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Laughing on the edge: interpreting dark humour in court

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Abstract

Dark humour, i.e. humour engaging with sinister or distressing topics, is often at the centre of complex legal cases regarding freedom of expression and its limits. On the one hand, this type of humour is safeguarded in principle by international free speech standards, which should also apply to expressions that "offend, shock or disturb the State or any sector of the population" (as emphasised by the European Court of Human Rights in Handyside v. United Kingdom*). On the other hand, jokes about terrorism, natural disasters or other highly sensitive subjects are frequently taken to court under charges such as incitement to discrimination, hostility or violence. Even within the same judicial system, the courts' approach to these cases is often unpredictable, and would arguably benefit from a more nuanced perspective on dark humour as a form of expression. While acknowledging the inherently subjective nature of humour interpretation, this article proposes an indicative distinction between three basic genres of dark humour, or three potential outcomes of the interpretive process—namely 'disparaging', 'sarcastic', and 'taboo-breaking' dark humour. This theoretical framework is subsequently illustrated through the analysis of relevant legal cases from different jurisdictions, including the European Court of Human Rights and domestic courts from Spain, Italy, Belgium, Scotland and Canada. In conclusion, moving beyond the specific case of dark humour, this article outlines the potential benefits of a closer dialogue between humour research and judicial practice.*

Keywords: dark humour, freedom of expression, disparagement, sarcasm, taboo.

1. Introduction

In recent years, a growing number of studies have focused on the interpretive conflicts prompted by the assessment of humorous material in legal cases concerning freedom of expression and its limits (e.g. Little, 2019; Adriaensen et al., 2022; Godioli & Young, 2023; Capelotti, 2024; Godioli et al., 2025). In other words: how can judges navigate conflicting interpretations of a given contested joke, thereby drawing a fair line between lawful expression and legitimate grounds for restriction? The ultimate upshot from this line of scholarship is that a closer dialogue between humour studies and judicial practice is highly

desirable to this end, as it could significantly contribute to a more methodical, informed, and context-sensitive approach to disputed humorous content within free speech jurisprudence. One of the key areas for improvement, in this respect, lies in the courts' lack of systematic attention to the specific features of different humorous *genres*—namely the "discursive forms or tradition(s) which the disputed expression may be ascribed to, based on its content, style and its dialogue with a given set of conventions" (Godioli et al., 2025, p. 37; on the notion of 'humour genres' in general, see also Tsakona, 2020, pp. 65-102). As shown by heavily debated cases such as *Sinkova v. Ukraine* (2019) or *Z.B. v. France* (2023) from the European Court of Human Rights, overlooking the importance of genre conventions can significantly impact the quality of a court's reasoning, thus leading to a de-contextualised interpretation of the impugned humorous material (Godioli et al., 2025, pp. 37-39). The present article aims to mark some progress in this direction, by focusing on a humorous genre (or macro-genre, as will be detailed below) that is particularly prone to testing the limits of freedom of expression—namely dark humour.

Defined as it is by its inherent link with distressing or taboo subject-matters, dark humour often inhabits the grey areas between two contrasting principles in international free speech adjudication. On the one hand, as emphasised by the European Court of Human Rights (ECtHR) in the landmark judgment *Handyside v. United Kingdom*,

> [freedom of expression] is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'.
>
> (5493/72, 7 December 1976, para. 49).

The same concept was reiterated, among others, by the Inter-American Court of Human Rights in *Kimel v. Argentina*: "In the arena of debate on issues of high public interest, not only is the issuance of expressions that are inoffensive or well received by public opinion protected, but also that of those that shock, irritate or disturb public officials or any sector of the population" (Series C No. 177, 2 May 2008, 88). This principle, of course, also applies to controversial humour dealing with dark topics; but on the other hand, the right to "offend, shock or disturb" (including through humour) is by no means unlimited. As outlined in Articles 19 of the United Nations' International Covenant on Civil and Political Rights (ICCPR), freedom of expression may be legitimately restricted to guarantee (a) "the respect of the rights and reputations of others," and (b) "the protection of national security or of public order (*ordre public*), or of public health or morals". In addition to this, Article 20(2) ICCPR specifies that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" shall be prohibited by law.

As illustrated in the following paragraphs, dark humour is often at the centre of complex legal cases, revolving around the boundaries between shocking but lawful speech engaging with sensitive themes (from racism to sexual assault) and actual incitement to discrimination, hostility or violence. At the same time, and somewhat more surprisingly, dark humour is still largely under-theorised within humour research. To be sure, several studies to this date have used this term to analyse specific cultural expressions across different media—including, for instance, the intersection of laughter and violence in late 19th- and early 20th-century literature (Taylor, 2019), satirical or absurdist representations of slavery in African American culture (Carpio, 2008), 9/11 disaster jokes (Gournelos & Greene, 2011), *Charlie Hebdo*'s cartoons (Weston Vauclair & Vauclair, 2016), all the way to the board game Cards Against Humanity (Graham, 2020) or racist alt-right memes (Schmid et al., 2024). Yet, much remains to be done

towards a comprehensive definition and systematic taxonomy of dark humour—that is, a theoretical framework that could account for both the fundamental similarities and the glaring differences between individual occurrences such as those listed above.

Building on recent scholarship on the topic, Section 2 of this article will outline a working definition and basic typology of dark humour. Subsequently, Section 3 will test and substantiate the proposed typology by means of analysing relevant case law, with particular attention to cases where judges would arguably have benefited from a more attentive engagement with the distinctive features of dark humour and its (sub-)genres. Ultimately, as further discussed in the Conclusion, the case of dark humour exemplifies how a closer exchange between humour research and the law could prove beneficial for both parties involved. On the one hand, insights from relevant scholarship can assist judges towards a well-balanced approach to specific humour genres; on the other, due to its usual focus on 'extreme' cases, humour-related jurisprudence can offer invaluable material for future theoretical and empirical work on the intersection of humour, offence, and (potential) harm.

2. Defining dark humour and its (sub-)genres

As widely accepted (Polizzotti, 1997), the term *dark humour* – or more precisely, its French variant *humour noir*—was originally coined or made popular by Surrealist author André Breton with his seminal *Anthologie de l'humour noir* (Anthology of dark humour, 1997 [1940]), which featured examples ranging from 18th-century satirist Jonathan Swift to avant-garde artists such as Marcel Duchamp and Salvador Dalí. In his preface to the *Anthologie*, Breton famously described dark humour as a "superior revolt of the mind" against bourgeois "sentimentality", and more generally against ordinary thought patterns and conventions (Breton, 1997 [1940], p. xvi). While being in line with Breton's own Surrealist aesthetics, however, this statement does little in the way of a general workable definition—nor does Breton provide one elsewhere in his work.

