

Laughing Matters? Humor and Free Speech in the Digital Age

Abstracts and Bios

Natalie Alkiviadou

Title: Humor and the European Court of Human Rights

Abstract: In an intervention to the ECtHR, the non-governmental organization Article 19 underlined that “freedom of expression, including the freedom to joke is a bedrock of a democratic society” (ZB v. France). This presentation will provide an overview of humour and how we conceptualize it through a variety of theories from classical times until today. Following that it will look at how humour and, subsequently, parody and satire, have been treated by the highest regional court of the Council of Europe, namely the European Court of Human Rights. Article 10 of the European Convention on Human Rights (ECHR) provides that everyone has the right to freedom of expression and that “this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority.” This is the only article in the Convention to stipulate that the right comes with “duties and responsibilities” thereby demonstrating the weight attached to the negative impact speech may have. As a result, Article 10 limits free speech on the grounds of, inter alia, public order, public morals and for the protection of the reputation or rights of others, insofar as these restrictions are necessary in a democratic society. Since 1976, the European Court of Human Rights (ECtHR) has underlined that the freedom of expression does not just extend to ideas that are “favourably received,” but also to those which “shock, offend and disturb” because “such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society.” Where relevant, practices from national courts in Europe and beyond will be included for comparative purposes.

Bio: Natalie Alkiviadou is Senior Research Fellow at [Justitia](#), working on the [Future of Free Speech](#) project. Her research interests lie in the freedom of expression, the far-right, hate speech, hate crime and non-discrimination. She holds a PhD (Law) from the Vrije Universiteit Amsterdam. She has published three monographs, namely *The Far-Right in International and European Law* (Routledge 2019), *Legal Challenges to the Far-right: Lessons from England and Wales* (Routledge 2019) and *The Far-Right in Greece and the Law* (Routledge 2022). Natalie has over ten years’ experience in working with civil society, educators and public servants on human rights education and has participated in European actions such as the High-Level Group on Combatting Racism, Xenophobia and Other Forms of Intolerance. Natalie has been the country researcher for the 2019 European Network against Racism report on Hate Crime and the 2022 report on structural racism. She has drafted handbooks, strategy papers and shadow reports for projects funded by the Anna Lindh Foundation, the European Commission and the European Youth Foundation, on themes such as hate speech. Natalie is an international Fellow (2022/23) of the ISLC – Information Society Law Centre of the Università degli Studi di Milano.

Terry Anderson

Title: The Cartoonists' Rights Network International (CRNI): Defending Political Cartoonists on the Front Lines of Free Speech

Abstract: Cartoonists Rights Network International (CRNI) is a non-profit organisation created in 1999 in the United States by Dr. Robert Russell. It looks to protect the human rights and creative freedom of social and editorial cartoonists. CRNI "envisions a world where cartoonists are free from persecution and able to use their creativity as a powerful tool for communication," and "strengthens the interconnectedness of cartoonists around the world, campaigns to protect their human rights and defends those threatened as a result of their work."

Bio: Terry Anderson is a professional cartoonist and caricaturist. He is the Executive Director of [Cartoonists Rights Network International](#). For more than fifteen years he produced comics and illustrations for *The Glasgow Herald* and for over two decades has been co-ordinator at the Scottish Cartoon Art Studio. In 2014 Terry organized an international cartoon exhibition on the Scottish independence referendum – *The Auld Acquaintance* – that was shown in six venues around Europe. The Scottish Cartoon Art Studio's Fizzers® caricatures were the subject of a ten-year retrospective exhibition at The People's Palace & Winter Gardens, Glasgow in 2016/17. A former student of The Kubert School of cartooning, Terry is a member of the Professional Cartoonists' Organisation (UK), France-Cartoons and Cartoon Movement. He previously served on the executive committee and ultimately as President of the Scottish Artists Union, the trade union for all visual artists working in Scotland. He is frequently asked to broadcast, speak publicly and lead workshops on the subject of cartooning.

Rob Balin

Title: When Does Law Protect Humor? Joke Copyrights, Humor in Defamation Suits, and Beyond

Abstract: Legal principles sometimes protect humor from harms such as civil liability and theft. This talk will survey U.S. law in this area. The talk will describe an array of examples—largely from the U.S. litigation and other disputes—when a comedian, a defamation defendant, or other jokester urges the law to shield their craft. The presentation will explore patterns of disputes in which the law protects humor and declines to extend protection.

