

methods of payment, time and place of payment in Chapter 36. They then illustrate the buyer's obligation as to taking delivery. In this context, references have also been made to Sale of Goods Act 1979, Uniform Commercial Code (UCC) and INCOTERMS.

Parts IX and X, through three chapters, consider passing of risk and title. The authors place particular emphasis on transfer of risk in cases in which the INCOTERMS are incorporated into sale contracts. Furthermore, they discuss the position of the CISG in which the transfer of risk is connected to delivery and the concept of 'hand over'. The authors also examine situations where goods are sold in bulk and where goods are sold in transit. In examining the transfer of title in sales contracts, the authors evaluate different approaches in different legal systems as to when title passes. In particular, they explain the consensual and delivery approaches; and in Chapter 40, they examine the transfer of title by a non-owner.

Part XI includes nine chapters, which discuss remedies for breach of contract. It provides a general overview in relation to the framework of the law of remedy in different legal systems. It comprehensively examines various types of remedies such as avoidance, specific performance and damages. The authors discuss both traditional and modern approaches with respect to breach of contract, and address the controversial issue of specific performance by demonstrating divergent views in common law, civil law and international uniform law systems. Chapters 44 and 47 examine issues that arise on questions of avoidance and damages in sale laws. Exemptions, such as force majeure and hardship situations, are examined in Chapter 45. The obligation to pay 'interest' on a due sum is elaborated in a separate chapter (Chapter 46). Chapter 49 deals with concurrent remedies.

Part XII examines the unwinding of contracts (Chapter 50) followed by the final chapter in Part XIII on the limitation of actions. In the former, the authors discuss tort law, unjust enrichment and restitution. In the latter, they first explain the complexity caused by national law on the law on limitation of actions. Then they explore international initiatives by identifying the extent to which uniform instruments have minimized this complexity.

The book is remarkable, and perhaps unique, in a sense that it provides in one source the legal arguments and discussions pertaining to almost 60 jurisdictions in the fields of both contract and sales laws. Literature, cases and statutes from all the jurisdictions will make the book an indispensable source for references. It is an invaluable source for both academic and practitioners alike.

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*The Content and Context of Hate Speech: Rethinking Regulation and Responses* by MICHAEL HERZ and PETER MOLNAR [Cambridge University Press, Cambridge, 2012, 544 pp, ISBN: 978-0-521-138369, £30.99 (p/bk) (also available as h/bk and e-book)]

Already the title *The Content and Context of Hate Speech: Rethinking Regulation and Responses* raises interest, as the era of modern communications has entailed a need to rethink how to deal with hate speech, but regulation has not kept up with the pace of change of the communications landscape. A quick glance at the table of contents confirms that the book indeed attempts a wide and encompassing look at hate speech in its various forms and the various factors (of which modern communication is but one) that push for a rethink of regulation. It is also evident from the table of contents that the book takes a novel approach on how to present its topic, by including a number of interviews mixed with more traditional academic articles. The persons interviewed include academics like Robert Post and Nadine Strossen, a media professional, Kenan Malik as well as an academic with practical experience from the media world, Theodore Shaw.

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The interviewees give their opinion on general or specific hate speech topics, in the format of informed newspaper pieces.

By necessity interviews are more personal and less solidly founded on academic sources than what one might expect in an academic volume. In view of that aspect of science which includes that all scientific work should build upon existing knowledge in the field and be another brick in the edifice of science, built by previous authors and researches, interviews are difficult to place. At the same time, the interviews are interesting to read and provide a more personal and lighter touch, which makes reading the book very enjoyable and should mean it is accessible to a non-specialist audience. The relatively short articles should support such wide use. It is possible to benefit from this book without deep knowledge of the issue from an academic perspective. This does not mean that academics and specialists would not profit from the book—the articles are generally well referenced and solidly researched, offering new insights also to specialists. To conclude this aspect of the review, the book is well structured and potentially interesting and useful for a wide audience. Although the vast majority of authors of this book are professors of law, they have managed thanks to the topics and concentrated format of the articles to remain relevant to a broader audience. To mention just one example, Jamal Greene ('Hate Speech and the Demos') presents a number of interesting empirical surveys about popular views on whether people should be allowed to say offensive things in public, organize racist meetings and so on. This gives an interesting background to discussions on the need for hate speech regulation that is sometimes absent from a discourse which presumes that the basis for such regulation is a given fact.

