participants experience that debates on refugees, immigrants and integration lack nuance. A total of 46 % of participants do not think that debates on gender equality are constructive, and 44 % of participants do not think that debates on politics are nuanced.

Women more often experience that the harshest comment they have received was harassing, while men more often experience that the harshest comment they have received was stigmatising.

48 % of participants in debates stated that the tone of debates keep them from participating. Women choose not to participate more often than men. 55 % of the participants in debates on Facebook strongly agree or agree that the debate tone on Facebook has become increasingly harsh in recent years.

The people or groups who are considered most at risk of receiving harsh comments on Facebook are people with a non-Danish background, public personas, women, people of faith and LGBT individuals.

When it comes to the responsibility of ensuring a civil tone of debate, users feel that the media have a greater responsibility than Facebook with regard to editing offensive and derogatory comments. 49 % believe that it is the responsibility of Facebook, whereas 77 % believe that it is the responsibility of the media.

# CHAPTER 8

## 8 CONCLUSION

With this study we focus on hate speech in the online public debate, based on the Facebook pages of two major Danish news providers, *DR Nyheder* and *TV 2 Nyhederne*. Social media has made it easier for many more people to use their freedom of expression and to participate in the public debate. At the same time, the debate culture on social media is criticised for polarising, causing division and spreading hate. The latter development has brought to attention the phenomenon of hate speech, the rise of which is increasingly ascribed to social media, where comments are made public, shared and spread like wildfire.

### 8.1 THE HUMAN RIGHTS DILEMMA

There is no universally accepted definition of hate speech, which makes it challenging to examine the phenomenon. However, the existing definitions all address hate speech as speech that is derogatory, defamatory and discriminatory, and may incite hate and violence against individuals solely on the basis of their ethnicity, religion, gender, etc.

In this report, we use a definition that, in addition to speech acts that are unlawful pursuant to Danish law, include the following grounds of discrimination: ethnicity, religion, gender, disabilities, age, sexual orientation, political belief and social status, which are all areas that are protected by human rights law.

It is important to view the phenomenon of hate speech from a human rights perspective because hate speech touches upon the very core of our democracy: freedom of expression. Having said that, freedom of expression is not an absolute, and thus we are faced with a human rights dilemma. While freedom of expression should be respected, the protection of marginalised groups provided by human rights law against acts motivated by hate, discrimination and racism should be taken seriously.

### 8.2 LAWFUL AND UNLAWFUL SPEECH

When we talk about hate speech, it is important to distinguish between lawful and unlawful speech. This distinction can be based on section 266b of the Danish Criminal Code, which criminalises some types of speech. Users can be held liable for spreading unlawful speech via online debate platforms. In several cases, users have been penalised for spreading unlawful speech, whereas the legal obligations of the media remain a fuzzy area. However, one can argue that the

media have a clear moral responsibility to deal with the unlawful speech that is spread via their commenting sections. In addition to unlawful speech that is harmful, sometimes lawful speech is also extremely hateful and may therefore have negative consequences for the public debate. Hateful content that is lawful should not necessarily always be removed, as this may jeopardise the fundamental right to freedom of expression; instead the media must take responsibility for dealing with these kinds of comments without removing them.

Section 266b of the Danish Criminal Code provides protection in the areas of ethnic origin, religion and sexual orientation, but does not provide protection in the areas of gender, disability and political beliefs. Despite the fact that not all discriminatory grounds are protected, it is important to note that criminalisation in itself is not the only solution with regard to combatting hate speech. Initiatives aimed at hate speech, protecting freedom of expression and combatting discrimination should be integrated with measures for combatting racism, sexism, homophobia, islamophobia, antisemitism, etc. as well as with initiatives dealing with hate crimes, radicalisation and extremism within for example the education area and the judicial system.

### **8.3 THE PUBLIC DEBATE IN CONNECTION WITH NEWS STORIES ON FACEBOOK**

In this study we have focused on the edited debate on the Facebook pages of two news sites. The data of the study consist of 2,996 comments taken from the Facebook pages of the two news providers *DR Nyheder* and *TV 2 Nyhederne*. The comments were collected *after* they had been edited by the two media providers and Facebook. In other words, the data represents what we allow in the public debate, and the analysis shows that one in seven of the comments that were allowed to remain were hateful in accordance with the definition used in this report.