The problem remains largely unsolved in present-day scholarship on the topic. Building on previous authoritative definitions, Willinger et al. (2017, p. 160) characterise dark humour as

> a kind of humour that treats sinister subjects like death, disease, deformity, handicap or warfare with bitter amusement (Mindess et al., 1985; Baldick, 2001) and presents such tragic, distressing or morbid topics in humorous terms (Oxford dictionaries, 2016). [It] is used to express the absurdity, insensitivity, paradox and cruelty of the modern world.

This definition certainly identifies some essential components of dark humour, such as the combination of a humorous component with "sinister subjects" or "morbid topics". However, some of the traits mentioned above only seem applicable to some specific instances rather than the whole category. For example, "bitter amusement" is only one possible component in the broad emotional palette of dark humour, which—as will be detailed later on—can range from sarcastic indignation to disparagement or the thrill of transgression. Likewise, while certain occurrences of dark humour might well aim to "express the absurdity, insensitivity, paradox and cruelty of the modern world" (Willinger et al., 2017, p. 160, see above), it is fairly easy to think of counter-examples pursuing different aims—from dehumanising a minority group to mere 'edgy' entertainment.

In order to address this theoretical gap, Godioli (2024) set out to propose a more comprehensive conceptualisation of dark humour. To begin with, that previous contribution suggested a general, 'minimum common denominator' definition of dark humour as a form of expression characterised by humorous incongruity between scripts (i.e., "structured chunks of

information about the world" in Raskin, 2017, p. 110), where at least one of the scripts is typically associated—within a given context—with intense sadness, grief, or horror. Within a given dark joke, the "dark" script can consist of three fundamental elements: (1) the *victims* of the dark event or scenario evoked by the joke; (2) when applicable, the *wrongdoers*, enablers, or passive bystanders within that scenario; (3) and lastly, the *taboo status* of the event or scenario itself, i.e. its supposed incompatibility with humour. Depending on whether the main perceived aim lies in mocking the victims, ridiculing the behaviour or ideology of the wrongdoers, or 'just' playing with the taboo status of a given dark topic, it is possible to pinpoint three types of dark humour—which can be labelled respectively as disparaging, sarcastic and taboo-breaking dark humour, as illustrated in Table 1 below.

Table 1. Three basic types of dark humour (based on Godioli, 2024)

Type of dark humour	**Perceived aim**
Disparaging	Mocking the victim of the dark script evoked in the joke (e.g., war, disaster, illness, violence, etc.)
Sarcastic	Ridiculing the ideology or behaviour of the wrongdoers—namely those who are held responsible for causing, contributing to, or profiting from a given dark scenario (e.g., the perpetrator or accomplice in a violent crime)
Taboo-breaking	Playing with the taboo status of a given dark script (i.e., its presumed incompatibility with humour), for instance in order to cope with a distressing situation and/or cause amusement through transgression

Far from being limited to "bitter amusement" or denouncing the "cruelty of the modern world", the psychological and ideological functions of dark humour can vary considerably across these three types. Disparaging dark humour, for instance, commonly aims to dehumanise the victims of a distressing situation by making light of their suffering—an example being racist jokes trivialising or condoning racial violence. Sarcastic dark humour, instead, employs humour as a vehicle to prompt shock and indignation against the wrongdoers. One could think of Jonathan Swift's pamphlet *A modest proposal* (1729), which sarcastically advocated eating the children of poor families in order to solve the problem of famine in 18th-century Ireland; in this case, the goal is clearly not that of belittling the suffering of Irish families, but rather denouncing the greed and ruthlessness of English colonial rule by means of mimicking and exaggerating its exploitative logic. Lastly, taboo-breaking dark humour can serve a broad range of purposes. For example, when the humourist jokes about their own distressing or traumatic circumstances, the prevailing function might be coping or relief—as shown by several studies on humour use among war prisoners (Henman, 2001), in illness narratives (Tzouva, 2022), or even by firefighters dealing with critical incidents (Dangermond et al., 2022). In other cases, instead, the humorous transgression of dark taboos aims to induce 'edgy', irreverent amusement, without a clear disparaging, sarcastic or coping function—a disposition which has become particularly prominent in contemporary digital cultures, and whose deeper political implications have been the object of increasing scholarly attention (Phillips & Milner, 2017; Holm, 2024).

Each of the types identified above (sarcastic, disparaging and taboo-breaking), as well as sub-types such as racist jokes or war prisoners' humour, can be described as *genres* and *sub-genres* respectively, with dark humour at large serving as an overarching macro-genre. According to Frow (2015, p. 31), genres are "the frames that establish appropriate ways of

reading or viewing or listening to texts. They are made up of material and formal features, a particular thematic structure, a situation of address which mobilizes a set of rhetorical purposes, and a more general structure of implication". In this sense, the terms 'disparaging', 'sarcastic' and 'taboo-breaking' refer to distinct frames of interpretation, each one denoted by specific rhetorical purposes and different "structures of implication" (i.e., different ways in which the recipient/audience may reconstruct the implied subtext of the joke). These (sub-)genres are often characterised by distinctive tropes and by their own tradition within the history of dark humour—as documented, for instance, by recent work on the genealogy of white supremacist humour in the United States (Pérez, 2022), on the lineage of sarcastic dark humour from Swift to *Charlie Hebdo* (Godioli et al., 2024), or—closer to what has been defined above as 'taboo-breaking' dark humour—on the relatively short but complex trajectory of irreverent online humour (Holm, 2022).

Despite the existence of distinctive tropes and traditions in these (sub-)genres of dark humour, it is crucial to stress that 'disparaging', 'sarcastic' or 'taboo-breaking' are by no means objective or mutually exclusive categories. To be sure, the same given example of dark humour might be interpreted in different ways by different recipients based on a wide series of contextual factors—including for instance sociocultural assumptions, communicative setting, as well as individual preferences and differences in humour use (for a more systematic overview on the role of context in humour interpretation, see Tsakona, 2020). Moreover, disparaging, sarcastic, and taboo-breaking features are particularly likely to coexist in certain instances of dark humour, such as disaster jokes—which might simultaneously disparage the victims, satirise media sensationalism profiting from tragic events, and serve a coping function or merely transgress a taboo for the sake of it (on the multiple functions of disaster jokes, see among others Kuipers, 2005 and Chovanec, 2019). More generally, playing with taboos is inevitably an important aspect of disparaging and sarcastic dark humour too; the category of 'taboo-breaking dark humour' just indicates a prominence of this component over others, such as disparagement or sarcasm.

