

I. Combating Racism, Racial Discrimination, Xenophobia, and Related Intolerance

Recent Developments

Since the onset of the COVID-19 pandemic, there has been a generally observed and marked increase in racist incidents, especially anti-Asian and antisemitic incidents, as well as a growing spread of conspiracy narratives, pointing to a global increase in racism, racial discrimination, xenophobia, and related intolerance.¹ Both the human rights dimension of the COVID-19 pandemic and the issue of racial discrimination in the context of the pandemic have been noted by the United Nations (UN) and the Office of the High Commissioner for Human Rights (OHCHR).²

The COVID-19 pandemic-related increases in racist incidents were especially noted concerning antisemitic incidents and conspiracy theories.³ In 2020, the General Assembly adopted resolution 75/169 (2020) on “Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia, and related intolerance”, in which it took note of a global surge in right-wing extremism and reaffirmed its intention to combat neo-Nazism under the *Universal Declaration of Human Rights* (1948) and *Durban Declaration and Programme of Action* (2002), and strongly urged Member States to take appropriate steps in combatting such phenomena.⁴

The resolution was the first of this specific kind and addresses the issue of rising right-wing extremism that has also been noted by various UN entities and Civil Society Organizations (CSOs).⁵ Right-wing extremism takes a variety of forms and contains a diverse set of extremist ideologies and actors. Especially dangerous are those forms who engage in violent right-wing extremism (VRWE), as the European Commission (EC) noted in a 2021 analysis.⁶ This EC document also discusses ways to effectively combat violent threats related to this issue within the context of preventing and countering violent extremism (P/CVE) with measures that have been previously applied to Islamic extremism.⁷

General Assembly resolution 75/169 (2020) on “Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia, and related intolerance” was immediately preceded by a report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, pursuant to General Assembly resolution 73/262 (2018) on “A Global Call for Concrete Action for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action”.⁸ In her report, the Special Rapporteur addressed the increase in the number of antisemitic incidents and conspiracy myths since the beginning of the COVID-19 pandemic and their ideological backgrounds, as well as ideological connections to

¹ Human Rights Watch, *Covid-19 Fueling Anti-Asian Racism and Xenophobia worldwide*, 2020.

² OHCHR, *Racial Discrimination in the Context of the Covid-19 Crisis*, 2020.

³ OHCHR, *Racial Discrimination in the Context of the Covid-19 Crisis*, 2020.

⁴ UN General Assembly, *Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/RES/75/169)*, 2020.

⁵ Human Rights Watch, *Covid-19 Fueling Anti-Asian Racism and Xenophobia worldwide*, 2020; OHCHR, *Racial Discrimination in the Context of the Covid-19 Crisis*, 2020.

⁶ European Commission, *Contemporary manifestations of violent right-wing extremism in the EU: an overview of P/CVE practices*, 2021.

⁷ European Commission, *Contemporary manifestations of violent right-wing extremism in the EU: an overview of P/CVE practices*, 2021.

⁸ UN General Assembly, *A Global Call for Concrete Action for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action (A/RES/73/262)*, 2018; UN General Assembly, *Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/RES/75/169)*, 2020.

increases in racism.⁹ The report also summarized, but did not evaluate, Member States' submissions on laws and policies to combat the glorification of Nazism, neo-Nazism, and other types of racism and intolerance.¹⁰ The Special Rapporteur laid out several recommendations to Member States to combat these issues by political and legal means.¹¹ Concerning the role of new digital technologies in the promulgation of racism and racial discrimination, she put special emphasis on the concrete proposals made by the Committee on the Elimination of Racial Discrimination (CERD) to counter racist hate speech on social media and the internet already in 2013.¹²

In 2021, the issue remained high on the agenda of UN human rights bodies, including the Human Rights Council (HRC). The United Nations High Commissioner for Human Rights presented his report following up on the Durban Declaration, in which collaborative networks, mechanisms within governments to address tensions between religious communities, and deliberative approaches were highlighted.¹³ The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance presented a report to the Human Rights Council (HRC) in March 2021 highlighting the importance of eradicating racial discrimination, complying with the *International Convention on the Elimination of All Forms of Racial Discrimination* (1969), and reliable disaggregated data and called for Member States' educational systems to develop content promoting human rights.¹⁴ The HRC adopted a resolution on the matter at hand in April 2021, which reaffirmed previous resolutions by the council and stressed the council's concern regarding religious discrimination, intolerance, and related violent incidents.¹⁵ The HRC encouraged the establishment of collaborative networks and urged Member States to foster religious freedom and pluralism.¹⁶

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⁹ UN General Assembly, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/75/329)*, 2020.

¹⁰ UN General Assembly, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/75/329)*, 2020, pp. 3-10.

¹¹ UN General Assembly, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/75/329)*, 2020, pp. 20-24.

¹² UN Committee on the Elimination of Racial Discrimination, *General recommendation No. 35 – combatting racist hate speech (CERD/C/GC/35)*, 2013, pp. 39-42.

