Faith in public debate: an inquiry into the relationship between freedom of expression and hate speech pertaining to religion and race in France, the Netherlands and European and international law
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Chapter 1 – General Introduction
Faith in Public Debate forms an inquiry into the relationship between freedom of expression and hate speech pertaining to religion and race in France, the Netherlands and international and European law. This chapter gives a brief introduction into the research topic (1.1). Subsequently, it explains the aim of the research (1.2) and determines the research question (1.3). Furthermore, it reveals the outline of this study and elaborates on the chosen methodology (1.4). The chapter concludes with a demarcation of the scope of the research; it also considers the relevance of the study in the light of the already existing literature on the topic (1.5).

1.1 Introduction

Should a politician be free to fiercely attack the religion of a sector of the population? Should he be allowed to strongly reject the culture of a particular minority group? Should religious adherents be allowed to advocate the transition from a democratic to a theocratic state? Should a pastor or imam be able to compare homosexuality with criminality or a disease? Should citizens be free to vituperate a particular religious or racial group on the Internet? These sort of questions concern ‘the place of faith in public debate’ and continue to dominate public discussion that has been fuelled by a series of events, including the terrorist attacks in New York, Madrid and London (2001, 2004 and 2005); the public statements and assassination of Dutch politician and Islam critic Pim Fortuyn (2002); the assassination of Dutch film director Theo van Gogh (Submission) by Islamic fundamentalist Mohammed Bouyeri (2004); the affair of the Danish Cartoons (2006); the prosecution of Dutch politician Geert Wilders for his film Fitna (2009); and the worldwide demonstrations and violent protests against the film Innocence of Muslims by Nakoula (2012).

The overarching question triggered by these events concerns the relationship between freedom of expression and the regulation of ‘hate speech’; which forms of hate speech should the state prohibit, on what grounds and by which means? Notably, the restriction of hate speech uttered in the context of the public debate about multiculturalism, immigration, integration and Islam, and of religious fundamentalism has become a topic of lively discussion. Some advocate the ‘right to offend’, which would leave little room for criminal speech offences and would question existing hate speech bans. In the Netherlands, several proposals have been made to abolish the offences of blasphemy, group insult, and incitement to hatred or discrimination. Others invoke the ‘right not to be offended’ in one’s feelings and question the permissibility of gross utterances.

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Certain Dutch proposals are therefore precisely aimed at the extension of the offence of group insult or the creation of an offence of Holocaust denial.

Hate speech bans undeniably constitute restrictions to the right to freedom of expression. However, the precise boundary between controversial contributions to public debate and punishable utterances is not certain. The question of how restrictions to hate speech must be balanced with the right to freedom of expression has led to strong differences of opinion within the European Court of Human Rights (ECtHR). In the exemplary case of Féret v. Belgium, the ECtHR found, by a thin majority of 4:3, the conviction of Belgium politician Daniel Féret for inciting hatred against Muslims through statements such as ‘Attacks in USA: it is the couscous clan’ to be a permissible restriction to the right of freedom of expression. According to the dissenters, however, Féret’s remarks lacked a racial purport. Such differences of opinion raise the question as to whether restrictions to hate speech can be interpreted, applied or reviewed in an unambiguous and consistent manner.

In fact, it is difficult to establish when exactly offensive utterances become prohibited forms of defamation or insult. It is also difficult to draw the boundary between strong criticism of government policy and punishable forms of incitement to hatred and discrimination. This ambiguity also emerges, in particular, in cases where the religion of the target group of expression plays a role. Differences of opinion may exist in relation to the interpretation and valuation of utterances. When an utterance is interpreted as a formulation of honest concern about immigration and Islam, freedom of expression probably weighs more heavily than when it is understood as a demagogue’s deceit of the public. When one prioritizes the feelings of minorities, an utterance about the prophet or the Koran might affect them more than an utterance about Muslims as a group.

Differences of opinion may thus furthermore exist in relation to the rationales of existing hate speech bans and the particular interests they aim to protect: the feelings, good name or dignity of a group, the tenets of a religion, the remembrance of a historical event, the public order or safety, the functioning of democracy or the values of the constitutional state. If hate speech bans are primarily directed against possible disturbances of the public order, the protection of social peace or the political order, their scope may be confined to utterances that unequivocally incite others to violent actions, but understood broadly could be used to temper oppositional political views that are too vehement. If hate speech bans, however, form part of the broader anti-discrimination policy that primarily looks to the protection of minorities to enhance their social functioning, the scope of the bans may extend to utterances that affect the dignity of minorities through invectives, abuse and negative imaging or that are aimed at affecting the rights of minorities.