The choice of authors and articles supports the strong comparative emphasis that is a stated aim of the book. It is particularly welcome to find a thoughtful and interesting article on Russia and other CIS states (Andrei Richter, 'One Step Beyond Hate Speech') as an objective assessment of Russian regulation is more difficult to find than equivalent analyses of US and European laws. Richter points out how in post-Soviet countries the worldwide 'war on terror' has been turned into a fight against 'extremism', which is interpreted in a manner that allows for the inclusion of almost all forms of political dissent. By a detailed analysis of the campaigns in Russia against primarily Chechen 'terrorism' or more general 'extremism' (all quotation marks intended), Richter shows how measures that at first look like legitimate restrictions on freedom of expression have been used to stifle debate and asks whether such restrictions are really legitimate in the given circumstances. Richter understands the need for action against extremism and terrorism in Russia or other post-Soviet countries and is to be commended for a neutrally written exposé of measures undertaken, but at the same time clearly illustrates what is wrong with the measures viz, they are often applied against serious journalism that forms part of the debate on newsworthy issues, rather than against directly inciting expressions.

For hate speech, the key issue is whether and when difficult cultural and historical settings justify different substantive rules to restrict free speech. Such relativism can be used to justify content-based restrictions, of which the holocaust denial laws are the best-known example. These laws consequently get a lot of attention in the book, specifically in the articles 'Social Epistemology, Holocaust Denial, and the Post-Millian Calculus' by Frederick Schauer, in 'Denying Experience' by Julie C Suk but also in the comprehensive exposé and comparative analysis on 'Hate Speech in Constitutional Jurisprudence' by Michel Rosenfeld as well as in relation to other atrocities by Tarlach McGonagle in 'Council of Europe Strategies for Countering Hate Speech'. It is valuable to have a critical discussion on the potential harm from holocaust denial legislation as well as on the presumed uniqueness of this atrocity, as these aspects of the denial laws are too often ignored, presumably due to the sensitivity of the issue and the fear commentators have of being tainted with the brush of the denialists. As holocaust denial laws are undeniably rules that restrict specific content without undertaking the kind of evaluation of possible harms caused by the content in the context in which it is presented (that by contrast is almost always undertaken in respect of other forms of hate speech), such laws are in need of an open and critical debate. Schauer states that '[we] cannot understand the arguments that a certain form of hate speech is an exception to otherwise prevailing free speech principles unless we understand both those

principles and the relationship between the harms of a certain kind of hate speech and the harms that any nontrivial free speech principle routinely tolerates'.<sup>1</sup> The different articles in this volume that deal with holocaust denial contribute to such necessary understanding of this regrettably topical special area of hate speech regulation.

As mentioned above, the rethinking urged for in the book does not have its roots in modern communication technologies only, but in general trends in society. A critical reader could claim that the reflections upon new means of communication in this volume may be somewhat limited. The internet has profoundly changed the media landscape for many reasons: the previous distinction between telecommunications (point-to-point communication) and broadcasting (point-to-multipoint) cannot be upheld; private individuals can reach a wide audience simply and cheaply; new subjects—internet service providers—have new forms of responsibility, etc. This affects hate speech as well as any other media regulation issue. It is correct not to focus too much on technology when analysing content rules, but as technology has changed the nature of actors in the media landscape and thus fundamental principles of media regulation (like the strong emphasis on professional ethics, that is very difficult to uphold in the internet context) technology needs to be discussed in order to understand what media law issues that are still relevant and how. One main criticism that is voiced against hate speech regulation is that it is becoming irrelevant as it is unable to deal with online content, be it because of the ease with which offensive websites can move to another jurisdiction or because so many forms of communication are essentially private communication, spread by non-professionals without any role for any company (apart from the provider of the technology). Media lawyers or others involved in the debate are still mostly unwilling to fully accept that the world has changed profoundly, but rather concentrate the debate on how existing rules (including on hate speech) can be made relevant also in the new context. This includes questions of responsibility of internet service providers or possible rules on registering websites and so on.