As discussed in the next section, the subjective element in the interpretation of dark humour—as well as the fuzzy boundaries between disparaging, sarcastic and taboo-breaking sub-genres—often lies at the heart of legal disputes concerning the grey areas between controversial humour and incitement to discrimination, hostility or violence. In such disputes, I will argue, the typology outlined above (and, in general, a more fine-grained understanding of dark humour) could significantly improve the quality of judicial reasoning, by providing judges with a more systematic theoretical and terminological framework to navigate the subjectivity of humorous expression.

3. Interpreting dark humour in court

This section will analyse a selection of seven cases revolving around dark humour *vis-á-vis* incitement to discrimination, hostility and violence, or other comparable hate-related offences (such as glorification of terrorism, Holocaust denial, and 'degrading or hostile treatment' of a private individual). Two of the selected rulings are issued by the European Court of Human Rights—namely the highest court for human rights disputes (including, of course, freedom of expression) for the 46 countries forming part of the Council of Europe. The other cases, instead, were adjudicated upon by domestic courts in Spain, Italy, Belgium, Scotland and Canada. The cases were retrieved via the worldwide database of humour-related jurisprudence curated by the Forum for Humor and the Law (ForHum, 2025), using 'dark humour' as the search term. The search yielded 92 results in total, which were then analysed more closely. The selected sample is not meant to set the basis for any generalisable statistical observations;

rather, the present article only focuses on a deliberately limited number of rulings, which were deemed particularly suitable for illustrating the interpretive challenges faced by courts dealing with the multi-faceted nature of dark humour. These challenges proved to be comparable across different judicial systems, regardless of the specific legal provisions under which a case is examined, thus confirming a well-established claim in comparative analyses of humour jurisprudence (Godioli & Little, 2022). In particular, section 3.1 will discuss four disputes centred on the distinction between disparaging and sarcastic dark humour; section 3.2, instead, will turn to decisions engaging with the often fine line between taboo-breaking and disparaging (sub-)genres.

3.1. Disparaging vs sarcastic dark humour

Let us start with a recent example from the European Court of Human Rights, namely *Petrov v. Russia* (part of *Yevstifeyev and Others v. Russia*, 22327/22, 3 December 2024). The judgment concerns a parody video published in 2020 by D.K. (a well-known Russian comedian) on Instagram. The video made fun of a previous homophobic pro-government video by the Federal News Agency (RIA FAN), which promoted a constitutional amendment to define marriage as solely heterosexual. In the original RIA FAN video, a boy from a Russian orphanage in 2035 is told that he has been adopted, and that he will have "a mom and dad". When the dad appears, the boy happily follows him, but stops to wonder where his mother his. The man then announces "here she is, your new mother", pointing towards a grotesquely depicted gay man. The latter then places the child in the car, and takes out a girl's dress from the back seat, which he had prepared for the boy. Two employees of the orphanage witness the scene, showing their disgust and indignation at what is happening. At the end of the video, a voiceover asks: "Is this the Russia you will choose? Decide the future of the country, vote for amendments to the Constitution!".

In the parody video (Memepedia, 2025), also set in 2035 Russia, a father and a son embark on a "gay hunt" in the woods, in hopes to "thin out the population". The son proudly states: "I have killed my first gay when I was 16 years old! The winter was warm this year, so, you know, lot of food, gays must be fat you know, well-fed". Using homophobic slurs and the cry "Starbucks" as their game call, they finally run into their prey—a stereotypically depicted gay man, sporting colourful clothes and dyed hair. The father and son shoot him and eventually pose for a picture next to his body, with the son commenting "momma's gonna make fine stew!". The video ends with a written message reading: "Is that the future of Russia you want to see? Then vote for amendments to the Constitution 2020! Amendment n.66—allows Russians to hunt for large game, homosexuals and birds in the summer season".

Andrey Petrov, head of the Moscow-based LGBTQ+ activist group Stimul, filed a complaint with the Russian police, accusing D.K. of inciting violence against LGBTQ+ people. The anti-extremism unit of the police refused to investigate, citing the "absence of a criminal act", and finding that the complaint should rather be examined in administrative proceedings. D.K., in the meantime, told prosecutors that the video actually "mocked homophobia by exaggerating it to a grotesque level of absurdity". Petrov then filed an application for judicial review, which was turned down by the local district court—a decision later upheld by the higher domestic courts. Subsequently, Petrov took his case to the European Court of Human Rights, reiterating his interpretation of the video as *disparaging* dark humour—namely as incitement to discrimination, hostility and violence, going as far as threatening the private lives of individual members of the LGBTQ+ community in Russia (the "right to respect of private life" being enshrined in Article 8 of the European Convention on Human Rights). However, the Court took a different stance, and saw the video as a case of

what I propose to call *sarcastic* dark humour, mocking homophobia rather than its victims.[1] As stated in the ruling: "Taking into account its content, its humorous tone and the context in which [the video] was published, it is difficult to construe it literally as approving of the hunting of gay people. The video was a political satire on a subject of general interest" (para. 55). As a consequence, the Court declared Petrov's application inadmissible, thereby repeating the Russian courts' position. The ECtHR's interpretation seems convincing in this case, as D.K.'s video does appear to belong to the longer tradition of Swiftian dark humour, mirroring and exaggerating the logic of the perpetrator to the point of grotesque. After all, the son's claim that "gays must be fat you know, well-fed", and that "momma's gonna make fine stew" with them, are remarkably similar to Swift's own cannibalistic imagery in *A modest proposal*:

> I shall now therefore humbly propose my own thoughts, which I hope will not be liable to the least objection. I have been assured by a very knowing American of my acquaintance in London, that a young healthy child well nursed, is, at a year old, a most delicious nourishing and wholesome food, whether stewed, roasted, baked, or boiled; and I make no doubt that it will equally serve in a fricasie, or a ragoust.
>
> (Swift, 2012 [1729], p. 53)

To be sure, compared to Swift, the satirical effectiveness of D.K.'s video is questionable to say the least. While 18th-century English rulers would hardly have thought about eating the offspring of poor Irish families, homophobic violence is a tragic reality in present-day Russia—according to a recent report (Coming Out and Sphere Foundation, 2024), nearly nine in 10 LGBTQ+ Russians have noticed an increase in homophobic and transphobic attitudes, with nearly 45% experiencing violence in 2023 (compared to 30% the year before). Looked at from this perspective, D.K.'s grotesque rendition seems too close to actual homophobic hate, in order to fully work as a sarcastic parody of the latter. On a related note, the video's stereotypical depiction of a gay man might end up trivialising or reinforcing prejudice rather than forcefully confronting it. In this sense, the parody can be seen as an example of what Lepoutre (2019) calls "negative counterspeech"—namely a critical response to hate speech that repeats a certain toxic content in the process of negating it (as opposed to "positive counterspeech", which directly affirms an alternative view on the topic). As pointed out by Lepoutre, negative counterspeech is likely to have unintended consequences, by unwillingly reinforcing the salience of the hateful tropes it seeks to dismantle. In this particular case, the fact that some violent homophobic comments were posted in reaction to the disputed video (as mentioned in the ECtHR judgment at para. 23) illustrates the potential negative consequences of this type of communication.