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2 ECtHR 16 July 2009, no. 15615/07 (Féret v. Belgium).
In the famous case against Geert Wilders, leader of the populist Dutch Freedom Party (PVV), the judicial authorities disagreed on all of these points, i.e. the rationale and scope of the Dutch hate speech bans, the application of the bans to Wilders’ statements and the interpretation of Wilders’ statements. While the court that had ordered Wilders’ prosecution considered his statements such as ‘Stop the tsunami of islamization’ to be punishable forms of hate speech against Muslims, the prosecution, who had initially refused to prosecute Wilders, and the court found it to be permissible criticism of Islam and the Government’s failing immigration and integration policy. In the Netherlands, more than before, public and political debate is hard lined. Social conceptions on the criminality of insulting and offensive utterances appear to have changed, which is reflected in case law; the acquittal of Wilders forms a perfect example of this. The case raised the question of the desirability of existing hate speech bans, but also of the feasibility of their enforcement. The public prosecution is currently investigating the thousands of complaints filed against Wilders for promising that he would arrange for there to be ‘fewer Moroccans’ in the Netherlands to his chanting supporters (‘fewer, fewer, fewer’) at a local election night. It is striking that Dutch politicians generally tend not to take a public stand against the excessiveness of certain expression; they rather attempt to ignore it.

This raises curiosity about how restrictions to hate speech are determined in other countries. In France the political discourse on the immigration and integration of Muslims is also hard lined and notably conducted by the far-right Front National (FN); its leader Marine Le Pen, who is also a member of the European Parliament, has even expressed party’s ambition to pair up with Wilders during the European parliamentary elections. Contrary to the Wilders case, the French prosecutors precisely requested that the European parliament lift the parliamentary immunity of Marine Le Pen, so she could be prosecuted for incitement to hatred for having compared street prayer by Muslims with the Nazi-occupation. Earlier, FN’s former leader and French politician Jean-Marie Le Pen had been convicted on charges of incitement to

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3 Amsterdam District Court 23 May 2011, L/IN BQ5561.
4 ECLI Report on The Netherlands (fourth monitoring cycle), adopted 20 June 2013, section III, Climate of opinion and racism in public discourse, p. 35 et seq., section VI, Vulnerable/target groups, Muslim community, p. 43.
hatred, discrimination and violence for having depicted Muslims as a danger to French society,\textsuperscript{9} which according to the ECHR did not constitute a violation of freedom of expression.\textsuperscript{10} Furthermore, the French public prosecution also opened an investigation for public insult on the basis of race against the extreme right magazine \textit{Minute} with regard to the title ‘Maligne comme un singe, Taubira retrouve la banane’ on the cover of its issue of November 2013. The cover referred to a series of insults previously uttered against the French Minister of Justice Christiane Taubira. French politicians unanimously condemned the publication and several French anti-racism associations, including SOS Racisme, LICRA and MRAP, and filed complaints to the police. The prosecution took action on the basis of the complaint of the French Prime Minister himself.\textsuperscript{11}

In sum, the increasing confusion and difference of opinion about the scope of existing hate speech bans, their underlying rationales, and their relationship with freedom of expression, calls for a reassessment of the relationship between freedom of expression and so-called hate speech. To this end, a comparison between national approaches to hate speech can be of value.

1.2 Aim of research

The aim of this research is to develop new insights in relation to what extent – that is whether, and if so how – restrictions to hate speech, notably on the basis of religion and uttered in the context of a public debate, can be determined in a consistent manner. To this end, this research compares Dutch law with French law that is relevant to the issue of hate speech. The research discusses the background of the national hate speech bans and the reason for their introduction by the legislator. This analysis aims to reveal the exact interests the legislator has aimed to protect with the speech offences and how they relate to freedom of expression. Furthermore, this research analyses the application and interpretation of the hate speech bans by the judge and the weight given to freedom of expression in individual cases. The analysis is principally confined to the discriminatory grounds of ‘religion’ and ‘race’, due to the fact that a certain interaction and overlap exist between these two discriminatory grounds.

National restrictions to hate speech are to a significant extent influenced by historically developed traditions of constitutional thought about fundamental


\textsuperscript{10} ECHR 20 April 2010, no. 18788/09 (Le Pen v. France).

