## Contents

	Ta	able of Cases	xiii
	$A_{i}$	bout the Author	xxi
		Introduction	1
	T	ne Proliferation of Wate Speech Dogatation 5	
		he Proliferation of Hate Speech Regulation 5	
		he Structure and Purpose of the Book 9 and for Thought 12	
1	H	ate Speech: Definitional and Conceptual Framework	14
	In	troduction 14	
	1	Hate Speech After World War II: A Short	
		Commentary 15	
	2	Hate Speech: The International and	
		European Definitional Framework 18	
		2.1 Hate Speech and the Council of Europe 19	
		2.2 Hate Speech and the United Nations 23	
		2.3 Hate Speech and the European Union 26	
	3		
		Legislation 29	
	4	The Meaning of Hate Speech on Selective Social Media	
		Platforms 32	
	5	Hate Speech: Selective Academic Definitions and	
		Conceptualisations 36	
	6	Defining Hate Speech: The Free Speech–Hate	
		Speech Debate in International and European Law 38	
	7	Hate Speech: The Issue of Thematic Hierarchies 42	
		nclusion 47	

2	The Effects of Hate Speech and How Best to Deal With Them				
			5]		
	-	troduction 51			
	1	Hate Speech and Its Effects 53			
		1.1 Psychological, Societal and Systemic Harm 53			
		1.2 Critical Race Theory: Current Developments 58			
		1.3 Is Restricting Speech the Right Response? 61			
	2	Hate Speech Restrictions 65			
		2.1 Analysis Through the Prism of Free Speech 65			
		2.2 Theorising the Approach of the European Court of			
		Human Rights 70			
	3	Militant Democracy 70			
		3.1 History and Overview 70			
		3.2 Challenges and Criticisms 72			
		3.3 Militant Democracy and the European			
		Court of Human Rights 74			
		3.4 Criticisms of the ECtHR's Militant			
		Democracy Approach 76			
		3.5 Final Thoughts 77			
	Conclusion 77				
3	Th	a Council of Europa	79		
3	111	ne Council of Europe	/ >		
	In	troduction 79			
	1	The Council of Europe and the Freedom of			
		Expression: An Overview 81			
	2	The Freedom of Expression and Its			
		Abuse: A Short History 84			
	3	Article 10 and Types of Speech 86			
		3.1 Limiting Article 10 of the European			
		Convention on Human Rights 89			
		3.1.1 Prescribed by Law 89			
		3.1.2 Necessary in a Democratic Society 90			
		3.1.3 Legitimate Aim 92			
		3.1.4 Proportionality 94			
		3.1.5 Margin of Appreciation 95			
	4	Article 17: The Prohibition of Abuse of			
		Rights' Clause 97			

104

5 The Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems 99 Conclusion 102 Hate Speech Jurisprudence: Protecting Protected Characteristics Before the European Court of Human Rights Background, Central Questions and Structure 104 Hate Speech Jurisprudence: The Low-Threshold Hatred Paradigm 106 2.1 The Féret Paradigm: When Insult, Ridicule, Prejudice or Defamation Is Enough to Allow for Article 10 Restrictions 107 2.2 Final Comments 125 3 Beyond Offence: Inciting Hatred or Violence 129 Cases of Incitement to Ethnic/Racial or Religious Hatred, Animosity and/or Violence 129 3.2 Final Comments 138 4 Article 17: Islamophobia and Homophobia 139 The Use of Article 17 Outside the Framework of Holocaust Denial 139 4.2 Article 17 and Protected Characteristics 146 Religious Hatred and Extremism 148 Speech 'Against' Religious Figures, Doctrines and Institutions 149 Religious Extremism 162 Conclusions: Religious Hatred and Extremism 166 Hate Speech and Journalistic Freedom 168 Speech Spoken by Others: Liability and Third-Party Speech in an Era of Digitalisation 172 Applicants Who Are the Victims of Hate Speech and the Role of Positive Obligations 178 Any Other Business: The Right to Boycott and the Issue of Speech? 185

Conclusion 187

5	Hate Speech Jurisprudence: Dealing with				
	To	talitarianism, Genocide Denial and Violence			
	Be	fore the European Court of Human Rights	191		
	In	Introduction 191			
	1	Totalitarianism 191			
		1.1 Totalitarian Organisations 192			
		1.2 Totalitarian Symbols 193			
		1.3 Totalitarianism: Concluding Comments 204			
	2	Genocide Denial 205			
		2.1 Genocide Denial: Cases of the European			
,		Commission on Human Rights 205			
,		2.2 Genocide Denial, the European Court of Human			
		Rights, the Holocaust and Other Genocides 208			
		2.3 Genocide Denial: Some Article 17 Commentary 221			
	3	Violent Speech 223			
	Co	nclusion 234			
	Co	onclusion	237		
	1	The Low-Threshold Hatred Paradigm 237			
	2	Genocide Denial: Navigating Historical Memory 239			
	3	Totalitarianism: The Boundaries of			
		Democratic Tolerance 241			
	4	Violent Speech 244			
	5	Extending Positive Obligations to Hate Speech 247			
	6	The Role of Technology in Hate Speech Regulation 249			
	7	Hate Speech Cases Before the European Court of			
		Human Rights: Toward a Principled Framework 250			
	T	<b>.</b>	250		
	1n	dex	252		