At the same time, while D.K.'s spoof may well be criticised from a socio-cultural standpoint, hopefully stimulating serious debates and awareness-raising efforts on actual homophobic violence, what matters from a judicial perspective is that the video cannot be reasonably construed as incitement to discrimination, hostility or violence, due to its clear satirical intent (see also Durani, 2025, with specific regard to this case). As contended by several free speech scholars, legally curtailing the mere repetition of negative stereotypes—in the absence of demonstrable incitement—would be ultimately harmful for democracy; such restrictions could easily be instrumentalised in order to silence vulnerable minorities, to reinforce the narratives of self-proclaimed 'free speech martyrs', or would otherwise cause a

[1] Throughout the article, I will frequently use the terms "disparaging", "sarcastic" and "taboo-breaking dark humour" to indicate the interpretations put forward by different parties in the court cases under discussion. These terms are not actually used in the proceedings; they rather reflect my own application of the theoretical framework proposed in this article.

disproportionate chilling effect on provocative (but potentially effective) ironic counterspeech (Heinze, 2016; Mchangama, 2022; Alkiviadou, 2025). With this in mind, the ECtHR persuasively protected the video as an instance of sarcastic dark humour, correctly identifying its "humorous tone"—or rather, the layer of satirical incongruity in the depiction of the homophobic wrongdoers. To borrow the terminology proposed by Simpson (2003), the video does create a certain "dialectic space" or critical distance from the hateful discourse it evokes; and although that distance might not be sufficient for it to fulfil its satirical goals, it is nonetheless enough to separate it from outright disparaging dark humour.

The ECtHR's approach to the grey areas between disparagement and sarcasm was arguably less convincing, instead, in its previous judgment *Z.B. v. France* (46883/15, 2 September 2021). The case concerns a joke printed on a T-shirt, which the applicant Z.B. gave as a birthday present to his three-year-old nephew in September 2012. The T-shirt bore the words "Je suis une bombe" [I am a bomb] on one side, and "Jihad, né le 11 septembre" [Jihad, born on 9/11] on the other. The child was born on September 11th, 2009, and his name is indeed Jihad (which is a common Arabic name meaning 'effort' or 'struggle', not necessarily 'holy war'; see Nugraha, 2021). Crucially, the term 'bomb' can also mean 'good looking' in French. The T-shirt was worn only once at preschool, and it was covered by a hoodie; it was only seen by adults when the preschool's director and one of the employees helped Jihad change his clothing in the bathroom. The preschool staff immediately reported the incident, which resulted in the prosecutor charging Z.B. and his sister (Jihad's mother) with glorification of terrorism. In the domestic proceedings, the defendants were initially acquitted by the first instance court of Avignon. Yet, following the prosecutor's appeal, both Z.B. and his sister were eventually convicted, with penalties amounting to a fine (4000 and 2000 EUR respectively) and a suspended prison sentence (two months for Z.B., one month for Jihad's mother). Z.B. then filed an application with the European Court of Human Rights—which, however, unanimously upheld the decision of the French appellate court, thereby confirming the previous interpretation of the T-shirt as disparaging dark humour targeting the victims of 9/11: "Certain attributes of the child (his first name, day and month of birth) and the use of the term 'bomb', which cannot reasonably be claimed to refer to the beauty of the child, [...] in reality serve as a pretext to valorise unequivocally wilful attacks on life" (quoted in *Z.B. v. France*, para. 11; my translation).

As already argued (Godioli & Young, 2025), the ECtHR's approach seems debatable this time, especially considering the Court's apparent lack of attention to the *genre* of the disputed joke. More precisely, the T-shirt could be placed in dialogue with a sub-genre of sarcastic dark humour often used by comedians from a Muslim background after the 9/11 attacks, relying on the ironic use of Islamophobic tropes equating Islam—or even Arabic-, Farsi-, or Urdu-sounding names—with terrorism. Shortly after 9/11, for example, British stand-up comedian Shazia Mirza famously opened her set with the line "My name is Shazia Mirza, or at least that's what it says on my pilot's license"—which, rather than being a glorification or trivialisation of terrorism, was meant as a sarcastic critique of mounting Islamophobia after the attacks (Aidi, 2021). Similarly, Z.B.'s T-shirt can also be seen as an attempt (however distasteful) to make fun of the Islamophobic cliché casting Muslims as Jihadists until proven otherwise, let alone a family where a child is named Jihad. Leaving other contextual considerations aside (such as the extremely limited circulation of the joke), the Court's reasoning would probably have gained from a closer engagement with existing research on post-9/11 dark comedy, and more generally from acknowledging the possibility of an alternative (sarcastic) interpretation of the disputed T-shirt.

Moving from regional to domestic courts, a recent Spanish case—commonly referred to as the 'Manada Tour' case—further exemplifies the difficulties courts face in distinguishing between disparaging and sarcastic expressions of dark humour. The case originates from

events in 2018, when a collective known as 'Homo Velamine' launched a website entitled "tourlaManada.com". The site offered a fictitious tour of locations associated with the five members of the infamous 'Manada' group, who assaulted and raped a young woman on 7 July 2016. The description of the fabricated tour read: "Amidst alcohol and debauchery, five men in the latest hairstyles met a young woman in the central Plaza del Castillo. Barely 20 minutes later, they entered a doorway 300 meters away and sexually assaulted her. What happened in those 20 minutes? Where did the attackers go afterward? How did the police identify them? Find out everything on this tour!" (here and henceforth, all translations from the website are mine).

Over the three days that the site remained publicly accessible (3 to 5 December 2018), various media outlets mistakenly interpreted the tour as genuine, prompting widespread public condemnation. On the third day, the creators removed the original content and replaced it with a statement explaining that the project was a deliberately provocative "media bomb", aimed at exposing the sensationalist tendencies of mainstream journalism—specifically, "how the media pounce like hyenas on any corpse whose still-warm blood they can suck". As it became evident, the website's true objective was to satirise the press's morbid preoccupation with the case, which had been reported on with such intensity that some outlets had even published detailed maps charting the perpetrators' movements.