\textsuperscript{11} ‘\textit{Minute} : la justice ouvre une enquête pour injure publique à caractère racial’, \textit{Le Figaro online} 12 November 2013. The series of insults included the event that a little girl had shouted at Taubira, during her visit to Angers, ‘C’est pour qui la banane? C’est pour la guenon’ and the event that a candidate of the FN had recently been removed from the municipal elections for having compared Taubira with a monkey.
rights, in particular freedom of expression, and must be placed against the background of the characteristics of the constitutional state. This research therefore examines the protection of freedom of expression in Dutch and French law more generally: the demarcation of its scope and the possible grounds for restrictions as they result from its limitation clause and its interrelationship with other fundamental rights, values and interests incorporated into the Constitution. It focuses on the criminalization of hate speech by the state, but it also examines the relationship between criminal and civil restrictions to freedom of expression. Furthermore, the restrictions to hate speech on grounds of race and religion cannot be understood without placing them against the background of national conceptions on minorities and state and religion relationships.

The practical enforcement of hate speech bans is determined, on the one hand, by the competence of the public prosecution and its prosecution policy and, on the other hand, by the possibilities of victims or anti-racism and minority associations to bring complaints against particular utterances. Overall, restrictions to hate speech are determined by the interplay of different actors: the legislator, the public prosecution, the judge, and victims or anti-racism and minority associations. In their respective functions and positions, all balance the interests served by the restriction of hate speech with the right to freedom of expression. The interrelationship of these actors differs per country and can be comprehended as arising from the characteristics of the constitutional state. As these actors and their interrelationship influence the consistency of national restrictions to hate speech, they play an important role in the comparative study. The comparative study provides insight as to how national legal cultures influence national restrictions to hate speech, but also evaluates French and Dutch law in order to draw inspiration from the different legal frameworks.

There is a presumption that a solid balancing act must be made between the right to freedom of expression and the interests served in restrictions to the right. This presumption is confirmed by international law. National restrictions to hate speech are partly determined by international and European human rights law. For the purposes of this study, five international and European instruments, that are particularly relevant to the regulation of hate speech in Europe, have been selected and analyzed. The right to freedom of expression is incorporated in several conventions, including the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). These do not concern unlimited rights to freedom of expression. In fact, certain international norms oblige state parties to criminalize forms of hate speech; an important example is the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Both the Netherlands and France are state parties to these treaties.

Furthermore, as member states of the European Union (EU), both states are also bound by the EU Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law. These norms are thus directly relevant to this research, which aims to analyse
how the obligations must be interpreted and how they relate to freedom of expression. In addition, within different sections of the Council of Europe, non-binding standards with regard to the regulation of hate speech have been developed in the form of resolutions and recommendations, as well as an Additional Protocol to the Convention on cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. Most attention is, however, paid to Article 10 ECHR, which protects the right to freedom of expression and the Article 10 case law of the ECHR, which occupies centre stage of European law. The impact of Article 10 ECHR on national law and the extent to which the judge attaches importance to the ECHR’s case law when applying national speech offences may, however, differ from country to country.

This research is not confined to a description of the positive law. In reaction to the previously mentioned series of events, many new publications have supplemented the already existing wealth of scientific literature on this topic. From the discussion in literature, four substantive factors are distilled that notably form the subject of controversies and therefore can be assumed to be particularly relevant for the consistent determination of restrictions to hate speech. Furthermore, theories on freedom of expression are advanced to the extent that they are relevant to the regulation of hate speech. The four factors are analyzed and presented as opposite pairs: the performance of physical actions versus the expression of opinions; contributions to public debate versus other types of expression, such as utterances that can be qualified as ‘private speech’ that is directly directed at a particular individual or an abuse of rights and therefore do not form contributions to a public debate; imputations of specific facts versus the expression of value judgments; and utterances about race versus utterances about religion. These factors regroup the more traditional presentation in literature of, on the one hand, the justifications for the right to freedom of expression and, on the other hand, the harms in hate speech that justify restrictions to this right. Together the factors form an analytical framework for the analysis of the positive law.

