Nearly every other country in the world — the United States being a notorious, oft-criticized exception - bans speech said to incite hatred against certain groups, typically racial groups, but often now including others, such as religious communities or sexual minorities. But while such laws are a commonly accepted feature of liberal democracies, and have tended in recent times to be extended, rather than restricted, they remain deeply controversial and contested. In particular, First Amendment scholars in the US not only contest the normative and empirical justification for such laws but also argue that they impermissibly allow the state to silence certain viewpoints of which it disapproves, thus rendering the state hegemonic and illegitimate in relation to those it thus silences. In this paper Professor Phillipson responds directly to these criticisms, arguing that many European bans rightly fall prey to such arguments, but that there is a sound basis in political philosophy for a narrow conception of hate speech bans - those that seek to uphold a shared sense of mutual recognition of all as humans and citizens. He argues that this same conception should lead us to conclude that many existing bans are overbroad and counterproductive and that, in particular, bans may not permissibly be used to prevent offence – however great - to religious feeling or identity.

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