

Module 7: Incitement to Hatred Threshold Test Activity

Threshold Test:

(from the Rabat Plan of Action)

1. Context
2. Speaker's Position
3. Intent
4. Content
5. Extent of Discrimination
6. Likelihood of Harm

Threshold Test: 1. Context

Analysis of the context should place the speech act within the social and political context prevalent at the time the speech was made and disseminated.

Threshold Test: 2. Speaker's Position

The speaker's position or status in the society should be considered, specifically the individual's or organization's standing in the context of the audience to whom the speech is directed.

Threshold Test: 3. Intent

Intent requires the activation of a triangular relationship between the object, the subject of the speech act, and the audience.

Under Article 20 of the International Covenant on Civil and Political Rights (ICCPR), negligence and recklessness are not sufficient for an act to be an offence.

Threshold Test: 4. Content

Content analysis may include the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed in the speech, or the balance struck between arguments deployed.

Threshold Test: 5. Extent of Discrimination

Extent includes the reach of the speech act, its public nature, its magnitude, and size of its audience.

Other elements to consider include what means of dissemination are used, the frequency, the quantity and the extent of the communications, whether the statement is circulated in a restricted environment or widely accessible to the general public (such as on the internet).

Threshold Test: 6. Likelihood of Harm

Likelihood establishes a reasonable probability that the speech would succeed in inciting actual action against the target group, recognizing that such causation should be rather direct. Some degree of risk of harm must be identified.

Speech Analysis Using Threshold Test: Scenario

“Nigerian Pastor in Sierra Leone Blames Muslims”

A popular Nigerian Christian pastor was arrested in Sierra Leone for a sermon that incited hatred for Muslims. The pastor told his large Evangelical congregation that Islam is “a violent religion of lies and deceit” and claimed that Muslims are responsible for “every terrorist act in the history of the world.”

Video recordings of his sermon were posted online and quickly went viral. Both Muslim and Christian communities in Sierra Leone condemned the pastor’s comments. The head of Sierra Leone’s criminal investigations department replied that citizens of Sierra Leone are tolerant of other religions and live peaceably. “No one wants that disrupted,” he explained.

Scenario, continued

Although Sierra Leone has no specific anti-hate speech laws, incitement is prohibited under the common law. During the investigations, all six branches of the pastor's church were shut down. A director of a local civil rights group spoke out, claiming that a person's right to worship should not be limited and that the government should not shut down the church just because of hateful comments made by one person.

A Muslim member of an inter-faith council urged his followers to forgive the pastor and extend peace to their Christian neighbors. Some people on social media have demanded that the pastor apologize while others have insisted he be deported back to Nigeria.

"Sierra Leone Arrests Pastor Who Blamed Islam for 'Every terrorist act in history,'"
The Guardian 27 September 2017, by Cooper Inveen

Questions to Guide Speech Analysis

- How should situations of “borderline hate speech” be addressed?
- What “remedial speech” can faith actors produce and promote based on faith traditions?
- What obstacles may limit the role of faith actors in countering hate speech?
- What risks are involved in facing these situations, and how could these risks be mitigated?
- How should faith leaders react when facing a situation of incitement to hatred?
- Do public authorities welcome civil society or faith-based initiatives in this respect?