To conclude, this research explores whether, and if so how, French law, Dutch law and international and European law make consistent choices as far as these factors/opposite pairs are concerned for the determination of restrictions to hate speech. After all, the fact that the discussion notably revolves around these factors is a result of the examined international literature about hate speech. The subject of investigation is not whether the different legal systems are consistent with one another, but whether they are consistent themselves. The systems are,

however, certainly compared in order to evaluate how restrictions can be drawn in a consistent manner and which role the different actors can play therein. It would, for example, be inconsistent for the judge to consider in one case that no principle distinction exists between statements about a particular race and statements about a particular religion for the determination of their criminality, and to consider this distinction paramount in a comparable case. It would also be inconsistent for the legislator to envision hate speech bans to protect particular interests and to have a certain scope, and for the judge to then attribute a different rationale to the bans and to interpret and apply them either more strictly or more broadly. For example, when the legislator has justified the criminalization of hate speech amongst others by reference to the effect such speech has on the public order in relation to the social climate, it would be wrong for the judge to order a requirement of proof of any direct effect on the public order in relation to a breach of the peace as an extra criteria for liability under the hate speech bans. In the context of hate speech, the term public order can thus be interpreted and used differently, which can lead to inconsistencies.

Consistency forms an important value where the setting of restrictions to hate speech is concerned, which is precisely why this value has been chosen as a point of comparison for this research. In fact, consistency in the setting of restrictions to hate speech assures a fundamental basic principle of law: legal certainty. In accordance with the principle of legal certainty, the law must be sufficiently clear and accessible for the citizens to whom it is addressed. If legal norms are imprecise or ambiguous, rights are not assured. After all, uncertain rules are susceptible to unequal application. They also breach individual freedom by not precisely determining restrictions and therefore can have a chilling effect. Hence, legal certainty relating to restrictions to hate speech guarantee the rights and interests those restrictions aim to protect, as well as the exercise of the fundamental right to freedom of expression. These considerations also underlie the principle of legality, from which results the necessity for the legislator to define criminal offences, i.e. hate speech bans, in sufficiently clear and precise terms. The principles of legal certainty and legality also form the basis of the requirement for the judge to, in his application of hate speech bans in concrete cases, give a clear, robust motivation of his decisions. This ensures that, despite changing contextual circumstances, a consistent line arises from the body of case law that can form a basis for citizens to attune their behavior. On a more fundamental level, a problem underlying possible inconsistencies in restrictions to hate speech may form a difference of opinion about the exact interests restrictions to hate speech aim to protect and how their rationales must be translated into concrete requirements of statutory offences that determine their scope. The question of consistency in restrictions to hate speech thus cannot be addressed separately from the more substantive issue of how the conflicting rights and interests must be balanced and whether the law reflects the outcome of that balancing-test in a sufficiently clear and precise manner.
So far this general introduction has used the terms ‘hate speech’ and ‘hate speech bans’ as if they were self-evident. The contrary is true. Despite the frequent use of the term in international literature, there is no universally accepted definition of ‘hate speech’. The precise concept of ‘hate speech’ thus remains vague. One problematic aspect is that the notion of ‘hate speech’ is used both in a descriptive and a normative manner in international literature and legal documents; sometimes ‘hate speech’ simply refers to a social phenomenon, sometimes it refers to a category of speech that – in the eyes of the author – should be prohibited by law. This research does not provide its own definition of hate speech. The exact meaning of the term shall depend on and become apparent from the context in which it is used.

Hare & Weinstein regard hate speech as a specific category of the broader category ‘extreme’ speech, i.e. ‘speech that many believe poses an unacceptable threat to essential values in modern multicultural democracies, or in some cases to democracy itself’. Hate speech in particular consists of ‘expression which articulates hatred for another individual or group, usually based on a characteristic (such as race) which is perceived to be shared by members of the target group’. Many scholars share this idea that hate speech consists of expression, which is necessarily directed against a person or particular group of persons. From this perspective ‘hate speech’ must be distinguished from other categories of ‘extreme’ speech possibly motivated by hatred, such as speech directed against the state, public authorities and officials, ‘subversive’ speech that incites to overthrow the existing form of government, speech that incites to lawless action, glorifies or incites to terrorism.