This means that by far the majority of the comments (85 %) were not hate speech. However, 15 % of the online public debate related to the news on the two Facebook pages of *DR Nyheder* and *TV 2 Nyhederne* consisted of hateful comments aimed at individuals or groups.

Hate speech was most common in connection with news posts on topics concerning religious beliefs, refugees, migration and asylum, and gender equality. Overall, the topics that attracted the most hate speech comments were violence, crime and the legal system, as well as topics relating to foreign policy matters and other political topics (i.e. political topics that do not fit into the existing categories, e.g. news about the EU).

A clear over-representation of hate speech was found in debates relating to news posts that also included hate speech, e.g. a quote from a source. Moreover, there is an increased risk that one hateful comment will lead to more hateful comments. This trend, that hate breeds hate, is something on which the media should focus.

Male contributors are responsible for by far the majority of the hateful comments made (76 %), and such comments typically targeted a group rather than a specific individual. In most instances, hate speech was targeted at other people's political beliefs or at individuals who are professional politicians. Areas that often drew hateful comments are religion and ethnicity. Particularly Islam and individuals from the Middle East or from countries in the Western world outside Denmark were the object of hate speech. Moreover, an individual's gender was also targeted. Hate speech based on gender was more often targeted at women than at men.

The majority of the hateful comments were on the lower end of the scale when measured on a scale of extremity ranging from 1 to 5 that is used to measure the level of extremity in hate speech. This indicates that the news media have succeeded in weeding out comments that can be perceived as actual threats. However, the fact that one in seven comments is hateful indicates that the news media still do not quite know how to deal with hate speech that is not an actual threat.

A survey among Facebook users in Denmark showed that the users refrain from participating in a debate if the tone is harsh. The respondents especially steered clear of debates concerning refugees, migration and asylum, religious beliefs and faith, and integration, and more women than men avoided participating in debates on these topics. As a consequence of the harsh tone, many users surrender their freedom of expression and refrain from participating in the debate. When people - both members of the general public and public figures - refrain from participating in the public debate because of hate speech directed at their ethnicity, religion, gender or political beliefs, the democratic conversation suffers a loss.

#### **8.4 MODERNISING THE CONSOLIDATED ACT ON MEDIA LIABILITY**

A total of 77 % of Facebook users in the survey believe that the media have a responsibility to edit offensive and derogatory comments from the debates. Thus, a majority of the users believe that the media should be proactive with regard to ensuring a civil tone. The question is, how should the media approach this task?



The advisory rules on sound press ethics distinguish between edited and unedited discussion contributions. Edited discussion contributions are subject to editorial review and prioritisation. These contributions are covered by the regulations of the Danish Media Liability Act in line with letters to the editor in print media, and consequently they fall within the authority of the Press Council. Unedited discussion contributions are contributions published by the authors themselves on a media website, for example when commenting on an article or a discussion post. This type of discussion contribution is not covered by the regulations of the Danish Media Liability Act. In practice, however, user comments on Facebook and similar platforms are somewhere in between the two types of discussion contributions; The contributions are edited, but the editing takes place after publication and is carried out by a news media editor/moderator who reads the contributions and decides either to keep them, delete them or hide them.

With regard to letters to editors and reader debates on newspaper discussion pages, the Press Council applies an interpretation that allows a 'broader scope' for statements made in the public debate than it allows for similar statements in news articles. This is because, in the eyes of the Press Council, letters to the editor and discussion contributions are examples of subjective views and assessments. Thus, when dealing with these cases, the Press Council distinguishes between media-generated content and content submitted by readers/users that may be edited by the media publisher. It is not clear, however, how this 'broader scope' translates into the editing practice on online platforms where contributions by users and comments are not vetted by a moderator before they are published. All in all, the media should be responsible for ensuring that their current editing practices for their online platforms is made more transparent for their users and is compatible with Danish press ethical rules. Moreover, the Media Liability Act should be revised to clarify the responsibility of the media with regard to debates on their social media platforms.

## **8.5 MORE FOCUS ON MODERATION PRACTICES**

In a time where so much of the public debate takes place online, we need to discuss the responsibility of the news media with regard to combatting hate speech in the online debate. This entails more focus the moderation practices already in place for debates on social media.

The results of this survey can be seen as an expression of how harsh a tone is accepted by the news media examined in this study. However, users of these online platforms may have a different impression of the harshness of the debate, because they often read comments immediately after they have been published and therefore long before they have been subject to the media's internal

moderation practices. The media should begin monitoring debates that take place on their online platforms at a much earlier stage, and should be particularly focused on the number of hateful comments made.