Bio: Rob Balin represents clients in all aspects of media law, including defamation, privacy, news gathering torts, First Amendment issues, copyright and trademark litigation, and contracts. Rob handles complex litigation for multinational and national corporations, including publishers, broadcasters, and new media. Rob has represented a diverse array of clients, including *O2138* magazine, adidas, Farrar Straus & Giroux, Thomas Friedman, Henry Holt and Company, Random House, Reader's Digest, St. Martin's Press, Woman's World, Yellow Book USA, and Sing Tao Daily. He is a graduate of University of Vermont and Temple University Law School, and currently an adjunct professor of Media Law at Columbia University Law School.

João Paulo Capelotti

Title: Humor (in)competence in Brazilian case law

Abstract: Brazilian Constitution protects equally freedom of speech and reputational rights. It is thus the courts' responsibility to strike the proper balance for the competing rights according to particularities of each case but also considering the applicable case law. What courts sometimes do not notice is that the parameters usually required for journalism (accuracy, objectivity and public interest of the news) are not appropriate for humorous expression, which not always will be about a relevant topic, often will be even-handed and not rarely will rely on metaphors, exaggeration, condensation and other stylistic resources to deliver its message. This presentation intends to discuss and criticize legal opinions that lack this sensibility acknowledging the peculiarities of humor speech (humor competence, as linguists call it), a fundamental step to correctly rule cases involving humor.

Bio: João Paulo Capelotti holds the degrees of PhD (2016) and Master of Laws (2012) from the Federal University of Paraná (UFPR), Brazil. He received his degree in law at the University of the State of São Paulo (Unesp), campus Franca, and is a member of the International Society for Humor Studies, the International Society for Luso-Hispanic Humor Studies, the Group of Studies on Cultural History of Humor (University of São Paulo - USP), the Group of Comparative Private Law (UFPR) and the Group of Studies on Copyright (UFPR). He is a practicing lawyer in Curitiba, Brazil.

Maik Fielitz

Title: Are they all trolls now? Humor, extremism and free speech

Abstract: Humor has become a central weapon of extremist movements to subvert open societies and to lower the threshold towards violence. Especially within the context of a recent wave of far-right terrorist attacks, we witness 'playful' ways in communicating racist ideologies. As far-right extremists strategically merge with online cultures, their approach changes fundamentally: In the name of free speech, they suppress the free expression on the internet and stigmatize ethnic and sexual minorities using edgy memes rather than ideological rhetoric. Hence, some of the most malicious actors surf the hate wave with a winking face – legally protected by free speech regulations and socially accepted by ridicule and laughter as everyday practices. The slippery slope of humor and extremism necessarily challenges the counter action by the state and civil society. While it has been easier to quarantine extremist actors in a pre-digital age, the contemporary participatory culture of online extremism renders the limits of free speech fluid and intangible. This talk aims to address the dilemmas of the renewed paradox of tolerance in the context of humor, extremism and free speech.

Bio: Maik Fielitz is a researcher at the Jena Institute for Democracy and Civil Society and co-head of research in the [Federal Working Group for Countering Online Hate](#). He works on the question how digital technologies and digital cultures reshape right-wing extremism and how liberal democracies are countering authoritarian tendencies in online contexts. With Nick Thurston he co-edited the volume *Post-Digital Cultures of the Far Right. Online Actions and Offline Consequences in Europe and the US* (published by Transcript and distributed via Columbia University Press).

Katharine Gelber

Title: Humor, satire and racial vilification in Australia

Abstract: Australia has a somewhat unusual approach to racist hate speech, having enacted both civil and criminal laws to prohibit it. In practice, the civil laws are invoked in the vast majority of cases. This renders it an interesting study, for the purposes of examining the fate of racist humour and satire in the context of well-established laws prohibiting racist hate speech. After outlining how hate speech laws operate in Australia, this paper considers three prominent examples of humour and satire which generated complaints of racial hatred. None of these cases resulted in a finding of unlawful conduct. These examples show the difficulty of delineating actual hate speech where it occurs in the context of humour and satire, and lead directly to the question of whether it might ever be possible for humour and satire to cross the line into actionable hate speech. I argue that it can, but that we need to be aware (especially in the digital age) of hate speakers utilising humour or satire as a deliberate strategy to circumvent accusations of racial hatred.