Nonetheless, in December 2019, the Criminal Court of Pamplona found the site's principal creator, known as Anónimo García, guilty of "humiliating treatment" under Article 173.1 of the Spanish Penal Code, sentencing him to 18 months' imprisonment and imposing a €15,000 fine. This ruling was affirmed by the Court of Navarra in June 2020, and subsequently, the Supreme Court dismissed the defendant's appeal in December 2020. In all three judicial instances, the courts consistently construed the website as a direct (disparaging) affront to the victim, without engaging with alternative interpretative frameworks. Only in May 2025 did the Spanish Constitutional Court overturn the prior decisions, acknowledging the website's sarcastic intent:

> [The lower courts' conviction] deemed irrelevant the fact that the declared intention was to criticize the way in which the media covers certain newsworthy events [...]. It also overlooked the fact that the appellant's message did not contain a single reference to the victim [...], also displaying the Government of Navarra's logo against gender-based violence.
>
> (Recurso de amparo 456-2021, 13 May 2025; my translation)

From an ethical and cultural perspective, Anónimo García's satirical stunt can certainly be considered questionable. As with the *Petrov v. Russia* video, the sarcastic treatment of such a sensitive topic risks trivializing its subject matter, as well as re-traumatising the victim. In this specific case, the victim's criminal complaint was actually accompanied by a medical report, attesting to her distress and relapse in mental health in the wake of the publication of the website; although one might wonder to what extent this was rather due to the sensationalist coverage of her case (and of the Manada Tour controversy itself) by 'serious' media outlets, namely the very attitude that the website sought to condemn. Yet, while this is indeed a lamentable consequence (whether direct or indirect) of the disputed publication, the Constitutional Court rightly emphasised the multiple indicators of the author's sarcastic intent—including the hyperbolic incongruity of the promotional text reported above, the inclusion of an official logo against gender violence, and Anónimo García's previous engagement with parody and *culture jamming* (i.e., in the words of the Court, a form of expression "characterized by ironically denouncing the contradictions of what it considers to be 'dominant culture' and, in particular, the behaviour of the mass media"). As already mentioned with regard to *Petrov v. Russia*, legally restricting this type of sarcastic dark

humour—which, however reckless, clearly lacks the intent to incite violence or discrimination—would inevitably cause a disproportionate chilling effect on legitimate forms of satirical counterspeech.

While the Constitutional Court's ultimate decision is to be welcomed, the protracted six-year litigation process—spanning four judicial bodies—underscores the systemic difficulty of interpreting sarcastic dark humour within legal reasoning. From the standpoint of genre, the lower courts may have reached a more nuanced understanding had they considered the website within a broader satirical tradition, wherein dark humour is employed to critique societal obsessions—including the media's morbid fixation on violence and tragedy. This satirical lineage dates back at least to Thomas De Quincey's *On murder considered as one of the fine arts* (2006 [1827]), which ridicules (among others) "the mob of newspaper readers" who "are pleased with anything provided it is bloody enough" (De Quincey, 2006 [1827], p. 31). In more recent times, Giselinde Kuipers has observed that several joke cycles concerning 9/11 serve to satirise the "coverage of disasters in the mass media" and their "sandwiching of tragedy between commerce and entertainment" (Kuipers, 2005, p. 72). Despite its ultimately favourable resolution, the tortuous history of the Manada Tour dispute points to the importance for courts to acknowledge the distinction between disparaging and sarcastic dark humour. Being aware of the historical development of relevant sarcastic sub-genres (such as the satirical critique of modern media discourse around sinister events) can be particularly helpful in this respect.

On the other hand, courts are sometimes faced with cases where sarcasm is, in all likelihood, only used as an excuse to muddy the waters and poorly cloak actual disparagement. A telling example is the ongoing Italian case concerning a black T-shirt reading "Auschwitzland", with a Disneyland-like font and logo, which was worn by a local far-right politician (Selene Ticchi) during a rally in Mussolini's hometown Predappio in October 2018. Shortly after the rally, Ticchi was sued for incitement to discrimination through the use of hate group symbols (under Italy's 'legge Mancino', law n. 205, 25 June 1993). However, in January 2023, the politician was acquitted by the local first instance court, due to the alleged lack of a clear disparaging meaning in the T-shirt that could be directly associated with neo-Nazi or neo-Fascist groups: "Nothing has been reported in court on the distinctive significance of the symbol displayed on the T-shirt, on the origin of the word Auschwitzland [...], and on the use that is made of it. [...] Furthermore, there is no proof that the symbol is associated with an actually existing hate group" (First Instance Court of Forlì, 12 January 2023, n. 40, para. 4; my translation). Ticchi's defence actually went as far as suggesting an interpretation of the T-shirt as sarcastic dark humour, whereby the Auschwitzland logo does not aim to mock the Holocaust and its victims, but rather to "criticise the commercial exploitation of the pain caused by the concentration camp" (id., para 3, my translation; see also Ricci, 2024, p. 1148).

In September 2023, Italy's Supreme Court found that the wrong law had been applied; it therefore quashed the previous decision, and remanded the case to the lower court. Since November 2024, Ticchi is undergoing a new trial with different criminal charges, namely "denial or gross trivialization of the Shoah" (law n. 115, 16 June 2016). In the new trial, the court has to re-examine Ticchi's claim that the T-shirt was intended as sarcastic dark humour, and possibly substantiate how exactly the T-shirt qualifies as disparaging dark humour trivialising the Holocaust. To this end, once again, it will be important for the relevant judicial body to consider the specific features and tropes of relevant sub-genres of dark humour—especially disparaging, antisemitic dark humour from the far right (more on which, for instance, in Fielitz & Thurston, 2019). More precisely, the Disneyland allusion on the T-shirt can be usefully compared with other legal cases, where the use of references to the film industry are clearly used to deny or trivialise the Shoah. An example is the image at the centre of the ECtHR judgment *Bonnet v. France* (35364/19, 25 January 2022), featuring a caricature

of Charlie Chaplin in front of a Star of David under the title "Shoah où t'es?" [Shoah where are you?]. In the illustration, Chaplin is surrounded by speech bubbles coming from a bar of soap, a lampshade, a shoe and a wig replying "here", "there" and "here too". Within the context of the disputed image, the figure of Charlie Chaplin—also in light of the widespread beliefs regarding his alleged Jewishness—presumably serves to establish an association between the Shoah and cinematic fiction (Godioli, Young & Fiori, 2022). In *Bonnet v. France*, the ECtHR eventually upheld the domestic courts' decision to convict the author for denying crimes against humanity. By linking the "Auschwitzland" symbol with this comparable precedent, and more generally by examining it as part of the broader sub-genre of far-right antisemitic dark humour, the Italian court might be able to make a stronger case for a disparaging interpretation of the disputed T-shirt.