The majority of the hate speech comments examined in this study comprise stigmatising, derogatory and defamatory statements. Many of these comments do not seem to violate the news media's own guidelines for debates, however they still constitute hate speech in that they express a negative and derogatory view of others. The news media should have a strategy in place for dealing with this kind of comment to ensure that as many people as possible contribute to these online debates.

#### **8.6 THE DEMOCRATIC CONVERSATION SUFFERS FROM A HARSH DEBATING TONE**

Particularly hate speech that is made in connection with online debates is damaging, because comments that are made online, be it via Facebook or other websites and social media, can be shared again and again, thereby spreading these comments to a large audience. Moreover, comments spread online do not go away - they live online for a long time. Due to its negative content, hate speech has a negative effect on the public debate online. This is for example seen in the fact that one in two Danes refrain from contributing to public debates. The hatred expressed via these comments may contribute to legitimising hatred toward certain groups in our society if they are not rebutted. This is an issue that the news media should take seriously and prepare a strategy for dealing with.

There is no doubt that Facebook and other social media allow a multitude of voices to be heard in the public debate. However, if we are to protect the democratic conversation that allows room for voicing different opinions without putting certain groups on the receiving end of abuse, we need to place requirements on those who participate actively in the debate, and on those who host debate platforms. This is especially true of the news media that use online platforms such as Facebook to distribute their journalistic products. The news media are tasked with this important issue of preparing and ensuring clear guidelines for the online debate. Moreover, they must consider what the role of editor entails with regard to social media platforms.

# 9 RECOMMENDATIONS

In the following we present a number of recommendations targeted at key actors, for example news media, Facebook, decision makers and the police. The objective of the recommendations is to identify measures to enhance the efforts to combat hate speech.

The Danish Institute for Human Rights recommends that:

- The news media ensure transparent and consistent moderation of their online debates.  
As a minimum, this entails that the media prepare clear guidelines for online debate that are easy to access in accordance with Danish press ethical rules, and that the media are consistent in their enforcement of these guidelines. Moreover, it should be made clear to users how they can complain about hate speech that appears in the online debate.
- The news media register their Facebook pages as well as any other social media platforms with the Danish Press Council (Pressenævnet). Registering a Facebook page with the Press Council sends a clear signal that ethical rules for the press must be observed, and it makes it easier for users to file a complaint with the Press Council.
- The Media Liability Act is revised to clarify the responsibility of the news media with regard to debates on the social media platforms that they facilitate through their news posts. The Media Liability Act should be adapted to reflect the reality of the media today, focusing in particular on the news media's increasing use of social media.
- The Danish Government prepares a national action plan concerning hate speech similar to what has been done in Norway and Sweden. The action plan should focus on both lawful and unlawful hate speech, and should identify areas of society that should receive particular attention, including

the media. Moreover, the action plan should address how hate speech can be combatted through measures other than legislation and bans.

- The Danish Police provides statistics on reports of hate speech pursuant to Section 266 b of the Danish Criminal Code, where charges are not pressed and on which grounds.
- Facebook publishes annual country-specific figures on the number of reports they have received concerning hate speech, including how many of these reports were acted upon.

# END NOTES

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<sup>4</sup> <https://www.dr.dk/nyheder/politik/loekke-holder-alternativ-nytaarstale-paa-facebook>

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Article 2 of the UN Universal Declaration of Human Rights states that:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 21, section 1 of the EU Charter of Fundamental Rights states that: “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation shall be prohibited.” See also Article 19. ‘Hate Speech’ Explained. A Toolkit. 2015 Edition.

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<https://journalistforbundet.dk/presseetiske-regler>

<sup>67</sup> *Bekendtgørelse af medieansvarsloven, kapitel 5, § 34* (Chapter 5, section 34 of the Consolidated Act on Media Liability) Available (in Danish) at:

<https://www.retsinformation.dk/forms/r0710.aspx?id=143047#Kap5>

<sup>68</sup> *Guide presseetiske regler 2013*. Danish Union of Journalists and Association of Danish Media. Available (in Danish) at:

<https://journalistforbundet.dk/presseetiske-regler>

<sup>69</sup> *Vejledende regler for god presseskik*, p. 15 in *Guide presseetiske regler 2013*. Danish Union of Journalists and Association of Danish Media. Available (in Danish) at: <https://journalistforbundet.dk/presseetiske-regler>