Bio: Katharine Gelber is Head of the School of Political Science and International Studies at the University of Queensland, a Fellow of the Academy of Social Sciences Australia, a former Australian Research Council Future Fellow (2012-2015), and a former President of the Australian Political Studies Association. Her expertise is in freedom of speech and speech regulation, with research projects into the regulation of hate speech, especially online, and other allegedly harmful speech. Her recent publications include the jointly edited *Free Speech in the Digital Age* (Oxford Uni Press, 2019) with Susan Brison, and *Free Speech After 9/11* (Oxford Uni Press, 2016) as well as articles in *Journal of Public Policy*, *Parliamentary Affairs*, *Law and Society Review*, *Political Studies*, *Contemporary Political Theory*, *Melbourne University Law Review*, and the *Australian Journal of Human Rights*.

Katy Glenn Bass

Title: Do Machines Get Jokes? The difficulties of evaluating humor and satire in content moderation at scale and across cultures

Abstract: Much of our social and political discourse now takes place online, and more specifically on social media platforms. How these platforms set and enforce rules about what kind of content is allowed has been the cause for much complaint from users around the world. Depending on one's view, platforms take down too much innocuous content (including humor and satire), or leave up too much harmful or dangerous content, or enforce their rules arbitrarily, or enforce their rules not enough, or have the wrong rules in the first place. This brief talk will not attempt to solve the myriad issues raised by online content moderation. It has a more modest aim: To sketch out the main processes used by many platforms to moderate the vast amounts of content posted each second, and to explore some of the strengths and pitfalls of each process, with particular attention paid to the implications for humorous/satirical posts by users.

Bio: Katy Glenn Bass is the inaugural research director of the Knight First Amendment Institute at Columbia University. She is responsible for conceptualizing and executing all of the Institute's research initiatives, including the production of scholarship and research materials, the organization of conferences and symposia, and the Institute's Senior Visiting Research Scholars program. Prior to joining the Institute, Glenn Bass worked at PEN America, where she supervised the production of reports analyzing free expression issues. She has also taught at NYU Law's Center for Constitutional Transitions and at the Walter Leitner International Human Rights Clinic at Fordham Law School. She holds a B.A. from Princeton University and a J.D. from Harvard Law School, where she received the Kaufman Pro Bono Service Award.

Alberto Godioli, Jennifer Young and Matteo Fiori

Title: Introducing the 'Humor in Court' project (2022-2027)

Abstract: 'Humor in Court' is a five-year project funded by the Dutch Research Council (NWO Vidi grant, 2022-2027), consisting of an interdisciplinary analysis of 400+ humor-related cases from the European Court of Human Rights and domestic courts in France, the United Kingdom and the Netherlands. Building on insights from linguistics, semiotics and literary theory, the project aims to set the basis for a more consistent, fairer treatment of humorous expression in courts of law, with special regard to free speech jurisprudence. In addition to providing a general overview of the project's corpus and methodology, our presentation will offer concrete examples of how humanities-based research can help courts tackle the interpretive issues posed by humor in the judicial context. Particular attention will be paid to problems related to the ambiguity or polysemy of humor, including for example the often fine line between disparaging humor and ironic disparagement in cases concerning hate speech and dignitary harm.

Bios: - Alberto Godioli is Senior Lecturer in European Culture and Literature at the University of Groningen (NL), and program director of the Netherlands Research School for Literary Studies (OSL). His research focuses on humor and free speech from an interdisciplinary perspective, combining case law analysis with insights from humanities-based humor studies. He is Principal Investigator of the international project '[Humor in Court](#)' (funded by the Dutch Research Council, 2022-2027, NWO Vidi grant) and recently co-edited a special issue on humor and the law for [HUMOR: International Journal of Humor Research](#) (35.3, 2022; with Brigitte Adriaensen, Andrew Bricker and Ted Laros).

- Jennifer Young has worked extensively in an editorial role within the BBC and Commercial Broadcasters. She gained an LLM in Media Law and a Masters in Social Science Research from the University of East Anglia. Her PhD was funded by the Economic and Social Research Council and her thesis is an empirical study on Broadcast Regulation and Satire. As of March 2022, she is a researcher in the NWO project 'Humor in Court.'