In sum, this section has sought to illustrate the importance of a clear conceptual distinction between disparagement and sarcasm, when determining the most plausible reading of a contested instance of dark humour. While the ECtHR's reasoning in *Petrov v. Russia* was arguably well-founded, the other three disputes examined above—*Z.B. v. France*, the 'Manada Tour' case and the Auschwitzland case—variously document how courts might fail to consider relevant interpretations of the disputed joke, and how insights from humour research can provide valuable assistance in this respect (e.g., by contextualising an individual case within a broader historical, theoretical or typological framework). The following section will adopt a similar approach, while shifting its focus to the twilight zones between disparaging and taboo-breaking dark humour.

3.2. Taboo-breaking or disparaging?

In the Auschwitzland case, as discussed in the previous section, the defendant invoked sarcasm as a far-fetched defence for the contested material. Even more often than sarcasm, however, extremist actors tend to evoke the 'taboo-breaking' angle as a strategic disguise for conveying hateful messages (see, for instance, Schmid et al., 2024). Starting with a relatively straightforward case, in March 2024 the first instance court of Ghent (Belgium) sanctioned some members of the far-right youth movement *Schild en Vrienden*, over a series of racist and antisemitic posts they had shared on their private Facebook and Discord groups (which they also used to sell prohibited weapons). The material included, among others, several memes and jokes trivialising and endorsing the Holocaust. The defendants were convicted of inciting racial discrimination, segregation, hatred, or violence (Article 20, 3º and 4º Anti-Racism Law *junto* art. 444 Belgian Penal Code), denying, minimising, justifying, or approving of the Holocaust (Article 1 Holocaust Denialism Law), spreading ideas based on racial hatred and racial superiority (Article 21 Anti-Racism Law), belonging to an association that promotes discrimination and segregation (Article 22 Anti-Racism Law), and selling or offering for sale prohibited weapons (Article 19 Weapons Law). The group's most prominent figure, former MP Dries van Langenhove, was fined 16,000 EUR, sentenced to prison for one year and banned from political activities for 10 years, while other members were granted lower penalties. In June 2025, the appellate court upheld the conviction, although the fines for all defendants were reduced and the prison terms were either eliminated or suspended.

As far as the interpretation of the impugned jokes is concerned, the Court of Appeal reiterated the lower court's conclusion. In the judges' view, *Schild & Vrienden*'s racist and antisemitic memes were not simply a manifestation of offensive but legitimate taboo-breaking dark humour (as argued by the defendants), but rather a systematic display of disparaging dark humour, aiming to dehumanise and incite to discrimination, hostility or violence. As originally stated by the first instance court:

> the defendants' general defence that 'sharing some jokes' should be possible is not applicable in this case, as their 'humour' was systematically used to make racism accessible and light-hearted. By encouraging the frequent posting of racist 'humour', the members gradually became convinced of the need to achieve their objectives through discrimination and violence.
>
> (First Instance Court of Ghent, 12 March 2024, para 13; my translation).

In order to prove the defendants' disparaging—as opposed to merely taboo-breaking—intent, the court relied on contextual factors, such as the general purpose of the Facebook and Discord groups (which, as mentioned, were also used to sell illegal weapons).

The appellate court maintained the same approach, relying even more explicitly on what can be defined as co-textual cues—namely the "verbal or non-verbal hints surrounding the humorous expression and guiding its interpretation" (Godioli et al., 2025, p. 36; see also Tsakona, 2020, pp. 103-138). By examining the communication *around* the disputed memes, the Court found sufficient evidence of the defendants' intent to spread racial hatred. For instance, Van Langenhove wrote in the *Schild en Vrienden* groups: "Memes are a means, not an end in themselves. Don't lose sight of that", and: "It starts with memes, it ends with a Flemish Empire from the North Sea to Katanga [= a former Belgian Congo province]". Another user noted: "We [right-wing youth] use memes to funnel our politically incorrect ideas to the general public (read: normies). The red pill is sweet and must be administered in small doses" (Court of Appeal of Ghent, 20 June 2025, para. 5.2.4; translation by De Naeyer, 2025). While neither court explicitly refers to this, these co-textual indications are fully in line with the rhetorical strategies typically adopted within the sub-genre of far-right dark humour, based as it is on the apparent blurring of the boundaries between actual disparagement and 'just fun' (Fielitz & Thurston, 2019). As stated by neo-Nazi ideologue Andrew Anglin in a frequently cited passage of his infamous *Normie's Guide to the Alt-Right*:

> While racial slurs are allowed/recommended, not every reference to non-white should not be a slur and their use should be based on the tone of the article. Generally, when using racial slurs, it should come across as half-joking – like a racist joke that everyone laughs at because it's true. This follows the generally light tone of the site. It should not come across as genuine raging vitriol. That is a turnoff to the overwhelming majority of people.
>
> (cited in May & Feldman, 2019, pp. 26-27)

In this case, albeit in an implicit way, both courts convincingly assessed the contested expression against the backdrop of broader typological distinctions (what I propose to term 'disparaging' vs 'taboo-breaking' dark humour) and the rhetorical tropes of a specific disparaging sub-genre (far-right dark humour). Things become more complicated, however, in the absence of clear contextual (and co-textual) indicators.

The degree of ambiguity is certainly higher in the so-called 'Nazi dog' case, which was last adjudicated upon as *Meechan v. Prosecutor Fiscal, Airdrie* (High Court of Scotland, HCA/2018/15/XM, 22 January 2019). Mark Meechan is a Scottish online celebrity, who owns a YouTube channel under the nickname "Count Dankula". He currently has more than 1 million subscribers on YouTube, and more than 500k followers on X. In his YouTube channel description, Meechan defines his content as "offensive social comedy and skits that get people thrown in prison". In 2016, Meechan posted a three-minute video titled *M8 yer dugs a Nazi*, showing how he had trained his girlfriend's pug dog to raise its paw whenever he repeated Nazi slogans, all while a recording of a Hitler speech was playing in the background. At the start of the video, Meechan gave the following disclaimer: "My girlfriend is always ranting and raving about how cute and adorable her wee dog is, so I thought I would turn him into the least cute thing that I could think of, which is a Nazi". Meechan later posted a video in which

he apologised for the original clip, arguing that it was meant as a joke and that he "actually hates racism in any way, shape or form".