<sup>70</sup> *Guide presseetiske regler 2013*. Danish Union of Journalists and Association of Danish Media. Available (in Danish) at:

<https://journalistforbundet.dk/presseetiske-regler>

<sup>71</sup> *Oversigt over tilmeldte medier til Pressenævnet*. Available (in Danish) at:

<http://www.pressenaevnet.dk/hvem-kan-man-klage-over/>

<sup>72</sup> Case number: 16-70-01006. Available (in Danish) at:

<http://www.pressenaevnet.dk/kendelser/arkivbillede-indsat-i-kraenkende-sammenhaeng/> See also case number: 16-70-01020. Available (in Danish) at:

<http://www.pressenaevnet.dk/2016/facebook-side-ikke-anmeldt-debatindlaeg-skulle-ikke-bringes/>

<sup>73</sup> Available at:

<http://www.domstol.dk/KobenhavnsByret/nyheder/domsresumeer/PAages/DomigselsagenfraSomalia.aspx>

<sup>74</sup> *Grundlæggende synspunkter, debat*, p. 8, in *Guide presseetiske regler 2013*. Danish Union of Journalists and Association of Danish Media. Available (in Danish) at: <https://journalistforbundet.dk/presseetiske-regler>

<sup>75</sup> *Vejledende regler for god presseskik*, p. 15 in *Guide presseetiske regler 2013*. Danish Union of Journalists and Association of Danish Media. Available (in Danish) at: <https://journalistforbundet.dk/presseetiske-regler>

<sup>76</sup> Case number: 13-70-00489 <http://www.pressenaevnet.dk/kendelser/business-dk-far-kritik-af-pressenaevnet-for-blogindlaeg/>

<sup>77</sup> See, for instance, case number: 2001-0079

<http://www.pressenaevnet.dk/kendelser/ingen-kritik-af-politiken-vide-rammer-for-laeserbreve-dissens/> og sagsnummer: 2003-0024

<http://www.pressenaevnet.dk/kendelser/ingen-kritik-af-jyllands-posten-laeserbrevsdebattens-vide-rammer/>

<sup>78</sup> Facebook Community Standards. Available at:

<https://www.facebook.com/communitystandards>

<sup>79</sup> Facebook Community Standards. Available at:

<https://www.facebook.com/communitystandards>

<sup>80</sup> *DR Nyheders retningslinjer*. Available (in Danish) at: <http://www.dr.dk/om-dr/regler-god-opfoersel-paa-drs-sociale-profiler>

- <sup>81</sup> TV 2 Nyhedernes retningslinjer. Available (in Danish) at:  
<https://www.facebook.com/communitystandards>
- <sup>82</sup> Eskjær, M. F & Helles, R, 2015: *Kvantitativ Indholdsanalyse*, Published in the series: *Kort og præcist om medier og kommunikation*, Samfundslitteratur.
- <sup>83</sup> Krippendorff, K, 2013: *Content Analysis – An introduction to Its Methodology*, 3. edition, SAGE Publication, Inc, p. 48.
- <sup>84</sup> Facebook Community Standards. Available at:  
<https://www.facebook.com/communitystandards>
- <sup>85</sup> Eskjær, M. F & Helles, R, 2015: *Kvantitativ Indholdsanalyse*, Published in the series: *Kort og præcist om medier og kommunikation*, Samfundslitteratur, p. 67.
- <sup>86</sup> This Chapter is largely based on the DIHR 2015-16 status report on freedom of expression and assembly (Ytrings- og forsamlingsfrihed - Status 2015-16 )
- <sup>87</sup> See ECHR, Case of Handyside v. the United Kingdom, Judgment of 7 December 1976, app. no. 5493/72, par. 49.
- <sup>88</sup> See UN Human Rights Committee, General Comment no. 34 CCPR/C/GC/34, July 2011, Article 21. See, for example, ECHR, Observer & Guardian v. the United Kingdom, Judgment of 26 November 1991, app. no. 13585/88, par. 59 and ECHR, Faber v. Hungary, Judgment of 24 July 2012, app. no. 40721/08, par. 35.
- <sup>89</sup> See ICCPR, Article 19.
- <sup>90</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Article 4.
- <sup>91</sup> ECHR, Article 9(2)
- <sup>92</sup> Pavel Ivanov v. Russia, Judgment of 20 February 2007, app. no. 35222/04.
- <sup>93</sup> For example, Soulas et al v. France, Judgment of 10 July 2008, app. no. 15948/03, concerning a book criticising Islam. See also ECHR factsheet on hate speech from March 2016. Available at:  
[http://www.echr.coe.int/Documents/FS\\_Hate\\_speech\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf).
- <sup>94</sup> ECHR, Delfi AS v. Estonia, Judgment of 16 June 2015, app. no. 64569/09.
- <sup>95</sup> ECHR, Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary, Judgment of 2 February 2016, app. no. 22947/13.
- <sup>96</sup> Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, 2003.
- <sup>97</sup>  
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680081561>
- <sup>98</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/189>
- <sup>99</sup> Council Framework Decision of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, 2008/913/JHA, Article 1(c).
- <sup>100</sup> Code of Conduct on Countering Illegal Hate Speech Online. Available at:  
<http://ec.europa.eu/justice/fundamental->

