Explanatory Document for "Giving Succor to Extremism? Judicial Behavior toward Extreme Speech in Constitutional Democracies"

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Constructing and Coding the Sample

Data was obtained using the Global Free Speech Repository (GFSR) (SES-1535250). The sample was constructed using data from Q6 ("What court issued the decision you are coding?") The following courts were included in Table 1.

Table 1: GFSR Courts Included (Numeric Code)

High Court of Australia (9)
Supreme Court of Canada (32)
Supreme Court of India (77)
Constitutional Court of South Africa (159)
European Court of Human Rights (ECtHR) (201)

The ECtHR data was further limited using Q5 ("In what country did the legal dispute originate?") to include cases only from the following countries listed in Table 2.

Table 2: ECtHR Countries Included (Numeric Code)

Austria (10)	Germany (65)	Portugal (136)
Belgium (17)	Iceland (76)	Slovenia (156)
Cyprus (44)	Ireland (81)	Spain (161)
Denmark (48)	Luxembourg (100)	Sweden (166)
Finland (60)	Netherlands (121)	Switzerland (167)
France (61)	Norway (126)	United Kingdom (183)

Cases were identified along two dimensions: the identity of the claimant and the content of the speech act. "Political" claimants were identified via Q21 ("Which of the following categories best describe the free speech claimant in the case? "). The categories listed in Table 3 were used to identify political claimants.

Table 3: Political Claimants (Numeric Code)

1	private individual(s); i.e., one or more natural persons, excluding government employees
3	one or more government and/or state employees or officials
4	one or more partisan political organizations
6	one or more media corporations, including private, for-profit media companies and public, non-profit ones
9	one or more labor organizations

The set of "political" claimants was then further refined by Q22 ("Which of the following subcategories best describes the speech claimant(s) in the case?"). Each case was subsequently coded for identifying extreme claimants, following the definition adopted in the paper. The subcategories of political claimants are identified in Table 4.

Table 4: Political Claimant Subcategories (Numeric Code)

2	prisoners
3	journalists
5	elected legislator(s)
6	subnational leader of executive branch
7	Cabinet Minister or similarly high-level appointed executive branch personnel
8	executive branch personnel, other
9	law enforcement personnel
10	elected judge(s)
11	appointed judge(s)
12	judge(s), selection method unknown
14	lawyers(s)
15	attorney general, prosecutor, or ombudsman
23	candidate(s) for elected office
24	political activist(s)
25	member(s) of military
55	teachers
56	writer(s)/author(s)
94	current or former head of government, state
105	civil servant
112	owner(s), executive(s), manager(s), officer(s), or director(s) of a media company

The sample also contains cases involving "political" content. All free-speech cases from the courts examined here were coded on this dimension. Table 5 identifies the kinds of political speech. Political speech was further coded as either "conventional" or "extreme" speech according to the definition used in the paper. All free-speech cases from the courts examined here were coded on this dimension. Table 6 lists the subcategories of conventional and extreme speech.

Table 5: Political Speech Categories (Numeric Code)

1	Hate speech
5	Partisan/electoral speech
7	Libel/defamation/invasion of privacy
8	Controversial ideology, other than group-based hatred
9	News reporting
15	Public policy advocacy
31	Incitement to illegal action
44	Speech criticizing government policy
45	Pro-democracy or human rights speech

Table 6: Political Speech Subcategories (Numeric Code)

	Conventional		Extreme
7	Racially egalitarian speech	1	Racist speech (anti-black)
13	Feminist speech	2	Racist speech (anti-Asian)
14	Anti-feminist speech	3	Racist speech (anti-Hispanic)
15	LGBT rights advocacy	4	Racist speech (anti-native peoples)
17	Reproductive rights advocacy	5	Racist speech (anti-white)
18	Pro-life	6	Anti-immigrant speech
19	Pro-prostitution speech	16	Homophobic (anti-LGBT)
20	Anti-prostitution speech	38	Anti-Catholic speech
43	Anti-LGBT rights advocacy	48	Anti-Protestant speech
44	Campaign contribution	49	Anti-Semitic speech
45	Independent election expenditure	50	Anti-Sunni speech
46	Party advertisement	51	Anti-Shia speech
47	Campaign advertisement	52	Anti-Islam speech, unspecified
56	Candidate speech	53	Anti-Hindu speech
78	Criticism of law enforcement officials	54	Anti-Buddhist speech
90	Criticism of judges, courts	96	Communism
91	Criticism of current elected official or candidate	97	Anarchism
92	Criticism of past elected official	98	Fascism
94	Criticism of private individual	250	Anti-Sikh speech
95	Anti-war, anti-military, anti-nuke	333	Speech directed against minorities
99	Animal rights advocacy	334	Misogynist speech
100	Environmentalism	446	Anti-Roma or travellers speech
101	Reporting on judicial proceedings	548	Anti-secular speech
102	Reporting on gov't corruption	549	Speech directed against majorities
103	Access to gov't personnel	679	Anti-Arab speech
104	Access to other persons	885	Incitement of hatred
105	Seeking access to national security documents	886	Incitement of violence
106	Seeking access to documents other than national security	887	Incitement of anti-government action
299	Pro-social welfare policy speech	982	Speech condoning terrorism, violence
300	Anti-social welfare policy speech		
408	Criticism of civil servant		
642	Criticism of political party		
787	Criticism of non-elected head of state		
836	Party platform, program, or manifesto		

Replication Data

In this section, I describe the data and variables used. Data was analyzed using Stata/SE v. 13.1. The following variables were used:

case: Name of the case

extClaimant: Did the case feature an extremist claimant?

No = 0

Yes = 1

extContent: Did the case feature extremist content?

No = 0

Yes = 1

context: In what context did the speech occur?

Electoral = 1

Bureaucratic or judicial = 2

Civil Society = 3

judgeFS: What percentage of judges voted to support the free speech claim?

Values for Table 3: Observed Judicial Support for Free Speech Protection, by Category were generated using the following script:

```
mean judgeFS if extClaimant == 1 & extContent == 1
mean judgeFS if extClaimant == 0 & extContent == 1
mean judgeFS if extClaimant == 1 & extContent == 0
mean judgeFS if extClaimant == 0 & extContent == 0
```

Values for Table 4: Judicial Support for Extremism were generated using the following script:

```
reg judgeFS extClaimant
reg judgeFS extContent
reg judgeFS extClaimant extContent
reg judgeFS extClaimant extContent context
```