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# HATE SPEECH IS ON THE RISE

## March 2021

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G | C J



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## Introduction

The prohibition of discrimination is an established tenant of international law. The United Nations *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), which entered into force on the 4th of January 1969, bans “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin,”<sup>1</sup> which aims to restrict fundamental human rights. The 1981 *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* states in article 2 that “no one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion of belief.”<sup>2</sup>

Signatories of these accords, which includes all of the western democratic countries that will be mentioned within this report, are obliged to take steps on a national level to align with the requirements of the conventions. For the purpose of this report, we will focus on the concept of hateful and discriminatory speech, which has been underrecognized as a form of discrimination and has the potential to precipitate serious societal consequences.

In this instance, the term ‘western democracies’ is used in reference to countries in Europe, as well as the United States, Canada, Australia and New Zealand, which have traditionally been understood to have high levels of wealth, civil rights and liberties, tolerance and even welcoming of diversity and political freedoms. ‘Liberal democracy’ is often also used to describe the same idea. In conventional discourse, western democracies are considered to have the highest standards of human rights and are thus essentialized as a metric to which all others should strive.

Alarmingly, many of these countries have witnessed a rise in hate speech and discrimination that is damaging their liberal reputation. In recent years, politicians from western democracies have been flagrantly ignoring the guidelines outlined in the ICERD over 50 years ago and engage in hate speech on public platforms. Instead of using freedom of speech to engender unity in society, leaders from right-wing nationalist groups have co-opted the concept to levy discriminatory speech against fellow citizens. Frequently, the hate speech is aimed at refugees, migrants and racial, ethnic and religious minorities.

To some degree, hate speech and intolerance has already been accepted on the public stage. Far-right nationalist parties such as the Danish People’s Party, Swiss People’s Party, Fidesz (Hungary), Freedom Party (Austria) and United Patriots (Bulgaria) have become increasingly xenophobic and racist in rhetoric and action while simultaneously growing increasingly popular. Far-right parties

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<sup>1</sup> <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

<sup>2</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx>



have targeted refugees, migrants and Muslims in particular, aiming to create a narrative that minorities do not belong in the country.

Hate speech is dangerous because of its potential to legitimize intolerance, which can put into action very serious and violent outcomes. When hate speech is allowed to proliferate, it contributes to the creation of norms: *hatred* and *intolerance* become acceptable in society. When a leader, especially a trusted leader, engages with hate speech, the process of norm creation is enhanced. In such a social climate, actions that may have previously seemed extreme become imaginable or even plausible. In extreme cases, hate speech can trigger the most grievous crime of genocide, as we saw happen in Germany, Myanmar, Bosnia, Cambodia and elsewhere.

“Hate speech is in itself an attack on tolerance, inclusion, diversity and the very essence of our human rights norms and principles. More broadly, it undermines social cohesion, erodes shared values, and can lay the foundation for violence, setting back the peace, stability, sustainable development and the fulfillment of human rights for all”



António Guterres (June 2020)

### ***United Nations Strategy and Plan of Action on Hate Speech***

Recognizing the distressing rise of hate in recent years, in 2019 the United Nations published the “Strategy and Plan of Action on Hate Speech”<sup>3</sup>. It included key commitments and a strategic vision in line with the principles and values of international human rights standards. In its forward, Secretary-General António Guterres warned against politicians using hate speech in public discourse for political gain because of its capacity to foster discrimination and intolerance against minorities, immigrants, and other vulnerable members of society. He emphasized that it is of utmost importance that the international community refuses to stay silent as silence symbolizes indifference.

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<sup>3</sup><https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>

The UN Strategy is currently being guided by the following principles:

1. ‘The strategy and its implementation to be in line with the right to freedom of opinion and expression. The UN supports more speech, not less, as the key means to address hate speech;
2. Tackling hate speech is the responsibility of all -- governments, societies, the private sector, starting with individual women and men. All are responsible, all must act;
3. In the digital age, the UN should support a new generation of digital citizens, empowered to recognize, reject and stand up to hate speech;
4. We need to know more to act effectively -- this calls for coordinated data collection and research, including on the root causes, drivers and conditions conducive to hate speech.’