In its Recommendation 97(20) on ‘hate speech’, the Committee of Ministers of the Council of Europe defined the term ‘hate speech’ as ‘covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin’. Although most European states have adopted national legislation prohibiting expressions that amount to ‘hate speech’ thus broadly defined, definitions in national ‘hate speech bans’ differ when determining what exactly is being prohibited. A glance at national hate speech bans brings

\[\text{14 Weinstein, J. & Hare, I., General introduction: free speech, democracy, and the suppression of extreme speech past and present, in: Hare & Weinstein 2009, p. 4.}
\[\text{15 For example Parekh, B., Is There a Case for Banning Hate Speech?, in: Herz & Molnar 2012, p. 40.}
\[\text{16 Recommendation No. R 97(20) of the Committee of Ministers of the Council of Europe on ‘hate speech’.}
Waldron to conclude that ‘all of them are concerned with the use of words that are deliberately abusive and/or insulting and/or threatening and/or demeaning directed at members of vulnerable minorities, calculated to stir up hatred against them’.17

Under the umbrella term of ‘hate speech’, this research analyses national prohibitions of ‘group defamation’, ‘group insult’, and ‘incitement to hatred, discrimination or violence’, as well as relevant jurisprudence relating to these prohibitions. It also examines the demarcation of the term with ‘blasphemy’ and its relation to ‘Holocaust denial’. Precisely in order to further delineate the notion of hate speech, certain attention is necessarily paid to sedition laws and case law on forms of extreme or subversive speech.

1.3 Research question

Against this background, this research aims to answer the following research question:

‘To which extent can restrictions to hate speech on the ground of religion be determined in a consistent manner?’

To answer this central research question, this research examines a number of sub-questions. A first question is what are the restrictions to hate speech – on the ground of religion – in French law, Dutch law and international, and European human rights law (Q1). The next question is how the four factors, i.e. : actions versus opinions; public debate versus other types of expression; facts versus value judgments; and race versus religion, influence the determination of restrictions to hate speech in the examined legal systems (Q2). Subsequently, the question arises as to what extent the restrictions in the examined legal systems are drawn in a consistent manner (Q3). The final question considers on what basis this research can provide for a further elaboration of consistent restrictions to hate speech (Q4).

1.4 Outline and methodology

To answer these questions, this research uses the following outline and method. Chapter 2 presents the analytical framework and discusses the relevance of the factors that determine restrictions to hate speech. Four factors are analyzed and theories about freedom of expression are advanced to the extent that they are relevant to the regulation of hate speech, using legal theory, that sometimes is influenced by and overlaps with language theory, philosophy and social science as sources. Where relevant, reference is made to examples from positive law. The chapter critically examines the relevant literature, but does not value the

theories discussed. The main aim of the chapter is to highlight and examine where problems of consistency occur with the four factors.

Chapter 3 discusses international and European law, using as selected sources international treaties, their drafting histories, case law, annotations, soft law instruments, and international legal literature, including scientific articles, dissertations and manuals (Q1-2). It discusses the different legal instruments separately; only the non-binding standards of the different sections of the Council of Europe are discussed together, thus highlighting the diverging approaches within this broader legal system. A specific synthesis of the ECHR is reserved for the final conclusion of this research. Chapter 3 concludes with a more general synthesis of the obligations concerning hate speech arising from international and European human rights law.

Chapters 4 and 5 together comprise the most significant part of this research and consist of the comparative study on French respectively Dutch law (Q1-2). These chapters analyze the content and scope of the existing national hate speech bans, their underlying rationales, and their relationship with freedom of expression. Furthermore, particular attention is paid to the interplay between the different actors in the determination of the restrictions to hate speech. The chapters already provide the reference points for the synthesis of the comparative study – on the basis of the four factors of the analytical framework – in Chapter 6. The study uses as sources: national legislation, its drafting history, case law, annotations, policy and other legal documents, national legal literature, including scientific articles, dissertations, monographs and manuals.

The comparative study has a distinctive structure. Both chapters are divided into three parts. This three-partition is based on the devise of the French Republic ‘Freedom, Equality, Brotherhood’ that inspires French public law and is also understood to reflect three pillars of the democratic constitutional state. Elaborating on the signification of these notions in the comparative study, the chosen structure thereby enables to discuss the relationship between freedom of expression and restrictions to hate speech in national law against the background of the national conception of democracy.

Chapter 6 formulates the conclusion of the research (central research question) and is divided into two parts. The first part provides a synthesis of the comparative study in Chapters 4 and 5 (Q3). This synthesis is presented separately from the comparative study itself, because it is not confined to an overview of the similarities and differences between French and Dutch law, but is followed by a comparison with the approach under the ECHR. It includes a further analysis of the consistency of restrictions to hate speech in these legal

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systems on the basis of the four factors. This joint analysis forms the basis for the concluding observations made in the second part. The second part advances, on the basis of the entire research, a number of observations in order to determine restrictions to hate speech on the ground of religion uttered in public debate in a consistent manner (Q4).