[rights/files/hate\\_speech\\_code\\_of\\_conduct\\_en.pdf](#)

See also: [http://europa.eu/rapid/press-release\\_IP-16-1937\\_en.htm](http://europa.eu/rapid/press-release_IP-16-1937_en.htm)

<sup>101</sup> <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:da:PDF>

<sup>102</sup> <https://www.ft.com/content/b3163cca-ba32-11e6-8b45-b8b81dd5d080>

<sup>103</sup> UPR (Universal Periodic Review) is a mechanism of the UN Human Rights Council (HRC), in which all UN Member States report and are examined on equal terms with respect to their overall human rights situation.

The primary objective of the UPR is to promote protection of human rights in practice. Approximately every four years, all 193 UN Member States are up for an examination reviewing their human rights standards and fulfillment of their commitments and obligations. UPR is thus a mandatory evaluation system in which, one by one, each UN Member State takes part in interactive dialogue, focusing on the State's overall human rights situation and allowing other Member States to make recommendations for how the Member State in question can promote respect for human rights and effective observance of these rights to the benefit of the State's citizens. Read more here (in Danish): <http://um.dk/da/udenrigspolitik/folkeretten/menneskerettigheder/danmark-til-eksamen-i-menneskerettigheder/den-universelle-periodiske-bedoemmelse-upr/>

<sup>104</sup> See for example ECRI General Policy Recommendation on combatting hate speech. Available at:

[http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N15/REC-15-2016-015-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N15/REC-15-2016-015-ENG.pdf)

<sup>105</sup> UN Committee on the Elimination of Racial Discrimination, General Recommendation no. 15: Organized violence based on ethnic origin, 1993.

<sup>106</sup> UN Committee on the Elimination of Racial Discrimination, General Recommendation no. 35: Combating racist hate speech, 2013.

<sup>107</sup> UN Committee on the Elimination of Racial Discrimination, General Recommendation no. 35: Combating racist hate speech, 2013.

<sup>108</sup> UN Committee on the Elimination of Racial Discrimination (CERD), Communication no. 30/2003.

<sup>109</sup> UN Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined twentieth and twenty-first periodic reports of Denmark, CERD/C/DNK/CO/20-21. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/123/79/PDF/G1512379.pdf?OpenElement>.

<sup>110</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012. Available at: [http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf)

<sup>111</sup> See also the Camden Principles on Freedom of Expression and Equality, notably Principle 12. The Camden Principles are available at: <https://www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf>

<sup>112</sup> See the Universal Periodic Review for Denmark, 2011, recommendation nos. 37, 62, 96, 109 and 110; Danish Institute for Human Rights evaluation of Denmark's response to the recommendations from the United Nations Human Rights Council (September 2011) and Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, Report of the Working Group on the Universal Periodic Review, Denmark, Addendum, A/HRC/18/4/Add.1, 13 September 2011.

<sup>113</sup> Draft report of the Working Group on the Universal Periodic Review – Denmark, 1. February 2016, A/HRC/WG.6/24/L.7, for example recommendations 48-51, 58-60, 65, 78, 82, 85, 89, 91, 94, 103, 149 and 152-153.

<sup>114</sup> See The Director of Public Prosecutions: Praxis on discrimination on grounds of race – updated 04.07.2014 and RM 2-2011 – The handling of cases regarding violation of section 266B(1) of the Danish Criminal Code, law on prohibition against discrimination on grounds of race etc., and cases regarding the possible use of section 81, no 6 of the Danish Criminal Code, available at:

[www.anklagemyndigheden.dk](http://www.anklagemyndigheden.dk) and see Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Denmark from November 19, 2013 to November 21, 2013; Strasbourg, March 24 2014.