The United Nations agreed to abide by several commitments starting in May 2019 that are in-line with these principles. They include supporting the victims of hate speech, using education as a tool for addressing and countering hate speech, and engaging in research to collect data on hate speech trends

in order to be able to address the root causes and drivers. Other commitments include leveraging partnerships with stakeholders in the tech industry, strengthening partnerships with media, and actively supporting Member States by drafting policy development plans to effectively address hate speech

“Tackling hate speech is also crucial to depend progress across the United Nations agenda by helping to prevent armed conflict, atrocity crimes and terrorism, end violence against women and other serious violations of human rights, and promote peaceful, inclusive and just societies”

- United Nations Secretary-General António Guterres

Geneva International Centre for Justice (GICJ) would like to underline the importance of point 3 mentioned above with regards to hate speech online and on social media platforms. In the digital world the potential for hate speech to incite violence is heightened due to the rapidity with which it can spread and the lack of accountability due to the means to post anonymously. Posting hate speech on social media enables the transmutation of violent thoughts into violent actions,

especially when those thoughts come from trusted leaders. With one push of a button, politicians can reach anyone in the world. This new complication in managing hate speech will be an important focal point in the examples included in this report.

While the “UN Strategy and Plan of Action on Hate Speech” is an admirable starting point, it is clear Member States must move toward making similar actionable commitments on a national level in order for hate speech to be effectively addressed.

### ***A rise in anti-Muslim hatred***

For the 46<sup>th</sup> Human Rights Council Session, the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, submitted his report focused on anti-Muslim hatred and Islamophobia<sup>4</sup>. Most notably, he mentions that this issue remains largely misunderstood, hence why methods to combat Islamophobia have yet to decrease the discrimination towards Muslims. This has been exactly what far right extremists build off of: the unknowns. Since the horrific terrorist attacks of 9/11 in the United States of America, anti-Muslim hatred around the world has grown tremendously, and although this is due to many factors, it is most importantly because of people’s misunderstandings of Islam as a religion and being Muslim as a way of life. Due to this, one of the Special Rapporteur’s recommendations is to use education as a tool for raising awareness of Islamophobia.

States, including all those mentioned within this report, need to work harder to integrate all appropriate measures to combat any and all forms of discrimination against Muslims. Also, it is important to analyze all existing laws and policies that are currently discriminatory towards Muslims.

To curtail anti-Muslim hatred, the international community needs to start by avoiding stereotypes and generalizations as this is what leads to wrongly perceived projections of Islam. Further, States need to collect more data on discrimination and hate crimes against Muslims, and use the statistics as one of the many tools to educate the international community of the blatant discrimination occurring in local, regional and national settings, which is being exacerbated by far-right politicians.

## **United States of America**

To this day, the United States lacks any form of law criminalizing hate speech, believing such laws to be in conflict with the first amendment of the U.S. constitution which guarantees the right to free speech. The approach of the U.S. to not criminalize hate speech is an outlier when compared

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<sup>4</sup> A/HRC/46/30

to other western democracies. However, the ideal of free speech, when it is protected above all else, often finds itself at odds with the tenant of nondiscrimination.

This debate is especially salient when it comes to social media, which has served as the primary proliferating platform for hate speech by U.S. citizens and leadership. While social media platforms are run by private companies, they are often seen by the society and in law as public spaces which should allow unregulated free speech. Under the 1996 Communications Decency Act, social media platforms are not liable for actionable hate speech that is posted on the outlet. Supported by this legal exoneration, American social media giants, especially Facebook, have for years balked at the concept of limiting speech on their platforms.

### ***Hate speech led directly to violence***

On 6 January 2021, people around the world witnessed an extreme consequence of allowing hate speech to flourish and spread on social media. Pro-Trump insurrectionists, who had coordinated for weeks on Facebook and other social media platforms such as the unregulated ‘Parler,’ stormed the United States Capitol. The memorabilia and clothing present at the ‘protest’ reveal the discriminatory attitudes of the attendants. They carried weapons and zip ties to presumably take hostages. They set up a noose on the capitol lawn, a well-known symbol of racial intimidation. There were several confederate flags seen among the attendants, which was evidently a nod of support to the country’s history of slavery, as well as flags of the “three-percenters” a fringe militia group that openly discriminates against Muslims and immigrants. One man was photographed wearing a sweatshirt emblazoned with “Camp Auschwitz,” in reference to the Nazi concentration camp in which 1.1 million people were killed.



Getty Images: Pro-Trump supporter walks into the Capitol holding a Confederate flag.

Five people were killed as a result of the actions on 6 January 2021, and two pipe bombs could have caused more deaths and injuries had they not been found and disabled. GICJ is concerned with the posts from right-wing groups on social media which state they intend to continue violent, discrimination-filled acts such as these on 20 January 2021, the day of the inauguration of the new U.S. president, Joseph Biden. The international community should take the events in the United

States in January of 2021 as a lesson and seek to limit the spread of hateful speech on social media in their own countries. In the U.S, a direct link can be drawn between Trump's speech during his four years in office, which has legitimized hatred against Black Americans, migrants and Muslims, and the racist opinions expressed at violent events like the one on 6 January 2021.