This research mainly uses comparative constitutional law and is largely descriptive in nature. The latter applies, in any event, to the analysis of international and European law and to the comparative study in Chapters 3-4. The analytical framework in Chapter 2 may not be normative in itself; it does function as the standard for the evaluative conclusions drawn and observations made in Chapter 6. The analytical framework builds on all relevant international literature, in which American free speech/hate speech doctrine and jurisprudence appears to be most dominant. References to American doctrine and jurisprudence are not intended to provide a detailed legal comparison with the European approach towards hate speech. They form ‘illustrations’ in the general, abstract discussion of aspects that are relevant for the setting of restrictions to hate speech in Chapter 2.

The choice of the Netherlands for the comparative study was fixed in advance and that of France was easily made. As previously mentioned, in France a comparable discourse on Islam and immigration exists that has resulted in a number of hate speech cases, in which the consistency of restrictions also forms a pivotal question. Furthermore, historically, since the Enlightenment, French Republicanism has stressed the importance of ‘civic virtues’ and the ‘common good’, whereas liberalism was based on individualism. It was therefore expected that, more than in dominant free speech doctrine, freedom of expression is embedded in the French Constitution and the values contained therein. In France, formal legislation can be tested against the Constitution. This is not the case in the Netherlands, where the Constitution has less normative force and a more open character. This is why this study aims to compare these two national approaches to hate speech and the influence of European law and free speech doctrine on national law.

1.5 Scope and relevance

This research does not discuss all aspects of freedom of expression. As a result of technological developments, hate speech can be disseminated widely and in large quantities, for example through ‘hate sites’ on the Internet. This raises practical questions about the enforcement of hate speech bans, about transnational jurisdiction and questions about the liability of intermediaries on the Internet. ¹⁹ These questions fall outside the scope of this research. Although

¹⁹ McGonagle, T., The Council of Europe against online hate speech: Conundrums and challenges, Expert paper, doc.no. MCM 2013(005), the Council of Europe Conference of Ministers responsible for Media and Information Society, ‘Freedom of Expression and
the regulation of media necessarily influences the distribution and publication of hate speech, it does not fundamentally question restrictions on hate speech based on content. An in-depth empirical investigation of the effect and effectiveness of hate speech bans also falls outside the scope of this primarily legal research. Nevertheless sometimes reference is made to social science research.

Many strategies can be implemented, and are developed that contribute to counter or prevent the existence and use of hate speech, such as policies that aim to enhance awareness about intolerance through school education or aim to stimulate the reflection of a diversity of speakers and opinions in the media and the training of media professionals.\textsuperscript{20} However, this research focuses on what the law can and cannot do as far as the setting of restrictions to hate speech is concerned. To this end, this research compares the legal prohibition of hate speech in two civil law countries. Therefore, the outcome of the comparative study can form a source of inspiration for the discussion on the legal prohibition of hate speech in, next to the countries concerned, i.e. other civil law countries. However, it may be informative for the discussion in common law systems too.

Dutch comparative studies on freedom of expression focus on America, as well as Germany and the United Kingdom.\textsuperscript{21} Practically no knowledge of freedom of expression in France exists in the Netherlands. Although in international scientific literature considerable attention is paid to the French criminalization of Holocaust denial,\textsuperscript{22} no international comprehensive studies of French law on freedom of expression and hate speech exist. This research constitutes the first international study that provides a profound analysis of freedom of expression and the regulation of hate speech in France and the Netherlands from a constitutional law perspective.

Hence, this research contributes to the existing international scientific literature on hate speech. It also makes reference to the most recent international hate speech literature and discusses its key issues. Its added value lies in its evaluation of the consistency of considerations regarding restrictions on hate speech rather than presenting yet another ultimate answer to the question of what those restrictions should be. This research can, thereby, form a source of

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\textsuperscript{22} See for example several contributions to: Hennebel, L. & Hochmann, T. (eds.), Genocide denials and the law, Oxford: Oxford University Press, 2011.
Inspiration for anyone interested or involved in the regulation of hate speech: interested citizens; politicians; scientists; legislators; judges; prosecutors; and involved NGO’s. Hopefully, it can contribute to enhancing the quality of scientific, political and public discussion about the regulation of hate speech; and eventually contribute to the ‘faith in public debate’, by elucidating its possible boundaries.