<sup>115</sup> Fourth Opinion on Denmark adopted on 20 May 2014; Advisory Committee on the Framework Convention for the Protection of National Minorities ACFC/OP/IV(2014)001; 20. January 2015.

<sup>116</sup> ECRI report on Denmark (fourth monitoring cycle), CRI(2012)25, adopted on 23 March 2012, published on 22 May 2012, sections 84-88. Available at: <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/denmark/DNK-CBC-IV-2012-025-ENG.pdf>

<sup>117</sup> ECRI General Policy Recommendation on combatting hate speech. Available at:

[http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N15/REC-15-2016-015-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N15/REC-15-2016-015-ENG.pdf)

<sup>118</sup> The Camden Principles. Available at:

<https://www.article19.org/data/files/medialibrary/1214/Camden-Principles-ENGLISH-web.pdf>

<sup>119</sup> See, for example, section 2(3) of *lov om etnisk ligestilling* (ethnic equality act).

<sup>120</sup> See the most recent *U.2014.73V* (5 daily fines for violating section 266B(1) of the Danish Criminal Code).

<sup>121</sup> *Racismebestemmelsens usikre grænser*, Trine Baumbach, *Juristen* no. 2014, pp. 51 ff.

<sup>122</sup> Betænkning no. 553/1969 om forbud mod racediskrimination, page 34.

<sup>123</sup> Memo on statutory consequences of the Council of Europe Additional Protocol to the Convention of Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, 2002-03 – Retsudvalget, Alm. Del – annex 877.

<sup>124</sup> The Director of Public Prosecutions Announcement no. 2/2011, Processing of cases on violation of section 266b of the Danish Criminal Code, legislation regarding bans on discrimination on the labour market etc., and cases regarding the application of section 81, no. 6, pp. 6 ff.

<sup>125</sup> The Universal Periodic Review of Denmark 2011, recommendation nos. 37, 62, 96, 109 and 110; DIHR assessment of Denmark's reply to recommendations from the UN Human Rights Council (September 2011) as well as views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, Report of the Working Group on the Universal Periodic Review, Denmark, Addendum, 13 September 2011, A/HRC/18/4/Add. 1.

<sup>126</sup> The Director of Public Prosecutions, Hadforbrydelser, RM no. 2/2011 – revised 20 November 2015, item 4.1.1.

<sup>127</sup> U.2014.2648Ø.

<sup>128</sup> The case was mentioned in Justitia's report "Statusoversigt: Retssikkerhed i Danmark anno 2015". Available (in Danish) at: [http://justitia-int.org/wp-content/uploads/2015/12/Analyse\\_Statusoversigt\\_Retssikkerheden-anno-2015\\_dec15.pdf](http://justitia-int.org/wp-content/uploads/2015/12/Analyse_Statusoversigt_Retssikkerheden-anno-2015_dec15.pdf). See also: <http://www.fyens.dk/indland/Delte-vittighed-paa-Facebook-Retten-i-Odense-frikender-to-personer-for-racisme/artikel/2766071>

<sup>129</sup> High Court of Eastern Denmark case no. S-2812-15. Available in Danish at : [https://www.domstol.dk/oestrelandsret/nyheder/domsresumeer/Pages/Domien\\_sagomforh%C3%A5nendeogtruendeudtalelseroverforenbefolkningsgruppe.aspx](https://www.domstol.dk/oestrelandsret/nyheder/domsresumeer/Pages/Domien_sagomforh%C3%A5nendeogtruendeudtalelseroverforenbefolkningsgruppe.aspx)

<sup>130</sup> Ruling by the District Court of Elsinore of 11 February 2016. Available (in Danish) at:

<http://www.domstol.dk/Helsingoer/nyheder/domsresumeer/Documents/Dom%20848-2015.pdf>

<sup>131</sup> Ruling by the High Court of Eastern Denmark of 25 May 2016, repeated in UfR2016.3158Ø.

<sup>132</sup> The UN Committee on the Elimination of Racial Discrimination (CERD), Communication no. 34/2004 and Communication no. 43/2008.

The cases concerned Articles 2(1)(d) and Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. See the Director of Public Prosecutions, Hadforbrydelser, RM no. 2/2011 – revised 20 November 2015, item 4.4.