Getty Images: Rioters gather in the Capitol as they hold up a piece of vandalized property.

### ***President Trump's global influence on white supremacists***

Another example of how hate speech by the American president was a contributing factor in a violent act was the Christchurch mosque shootings. In March of 2019, a white supremacist killed 50 people, most of whom were in prayer, at the Al Noor Mosque and the Linwood Islamic Center in New Zealand. In the shooter Brentan Terrant's racist manifesto, which he had posted to the internet site "8chan", he cited Trump as "a symbol of renewed white identity and common purpose." Evidently, Terrant had seen or heard Trump's Islamophobic hate speech and took it as an endorsement of violence. Indeed, Trump ran on a platform of Islamophobia; at a campaign rally in 2015, Trump stated, "we have a problem in this country; it's called Muslims." The President and members of his cabinet continued to propagate anti-Muslim statements in speeches and online throughout his presidency.

After being elected, Donald Trump had the power to turn his public islamophobia into hateful actions. On 27 January 2017, Donald Trump initiated an infamous ban on citizens from seven Muslim countries from visiting the country for 90 days, prevented all refugees from entering the country for 120 days, and banned Syrian refugees indefinitely, claiming that they were affiliated with ISIS. It is clear that with this action, Trump was equating Muslims with terrorists. The ban had an indescribable effect, including refugees fleeing imminent and credible threats of violence in their home countries, as well as on the tens of thousands of people who could no longer see their loved ones. Incoming President Joe Biden plans to rescind the "Muslim Ban" during his first 100 days in office, but dealing with the consequences of this form of legalized discrimination will likely take several years.





Ricky Carioti/The Washington Post: Protesters in Washington D.C. during “No Muslim Ban Ever” March

During his presidency, Trump used Twitter as his main platform to express his bigoted ideas to a wider audience. For example, in November 2017, Trump retweeted three videos by Jadyda Fransen, known neo-fascist who has been convicted of multiple hate-crimes and has appeared on a neo-Nazi radio station. In October 2018, Trump tweeted that the so-called “migrant caravan” would pose a threat to the entire country because “criminal and unknown Middle Easterners are mixed in”. In July 2019, Trump directed a tweet at four congresswomen of color writing, “why don’t they go back and help fix the totally broken and crime infested places from which they came... Then come back and show us how it is done”. Further, at the height of the Black Lives Matter movement in May of 2020, after many protests began throughout the country, he tweeted, “any difficulty and we will assume control but, when the looting starts, the shooting starts”. These tweets are only a small glimpse of the messages Trump has posted on social media. This is blatant hate speech, and as both the United States and the international community have seen, these tweets have resulted in violent consequences. Unfortunately, the vicious divisiveness spread by Trump will continue to affect American society and will need to be actively combatted against to bring unity to the country and end bias-motivated crimes.

These examples from the United States show how hate speech, especially at the top levels of leadership, can be a warning sign for discriminatory actions. While a single act of hate speech is unlikely to cause immediate harm, it can perpetuate attitudes in society that can create legalized and institutionalized discrimination or violence. In 2019, a Pew Research Center Poll found that 65% of U.S. adults thought that it had “become more common for people to express racist or racially insensitive views,” and 45% thought it had “become more acceptable for people to express racist or racially insensitive views” due to Donald Trump’s presidency. These opinions will not change overnight. In order to prevent future violent bias-motivated acts like the ones America has

witnessed over the last four years, it is necessary that hate speech be taken seriously and monitored closely.

Due to the prevalent and normalized issues of racial discrimination within policing in the United States, on 26 February 2021, UN experts released a statement<sup>5</sup> urging the United States to adopt reforms in regards to policing and racism. As seen with the police response to the Black Lives Matter movement protests in the country, the “militarization” of the police caused even more violence and destruction. Like many other countries, the United States has deep-rooted systemic racism and racial discrimination within its policing institutions nationwide which results in those of minority status to be directly discriminated against. The UN experts call for the country to adopt reforms is the first step of many to ending police violence.

## France

### *The conflict between freedom of religion and freedom of expression*

On 16 October 2020, a middle-school teacher in France, Samuel Paty, was beheaded in broad daylight in an act of terror that shocked the nation. Prior to his assassination, Mr. Paty showed his students Charlie Hebdo’s 2012 cartoons depicting the Islamic Prophet Muhammad during a class on “Free Speech”. This triggered a social media campaign, followed by complaints that he should be fired as a teacher for showing disrespectful content against Muslims, ultimately leading to his assassination days later.