¹³ HRC, *Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (A/HRC/46/67)*, 2021.

¹⁴ HRC, *Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume (A/HRC/48/77)*, 2021.

¹⁵ HRC, *Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (A/HRC/RES/46/27)*, 2021.

¹⁶ HRC, *Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (A/HRC/RES/46/27)*, 2021, pp. 3-4.

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II. Business and Human Rights

Recent Developments

June 2021 marked the tenth anniversary of the endorsement of the United Nations Guiding Principles on Business and Human Rights (UNGPs) by the Human Rights Council (HRC).¹ The UNGPs provide a global framework for Member States to target business-related human rights abuse and assist with the implementation of the United Nations (UN) “Protect, Respect and Remedy” framework.² This framework includes guiding principles on business and human rights, such as the corporate and Member States’ responsibility to respect and protect human rights.³ Following the principles, Member States must protect against human rights abuse within their territory and/or jurisdiction and abuse stemming from business enterprises. This also applies to businesses owned or controlled by Member States as well as human rights abuses in conflict-affected areas.⁴ Furthermore, the UNGPs establish corporate responsibility regarding human rights standards, which includes avoiding causing or contributing to adverse situations and to prevent or mitigate human rights abuses linked to the operations, products, or services of a business relationship. Businesses are called to make a public statement of policy underlying their commitment, provide an effective remedy for victims of human rights abuses, and provide state-based non-judicial grievance mechanisms.⁵

In July 2020, the Secretary-General provided the General Assembly with a report of the “Working Group on the issue of human rights and transnational corporations and other business enterprises”, also referred to as the Working Group on Business and Human Rights – WGBHR, focusing on measures to prevent and tackle business-related human rights issues in (post-) conflict situations.⁶ The main proposition is to focus on heightened human rights due diligence and access to remedies.⁷ A month before, the WGBHR had presented a report that examines the issues in light of (anti-) corruption. The focus lies on the interconnectedness of businesses, human rights, and anti-corruption efforts and points towards good practices by businesses, civil society, and states alike.⁸

In April 2021, the WGBHR submitted a report to the General Assembly regarding the 9th session of the Forum on Business and Human Rights that took place in November 2020.⁹ One of the aspects discussed was the need to continue mainstreaming corporate human rights enforcement and due diligence. The importance of human rights due diligence also became apparent in another report of the Working Group from June 2021.¹⁰

¹ OHCHR, *New Guiding Principles on Business and human rights endorsed by the UN Human Rights Council*, 2011; OHCHR, *The next decade of business and human rights*, 2021.

² OHCHR, *New Guiding Principles on Business and human rights endorsed by the UN Human Rights Council*, 2011.

³ OHCHR, *Guiding principles on business and human rights. Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011.

⁴ OHCHR, *Guiding principles on business and human rights. Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011.

⁵ OHCHR, *Guiding principles on business and human rights. Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011, p. 16.

⁶ UN General Assembly, *Issue of human rights and transnational corporations and other business enterprises. Note by the Secretary-General (A/75/212)*. 2020.

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⁸ UN HRC, *Connecting the business and human rights and the anticorruption agendas. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/44/43)*, 2020.

⁹ UN HRC, *Ninth session of the Forum on Business and Human Rights. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/47/50)*, 2021.

¹⁰ UN HRC, *Ninth session of the Forum on Business and Human Rights. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/47/50)*, 2021.

In November 2021, the WGBHR issued its roadmap titled UNGPs 10+: A Roadmap for the Next Decade of Business and Human Rights regarding the successful future implementation of the UNGPs under the motto “Raising the Ambition - Increasing the Pace”.¹¹ The WGBHR emphasizes the importance of the UNGPs to achieve sustainable development and a green just transition.¹² Although the progress achieved through the UNGPs is noted, a coherent implementation remains the main challenge.¹³ The WGBHR identifies as action areas: State duty to protect; business responsibility to respect; access to remedy; more and better stakeholder engagement; more and better leverage to drive faster change; more and better tracking of progress; more and better international cooperation and implementation support.¹⁴ Parallely o the work of the WGBHR, the HRC discussed new and emerging technologies in July 2021 and adopted resolution 47/23, in which business enterprise responsibility in promoting human rights in line with the UNGPs was elaborated.¹⁵ Additionally, the Secretary-General informed the council in a note that many international investment agreements do not include any human rights obligations or responsibilities.¹⁶

During the seventh session of the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights, established by the HRC in 2014, in October 2021 discussed human rights abuses in business environments and the disproportionate effect of human rights abuse on individuals in situations of vulnerability or marginalization.¹⁷ Participants emphasized the exacerbating effects the COVID-19 pandemic has had regarding business and human rights, especially concerning labor market recovery and the human rights of vulnerable people.¹⁸ This is especially worrisome as the International Labour Organization (ILO) projects an unemployment level for 2022 of 207 million.¹⁹

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