The Airdrie Sheriff Court fined Meechan £800 for publishing a video that was "grossly offensive and threatening in nature" under section 127(1)(a) of the UK's Communications Act 2003, aggravated by religious prejudice and racism contrary to section 74 of the Criminal Justice (Scotland) Act 2003 and section 96 of the Crime and Disorder Act 1998. After the Sheriff Appeal Court refused his leave to appeal, Meechan sought to create a new appellate structure, which would allow him to appeal his case up to the Supreme Court of the United Kingdom. However, the Scottish High Court eventually rejected his request. As mentioned in the High Court's decision (para. 17),

> the sheriff did not accept the appellant's contention that his primary purpose was a comedic one. On the contrary, he found that the appellant's primary purpose in making the video was not to annoy his girlfriend but to make a highly offensive video for sharing on his YouTube channel. Accordingly, the question of interference with any supposed expression of satire or comedy simply does not arise.

In addition to defining the video as "highly offensive", the courts found that Meechan's skit "had a menacing character and reasonably caused apprehension within the Jewish community" (para. 10). Moreover, the first instance judge stressed that Meechan's material "tended to normalise antisemitic attitudes and provoke further unpleasant antisemitic messages" (quoted in Scottish Legal News, 2018). In short, despite Meechan's disclaimer and later apology, the Scottish courts were categorical in qualifying the contested video as outright disparagement—comparable, for example, to the *Schild en Vrienden* memes—as opposed to reproachable (but legally permitted) 'taboo-breaking' dark humour.

Any remarks on the judicial outcome of the case cannot abstract from the specificities of the UK Communications Act—whose prohibition of "grossly offensive" content sets a particularly low and vague threshold for speech restriction, as pointed out by numerous critics (Higson-Bliss, 2025). Legal considerations aside, however, the courts' interpretation of the disputed video seems like a missed opportunity to properly tackle the ambiguity of the particularly widespread form of dark humour cultivated by Meechan. Once again, some useful insights might derive from considering the individual joke in the context of the sub-genre it can be plausibly assigned to. In this respect, it is worth stressing that the channel name "Count Dankula" is a pun referring to 'dank memes', a sub-genre of online humour based on bad taste and unpleasantness (Urban Dictionary, 2017). This point is further reinforced by Meechan's description of his YouTube channel as "offensive social comedy and skits that get people thrown in prison"—which, rather than expressing Meechan's literal awareness of acting illegally, can be seen as an example of the "renegade rhetoric of the edgelord", i.e. an online personality known for posting shocking, provoking and 'dank' material (Nilan, 2021, p. 4). As demonstrated by Meechan's vast following on YouTube and X, *dank* humour is enjoyed by large audiences online; feeding on the "comic disposition" that characterises everyday interactions on social media, it typically creates situations "where comedy provides a way to access otherwise socially prohibited political rhetoric" (Holm, 2024, p. 267).

Despite being often appropriated by the far-right, dank humour does not come with an inherent political affiliation, as shown for instance by the Facebook group 'Bernie Sanders Dank Meme Stash' which rose to internet fame in 2016 (Dewey, 2016). In Meechan's case, the co-textual cues—including the initial reference to Nazis as "the least cute thing that I could think of"—entail a certain degree of distancing from Nazi imagery, which seems incompatible with fully-fledged incitement or extremist propaganda. On the other hand, even in its 'taboo-breaking' interpretation, this type of dark humour is clearly based on the reckless trivialisation of racist or otherwise discriminatory tropes—along the lines of what Simon Weaver defined as

"liquid racism" (Weaver, 2011). According to several jurists, as already mentioned with regard to *Petrov v. Russia*, content that 'merely' trivialises or reproduces hateful ideas (but falls short of incitement) tends to be addressed most effectively by means other than legal restriction—such as public criticism, counterspeech and awareness-raising (Heinze, 2016; Alkiviadou, 2025). Irrespective of differing doctrinal views on this matter, and on the Meechan case more specifically, the Scottish courts could have produced a more nuanced assessment of the contested material, had they placed the video more explicitly in the context of 'dank' humour as an elusive form of expression, often occupying the interstices between disparaging and taboo-breaking dark humour.

Moving away from the thorny intersection of dark humour and far-right imagery, the last case in this exploratory overview is *Ward v. Quebec* from the Supreme Court of Canada (2021 SCC 43, 29 October 2021). This decision concerns several jokes by stand-up comedian Mike Ward targeting Jérémy Gabriel, who was a child (and later a teenager) at the time of the facts. Gabriel was born with Treacher Collins Syndrome, a genetic condition causing distinctive facial features and often hearing loss. He had become famous as a singer during his childhood, performing for the Pope and other public figures. In a series of video clips posted in 2007 (when Gabriel was 10 years old), Ward repeatedly mocked Gabriel's disability by impersonating him and uttering statements such as "I'm stuck with this little speaker on my head" and "a mouth that won't shut" (*Ward v. Quebec*, para. 122). Years later, in his show *Mike Ward's eXpose*, the comedian mocked several prominent people who he referred to as "sacred cows" that could not be made fun of for various reasons. The only person with a disability mocked in the show was Gabriel, who was between 13 and 16 years old at the time. Ward made the following remarks about him: "Five years later… he's still not dead! [...] I saw him with his mother at a Club Piscine. I tried to drown him… couldn't do it, couldn't do it, he's unkillable. I went online to see what his illness was. You know what's wrong with him? He's ugly!" (para. 123).

Gabriel's parents initially filed a discrimination complaint with the Commission des droits de la personne et des droits de la jeunesse (CDPDJ, Commission for Human and Youth Rights). The CDPDJ took Mr. Ward to the Quebec Human Rights Tribunal, which found Ward had infringed Gabriel's right to dignity because of his disability. After an unsuccessful appeal at the Quebec Court of Appeal, Ward further appealed the decision to the Supreme Court of Canada, "arguing that the Tribunal and the majority of the Court of Appeal erred [...] and that the elements of discrimination cannot be examined in isolation without considering freedom of expression, which limits the right to the safeguard of dignity" (para. 31). The Supreme Court found—by a tight majority of five judges to four—that a "reasonable person" would not view the comments about Gabriel as inciting others to detest or vilify his humanity, or as likely to lead to discriminatory treatment of Gabriel. According to the majority, "[Ward's jokes] exploited, rightly or wrongly, a feeling of discomfort in order to entertain, but they did little more than that. […] Humor, whether in good or in bad taste, rarely has the spillover effect needed to give rise to an attitude of hatred and discrimination among third parties" (para. 112). In other words, the majority completely rejected the interpretation put forward by Gabriel's family, who had stressed the disparaging nature of the disputed material. Rather, the judges characterised the jokes as taboo-breaking dark humour—i.e. humour geared towards entertainment and transgression by exposing Canada's alleged 'Holy Cows' to ridicule, rather than inciting to discrimination against Gabriel.

