

## SEMINAR

## Hate Speech Laws: What They Should and Shouldn't Try to Do

**Gavin Phillipson**

*Deputy Head of School  
Durham Law School, The Palatine Centre*

**Monday, 28 April 2014, 4:30 pm - 5:30 pm  
Room, 723, 7/F Cheng Yu Tung Tower  
The University of Hong Kong**



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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.

**Professor Gavin Phillipson** has held a Chair in Law at the University of Durham since January 2007 and is a qualified solicitor. His research interests lie in the fields of European and UK human rights law, especially freedom of expression and the interface of those fields with public law and constitutional and political theory. He has written widely in these areas in top UK, US and Canadian journals, including the *Modern Law Review*, *Law Quarterly Review*, *Current Legal Problems*, *Cambridge Law Journal*, *Public Law*, *McGill Law Journal* and *Law & Contemporary Problems*. He has published three books, including, with Helen Fenwick, *Media Freedom under the Human Rights Act* (2006, OUP), a comparative and theoretically-informed treatment of areas of UK media law). A fourth - *Debating Hate Speech* (with Eric Heinze, Hart) - is forthcoming, Autumn 2014. He has given papers by invitation at numerous conferences and seminars overseas, including in Washington, Duke and George Washington Law Schools and the universities of Toronto, Singapore, Melbourne, and UNSW (the latter two as visiting scholar).

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