In this book, we rather cryptically learn that the internet has made a hole in the fences of political atavism, in the context of voluntary adherence to principles or self-restraint, but there is not much discussion on what this actually means or how big the hole might be (Arthur Jacobson and Bernhard Schlink in 'Hate Speech and Self-Restraint'); we hear that the internet cannot be regulated like broadcasting (interview with Robert Post) but not much on how it might be possible to regulate it. Jamal Greene (in 'Hate Speech and Demos') does give some more space to the discussion of behaviour in the cyberworld and Tarlach McGonagle presents Council of Europe (and other) measures targeted at cyber phenomena (like cybercrime), but an article or two that would have focused on the influence of modern information and communication technologies on the question of hate speech would have been interesting. Jamal Greene finds some factors that point to a change in the tolerance of hate speech because of the new ways of communicating that social networks have brought about, but his article is a wide exposé of attitudes to hate speech (or rather hateful expressions of various kinds, not just what is defined as hate speech in the strict legal sense), rather than a profound analysis of what social networks, interactive media and other forms of modern communication mean for media regulation. Thus, such analysis would have provided a useful addition to the volume.

It is not possible in this short review to comment on all articles in this rich and diverse volume and the fact that some articles are not mentioned specially is in no way a reflection on their content or quality. The choice of highlighting especially a couple of articles has more to do with personal preferences of the reviewer, but this said, the article by Alon Harel, 'Hate Speech and Comprehensive Forms of Life' and that of Monroe Price, 'Orbiting Hate? Satellite Transponders and Free Expression' can be mentioned as noteworthy for their innovativeness. Harel introduces new concepts and terminology that could add a new dimension to regulation and Price links

<sup>1</sup> F Schauer 'Social Epistemology, Holocaust Denial, and the Post-Millian Calculus' in M Herz and P Molnar (eds), *The Content and Context of Hate Speech* (Cambridge University Press 2012) 129–43, 143.

freedom of expression directly to technology. This selection can also serve to illustrate the variety of topics and approaches that fit under the title of the book and more generally within the discussion on the—sadly—ever topical issue of hate speech. Alon Harel argues that we need to consider the discourse to which hate speech belongs, to see if hate speech is deeply rooted or not. Speech—expressions—can be offensive but if they are not part of a value system or systematically made it should perhaps be seen differently and be permitted to a larger extent than if hate speech is just as the ultimate expression of a life form. His proposal to see deeply rooted hate speech differently than other instances of hate speech is attractive but can also be dangerous. He himself accepts that the reader may be frustrated by his proposals<sup>2</sup> but although this review is not the place to enter into a polemic with him, suffice to say that such frustration may be what drives the interesting debate forward and indeed illustrates that the book meets its stated objective of supporting the rethinking of regulation and responses.

In conclusion, *The Content and Context of Hate Speech* is a useful and enjoyable book for anyone who is interested in the issue, whether as part of academic research, as a participant in the public debate or as a media professional. The book can be read through from beginning to end, to challenge the mind and get new ideas, or it can be used to go deeper on specific issues through the interesting sources referred to and the many new facts presented.

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<sup>2</sup> Alon Harel, 'Hate Speech and Comprehensive Forms of Life' in Herz and Molnar (n 1) 306–26, 326.

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