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A view to kill? : Europeans are becoming less free to say what they think

It's becoming dangerous to anger minority groups and politicians



ILLUSTRATION: NOMA BAR

Full text :

Should the Finnish Lutheran church sponsor the Pride parade, a festival of rainbow flags and sexual inclusivity? Many might argue that a staid institution would do well to show prospective parishioners that it has kept up with the times. Paivi Rasanen is not among them. A staunch conservative, mother of five and member of parliament since 1995, she questioned on social media whether the church endorsing Pride was compatible with the Bible's teachings on sin and shame. An accompanying picture of some of the book's less tolerant passages made clear her own conclusions. That was in 2019. The temerity of her questioning has resulted in six years of police investigations, prosecution, trials and the threat of a hefty fine.

As Finland's interior minister in the early 2010s Mrs Rasanen had overseen the police. Soon she was sitting in their interrogation rooms, for 13 hours in all, she says. Ultimately a court in 2022 found that her views, offensive as some may have found them, were no crime under Finnish law. An appeal also went her way. But the ordeal is not over. The Supreme Court will soon announce whether prosecutors' wish for a judicial rematch will be granted.

Europe regards itself as a liberal kind of place, complete with laws and institutions to ensure its citizens enjoy fundamental rights, including the freedom to say what they please. Most of the time for most of the people, that is true. Yet the case of Mrs Rasanen is not so rare. From Spain to Germany, critics of kings and lesser figures of authority have found themselves in the dock for their opinions. On incendiary issues like migration, covid-19 or Gaza, the free exchange of opinions has given way to a more buttoned-up type of discourse. New European Union rules that regulate online platforms—the natural home of cranks, contrarians and conspiracy theorists—further threaten to inhibit debate.

What happened? On paper, Europeans from Ireland to Greece enjoy free-speech rights similar to the First Amendment protections afforded to their American cousins. The European Convention on Human Rights that applies across the continent states that “everyone has the right to freedom of expression”. With a nuance: exercising that freedom comes with “duties and responsibilities”, the convention adds. Competing rights, such as rights to privacy, to living free from discrimination or to live in a well-functioning polity in effect frame the limits of free speech far more tightly than in America. Your right to offend is limited, in some instances, by my right not to be offended.

Many European polities start—perhaps unsurprisingly—by protecting the public figures who craft the laws. Countries that have monarchies typically have *lèse-majesté* provisions, too. Plenty of countries, including France, Italy and Poland, extend the courtesy to leading politicians. A French pensioner who had beseeched Emmanuel Macron to “piss off” on a banner hung from his house was sent on a “civic-awareness course” as

part of a plea deal to evade further prosecution. Also in France a broadcaster whose rabble-rousing talk-show host trenchantly criticised the mayor of Paris in 2022 was ultimately fined €150,000 (\$167,000).

Politicians defend such laws on the grounds that if elected officials face endless abuse the pool of people willing to enter civic life will shrink. Germany offers the highest-profile example of what the restrictions mean in practice. It has long been an offence to make critical remarks about politicians that cannot be substantiated. The law, tightened in 2021, has been used with abandon by some thin-skinned ministers. Robert Habeck, vice-chancellor until last week, filed no fewer than 800 complaints, for example for being called “a professional idiot”. A right-wing journalist who published a satirical meme involving an interior minister got a seven-month suspended prison sentence.

In 1990 around 80% of Germans felt they could express their opinions freely; now it is less than half. The authorities have been accused of trying to silence pro-Palestinian voices on the grounds of antisemitism. More controversially, the hard-right Alternative for Germany party has been branded as “extremist” by intelligence services; many politicians want to see it banned outright. Romania annulled its presidential election in December over concerns that the hard-right candidate had won only with the help of dodgy social media, in breach of electoral laws.

It is not just politicians who are protected from harassment. “Hate-speech” rules also shield minorities—whether gays or Muslims, migrants or the disabled—from others’ opinions. What Americans dismiss as tasteless, European prosecutors sometimes treat as criminal. Most notably, the right to offend religious groups is no longer assured everywhere. Once upon a time Denmark lived with the political consequences of racist agitators burning the Koran (which sparked terrorism threats). Since 2023 it has deemed “improper treatment of a religious text” to be a criminal offence. To liberal critics, that seems a lot like an unwelcome return to once-abolished blasphemy laws.

In practice most of the stuff over-eager censors might focus on is expressed these days online. The Digital Services Act (DSA), a new set of EU rules, introduced guidelines for purveyors of internet content. Mostly the rules ensure that what is said online, in a blog post or in a comment below a YouTube video, say, is treated on a par with what is said offline. But the DSA also imposes further obligations on the largest platforms, such as Facebook or X, in line with Europe’s rights-come-with-responsibilities approach to speech. In particular the EU now wants the tech giants to take into account “any actual or foreseeable negative effects on civic discourse” as they design their services, for example what content they tolerate.

Critics think this is a vague and potentially chilling notion. Beyond regulating “hate speech”, entreaties to ban “disinformation” from online forums invite questions as to who decides what is real. In the case of the DSA, quasi-judicial codes of practice policed by opaque out-of-court dispute-settlement bodies muddy the waters, often by encouraging platforms to take down more than they might otherwise. Getting it wrong carries a hefty price: fines can reach 6% of global turnover. Americans worry that Europeans’ more restrictive approach to speech will seep into their own public sphere, as tech firms apply a single set of rules globally.

Much of the speech that ends up in the digital censors’ dustbin, perhaps wrongly, involves views that even liberals might take issue with (racist bilge is often posted anonymously for a reason). It is also stuff people believe. Using the law to settle debate is convenient for those in the majority. It also tends to exacerbate disagreement rather than settle it. “I understand these issues are controversial,” says Mrs Rasanen. “But we must be able to disagree.” ■