However, the majority's assumption that humour "rarely has the spillover effect needed to give rise to an attitude of hatred and discrimination" is at least questionable, as suggested by a substantial body of empirical and historical research on the harmful societal effects of disparaging humour (e.g. Ford & Olah, 2021; Pérez, 2022; Schmid, 2023). This is all the more evident in the case under discussion, since Ward's jokes—as pointed out by the minority

opinion—actually "inspired bullying and mocking on the part of Gabriel's classmates, which led Gabriel to develop suicidal thoughts" (Dissenting, para. 193). The majority's interpretive stance can be defined as an instance of "cavalier humour beliefs" (Hodson et al., 2010)—namely an uncritical and nonchalant mindset towards humour, downplaying jokes as being "just jokes" and only meant for "fun". As shown by both Hodson et al. (2010) and later studies, cavalier humour beliefs "may contribute to the trivialisation of not only humorous hate speech but also prejudice toward the targeted group, by focusing humour rather than hate cues" (Schmid, 2023, p. 1592). Similarly, Dick Zijp has highlighted how this attitude—which he refers to as "comic innocence"—has deep ideological implications, and is strategically mobilised as part of "anti-woke" defences of "politically incorrect" derogatory humour (Zijp, 2024).

To be sure, the final outcome of the *Ward* case depends on a variety of factors—including, on a doctrinal level, the aforementioned ongoing debates on the meaning of 'incitement' in free speech jurisprudence, and on the desirability of legal restriction for potentially harmful expression which does not unequivocally incite to discrimination, hostility, and violence. In this respect, the majority's position may indeed be understandable, since (as discussed above) there are valid reasons not to adopt an overly low threshold for the judicial curtailing of offensive speech. Nevertheless, when it comes to the *interpretation* of the contested dark jokes—which is the main focus of the present article –, the majority's categorical dismissal of the disparaging angle is striking. Once more, the Court's reasoning could have profited from a more fine-grained understanding of dark humour as a multi-faceted phenomenon; this would have helped the majority to acknowledge disparagement as one of the possible functions of dark humour, and to reflect on how the presumption of "comic innocence" can be instrumentalised to disguise disparaging humour as merely 'taboo-breaking'.

4. Conclusion

This article analysed a selection of seven legal cases concerning dark humour and incitement to discrimination, hostility and violence, or other offences related to hateful expression. Two cases were ruled upon by the European Court of Human Rights (*Petrov v. Russia* and *Z.B. v. France*), while the remaining decisions were issued by domestic courts in Spain (the 'Manada Tour' case), Italy (Selene Ticchi's 'Auschwitzland' T-shirt), Belgium (*Schild en Vrienden*), Scotland (the 'Nazi dog' case) and Canada (*Ward v. Quebec*). In only two cases (*Petrov v. Russia* and *Schild en Vrienden*), the interpretation of the contested expression can be considered satisfactory, respectively leading to the protection of a satirical video and to incitement sanctions over racist and antisemitic memes. In the Manada Tour dispute, it took six years and four separate courts to reach a more nuanced assessment of the disputed website; in the other cases, instead, the courts' evaluation arguably overlooks some key aspects of the impugned jokes, irrespective of what one might think of the final outcome from a judicial perspective.

As a contribution to tackling the interpretive challenges posed by dark humour in court, the discussion above highlighted two aspects in particular. First of all, a more comprehensive theoretical understanding of dark humour—distinguishing between its disparaging, sarcastic and taboo-breaking functions—can facilitate a more systematic approach to the disputed content, preventing courts from only focusing on one interpretation at the expense of viable alternatives. For example, both the ECtHR in *Z.B. v. France* and the lower courts in the Manada Tour case exclusively considered their respective material—the 9/11 T-shirt and the spoof website—as instances of disparaging dark-humour, without taking into account the

possibility of a sarcastic interpretation. Somewhat conversely, in *Ward v. Quebec*, the Supreme Court's majority zeroed in on the 'taboo-breaking' angle (whereby the jokes only "exploited, rightly or wrongly, a feeling of discomfort in order to entertain"), while the disparaging component of the comedian's jibes should at least have been acknowledged. More generally, in all seven cases, the typology outlined in Section 2 proved to be a useful framework to gauge the stakes of the dispute, and to gain a deeper understanding of the interpretive tensions generated by the contested expression.

On a related note, the second general claim of this study is that courts can derive valuable insights from existing research concerning the history, affordances, distinctive tropes and rhetorical strategies of specific sub-genres of dark humour, including for instance: 1) Swiftian satire using macabre imagery to convey a political message through shock and sarcasm, from *A Modest Proposal* to the parody video at the centre of *Petrov v. Russia*; 2) Sarcastic 9/11 humour employed by comedians from a Muslim background to satirise Islamophobia, from Shazia Mirza to Z.B's T-shirt; 3) Satirical discourse around the media's coverage of tragic events, from De Quincey to the Manada Tour website; 4) Disparaging Holocaust humour peddled by far-right groups to normalise antisemitic ideas, from the Charlie Chaplin cartoon in *Bonnet v. France* to the Auschwitzland case; and 5) Online 'dank' aesthetics, ambiguously occupying the grey areas between disparaging and taboo-breaking humour (as shown by the 'Nazi dog' video).

The sampling could certainly continue, also in light of the particularly high incidence of dark humour in legal cases concerning humorous expression (at the time of writing, approximately 25% of the 368 cases collected in the ForHum database involve jokes about distressing or tragic subjects). The present contribution was only meant as an indicative demonstration of how the judicial treatment of dark humour can serve as a starting point for a mutually beneficial interdisciplinary feedback loop—or rather a *trans*-disciplinary one, in the sense of a dialogue extending "beyond interdisciplinary integration to involve nonacademic stakeholders, to address the gap that can exist between research and practical application by collaboratively generating knowledge" (Morton et al., 2015, p. 1, based on Lyall et al., 2014). On the one hand, as shown above with particular regard to dark humour and its sub-genres, input from humour scholarship can allow judges to develop a more consistent and informed approach to humorous content. On the other hand, humour-related jurisprudence—with its inherent focus on the interpretive conflicts generated by particularly controversial material—can be a unique source of inspiring case studies for researchers working on under-theorised forms of humour (such as dark humour), with special regard to their potential intersection with offence, harm, and the boundaries of freedom of expression.

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