- Matteo Fiori has worked since 2014 as a legal officer at the Council of Europe Department for the Execution of Judgments of the European Court of Human Rights. From 2011 to 2014 he worked as a lawyer at the Registry of the European Court of Human Rights in the division responsible for examining applications against Italy. He obtained an LLM in public international law and a PhD in international criminal law and human rights, both at the University of Groningen (NL). He is the author of several publications on human rights and international criminal law, and a postdoc researcher in the NWO project 'Humor in Court.'

Laura E. Little

Title: The Many Faces of Law and Humor

Abstract: Law is everywhere: government offices, courtrooms, lawyers' offices, and even the minds, workplaces, and homes of citizens. Humor is everywhere too. It is no surprise then that intersections of law and humor crop up in seemingly endless varieties.

One can divide these varieties into three precincts. Humor in the law, humor about the law, and law's effect on humor. For lawyers and policymakers "on the ground," the latter category (law's effect on humor) is the most immediately salient. Humor is a glorious component of human life and culture. For that reason, it is crucial for humor scholars to expose how law prefers or suppresses humor types. After all, law reform must start with understanding the present state of affairs.

The three-part division of how law and humor intersect is a useful starting taxonomy for study. But we can't lose sight of humor's magic. This talk will try to capture some of that magic, including humor's outstanding ability to use its own methods to take on laws that are repressive or simply impotent.

Bio: Laura Little is the James G. Schmidt Professor of Law at Temple University Law School. She has published extensively on free speech jurisprudence, including the monographs *First Amendment* (Wolters Kluwer, 2021) and *Guilty Pleasures: Comedy and Law in America* (Oxford University Press, 2019). She previously represented media outlets in Philadelphia and served as a law clerk for Chief Justice William H. Rehnquist, US Supreme Court.

Dario Milo

Title: Humor and Free Speech in South Africa

Abstract. The speaker will discuss cases in South Africa, often from his own experience in litigating them, where the issue has concerned balancing the importance of humorous free speech with reputation and dignity rights. The leading judgment of the South African Constitutional Court on parody and satire was a case where a journalism graduate printed T-shirts which parodied the trademark of one of the largest brewery companies in the world, South African Breweries (SAB). One of SAB's iconic trademarks stated "Black Label" and "Carling Beer". This was transformed by the journalism graduate into "Black Labour" and "White Guilt". Justice Albie Sachs – concurring in the decision that SAB failed in its trademark infringement case – said this: "A society that takes itself too seriously risks bottling up its tensions and treating every example of irreverence as a threat to its existence. Humour is one of the great solvents of democracy. It permits the ambiguities and contradictions of public life to be articulated in non-violent forms. It promotes diversity. It enables a multitude of discontents to be expressed in a myriad of spontaneous ways. It is an elixir of constitutional health." The speaker will also present several other cases, including for example South African cases on hate speech in the form of cartoons (one involving the Prophet Muhammad and the other a homophobic cartoon designed to compare homosexual persons with animals); a defamation case where the former president, Jacob Zuma, took on the cartoonist Zapiro for various cartoons which suggested he undermined the justice system; and a case where an artist and an art gallery were sued for displaying an artwork parodying president Zuma. Ultimately, this analysis will seek to develop an organizing principle to consider how humor fares when pitted against traditional rights to reputation and dignity. If humor is an elixir of constitutional health, what do these cases say about how healthy South Africa's democracy is?

Bio: Professor Dario Milo is a partner at Webber Wentzel attorneys, where he leads a team focusing on all aspects of public and constitutional law including reputation law (including defamation and privacy), media law and information law. He also lectures in media law, access to information law, and privacy law at the University of the Witwatersrand, where he is visiting adjunct professor in media law. Dr Milo is an expert in freedom of expression at the Columbia University Freedom of Expression Project and was appointed to the High Level Panel of Media Freedom Experts (chaired by Lord Neuberger) by the UK and Canadian governments. He is also an adviser to the European Commission on anti-SLAPP policy. Dr Milo is the author of *Defamation and Freedom of Speech*, published by Oxford University Press in 2008 and *A Practical Guide to Media Law*, published by Lexis-Nexis Butterworths in 2013. Milo has acted for the media in numerous high profile cases, including (among several others) for the cartoonist Zapiro and the Sunday Times in the defamation case brought by former President Zuma.