<sup>133</sup> The Director of Public Prosecutions, Hadforbrydelser, RM no. 2/2011 – revised on 20 November 2015. See also Racediskrimination – praksisoversigt – updated on 4 July 2014. Available (in Danish) at:

<http://www.anklagemyndigheden.dk/layouts/Ankl.dk.SP.Vidensbase.Handler/VidensbaseDocumentHandler.ashx?VidensbaseDocumentName=http://www.anklagemyndigheden.dk/sites/vidensbase/Documents/Racediskrimination%20-%20praksisoversigt%20-%20opdateret%2004.07.2014.pdf>

<sup>134</sup> Request for access to the materials of the case about the number of reports regarding hate speech pursuant to section 266b of the Criminal Code received in 2013 and 2014 by email dated 10 March 2015. Figures regarding 2015 received from the Director of Public Prosecutions by letter dated 11 May 2016. Journal No. RA-2016-44-0624.

<sup>135</sup> Comments from the Danish Government to the report by the Commissioner for Human Rights of the Council of Europe following his visit to Denmark from 19 to 21 November 2013.

<sup>136</sup> Section 96(2) of the Danish Administration of Justice Act.

<sup>137</sup> Section 266, section 267 and section 81(1), no. 6 of the Danish Criminal Code.

<sup>138</sup> The Criminal Law Council terms of reference regarding invasion of privacy and offences against personal honour (in Danish):

<http://justitsministeriet.dk/sites/default/files/media/Arbejdsomraader/Ministeriet/Raad/KommissoriumPrivatlivetsFred.pdf>

<sup>139</sup> The Legal Affairs Committee, question 132, 2016-17. Available (in Danish) at: <http://www.ft.dk/samling/20161/almdele/reu/spm/132/svar/1370673/1705430.pdf>

<sup>140</sup> Kommenteret straffelov, Vagn Greve m.fl. 10. omarbejde udgave, p. 517.

<sup>141</sup> Kommenteret straffelov, Vagn Greve m.fl. 10. omarbejde udgave, p. 517f.

<sup>142</sup> Sentence given on 12 August 2016 by the District Court of Sønderborg (in Danish):

<http://www.domstol.dk/soenderborg/Nyheder/Domsresuméer/Documents/Domsresuméer/Dom.pdf>

<sup>143</sup> Figures were calculated on the basis of Filip Wallberg's research project Virale Nyheder (viral news). Available (in Danish) at: <http://deviralenyheder.dk/>

<sup>144</sup> Lund, Anker Brink 2013: Mangfoldighed i dansk dagspresse – et publicistisk serviceeftersyn. Center for Civil Society Studies.

<sup>145</sup> This is a broad category which covers posts about international politics (e.g. the EU) as well as posts about national and local politics which could not be placed in the other categories.

<sup>146</sup> Danish Agency for Culture, Mediernes udvikling i Danmark 2015, Sociale medier – brug, interesseområder og debatlyst, p. 22.

<sup>147</sup> Who Makes the News. Denmark Global Media Monitoring Project 2015. National Report. Available (in Danish) at:

<http://www.kvinfo.dk/files/WhoMakesTheNews2015.pdf>

<sup>148</sup> Statistics Denmark, statistikbanken.dk, FOK1E.

<sup>149</sup> The comparison is carried out on the basis of the survey "Mediernes udvikling 2015, Social Media - brug, interesseområder og debatlyst" by the Danish Agency

for Culture. It is a special run of the survey "IT-anvendelse i Befolkningen 2015" carried out by Statistics Denmark.

<sup>150</sup> An internet user is defined as someone who has used the internet within the previous three months.

<sup>151</sup> Danish Agency for Culture, *Mediernes udvikling i Danmark 2015, Sociale medier – brug, interesseområder og debatlyst*, p. 22.

<sup>152</sup> Since the age distribution of respondents in the Megafon survey does not correspond to the general population, we have chosen to consider education level in relation to the age composition of the group of respondents.

<sup>153</sup> Statistikbanken.dk, FVKOM.

<sup>154</sup> 6% of participants in the Megafon survey replied that they had either not voted for the parties, left the ballot paper blank, did not recall, did not wish to answer or did not vote. That means at least 94% voted.

<sup>155</sup> Only the group of users who participate in Facebook debates and who sometimes refrain from participating in debates have been questioned about this. The data do not reveal any information as to why people who do not participate in debates on Facebook, choose to not participate.