AP Photo/Lewis Joly: French lawmakers pay tribute to Samuel Paty at the National Assembly in Paris

In response, President Macron shut down the mosque that had been the place of worship of individuals who had shared videos that reportedly incited violence. Macron’s decision to target the

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<sup>5</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26805&LandID=E>

entire Muslim community of the mosque at large, rather than directing his ire at the individuals who had shared the videos, shows internalized bias and exposes his belief that the Muslim community is inherently the root of the problem. In the aftermath of Mr. Paty's assassination, President Macron publically declared that the French government's main threat was "Islamist separatism." He claimed this aligned with his defense of secularism; however, his actions were rightly interpreted by many citizens as stigmatizing Muslims.

POOL via AP/Ludovic Marin: French President Emmanuel Macron delivering a speech in October 2020 on separatism.



Using phrases such as "Islamist separatism" carries dangerous connotations and allows other politicians to get away with using this same type of speech. French Minister of the Interior, Gerald Darmanin, referred to Muslim's who were given government subsidies in order

to promote better civic relations as "an enemy of the republic" and referred to radicalized Muslims as "the enemy within". This blatant labeling of an entire religious affiliation can be classified as hate speech. Leader of the far-right party Rassemblement National, Marine Le Pen, stated that "this situation calls for a

strategy of reconquest, Islamism is a bellicose ideology whose means of conquest is terrorism". By labeling groups of Muslims as "enemies" and associating Islam with "terrorism," this creates hateful sentiment that has the potential to lead to hate crimes and discrimination.

The freedom of expression and opinion are rights all human beings deserve; however, too often, freedom of opinion is taken advantage of, resulting in hate speech and causing already vulnerable communities to become further stereotyped and discriminated against. Within Articles 18 and 19 of the Universal Declaration of Human Rights (UDHR), both freedom of expression and religion are emphasized and the articles underline that freedom of expression shall not interfere with freedom of religious beliefs. However, within France's 1789 Declaration of the Rights of Man and of the Citizen, the right to freedom of expression includes opinions that may offend religion; however, others have the right to voice their concern.<sup>6</sup> In this way, they are still aligning with the

<sup>6</sup> <https://www.amnesty.org/en/latest/news/2020/11/france-is-not-the-free-speech-champion-it-says-it-is/>



UDHR because the right to freedom of expression gives individuals the opportunity to criticize how religions are depicted. However, France has a legacy of overlooking Muslims' freedom of expression and religion under the guise of Republican universalism, thus inherently encouraging stereotyping and discrimination.

The line between freedom of expression and freedom of religion is particularly blurry. President Macron believes regulating freedom of expression to protect religion would interfere with French secularism, which is an integral part of the nation. Nonetheless, as an international community, we need to condemn the violence from terrorist attacks and separate these attacks from religion. What is most dangerous is to overlook the right to religion in order to protect freedom of expression. Linking Islam with terrorism is unacceptable and should be constantly condemned. The response of Canadian Prime Minister Justin Trudeau to the assassination stood in contrast with that of Macron's. He stated his horror about the event, while saying that the perpetrators of terrorism do not define the global Muslim community as a whole.

President Macron may say the French model is "universalist," and doesn't care if someone is "Muslim"; however, in practice, this universalist model plays out quite differently.<sup>7</sup> France needs to unite as a country to make sure Muslims are not discriminated against and targeted for being minorities.

"Our model is universalist, not multiculturalist... In our society, I don't care whether someone is Black, yellow or White, whether they are Catholic or Muslim, a person is first and foremost a citizen"

- President Macron (November 2020)

### ***The bigger picture in France***

In June of 2020, a law passed by France's parliament to combat online hate speech was introduced to the Constitutional Council for important provisions. The provision involved obliging online platforms, such as Facebook, YouTube or Twitter, to delete content within 24 hours if flagged by users as hateful. If a post was not taken down within 24 hours, the platform could be fined up to 1.25 million euros. However, the court overruled the decision to incorporate the provisions, stating concerns about freedom of expression. In addition, the court overruled another provision which would require online platforms to remove content flagged as child pornography or terrorist propaganda within one hour. The justification for dismissing this provision is also due to the short time frame and absence of the content being screened by individuals within the company. The

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<sup>7</sup> <https://www.washingtonpost.com/world/2020/12/02/macron-france-race-press-freedom/>

decision to overrule the provisions took France two steps backwards in regards to combating hate speech on the internet.<sup>8</sup>



Agence France-Presse - Getty Images/Joel Saget: Constitutional Court in Paris listening to a lawyer.

The outcome of this ruling was met by mixed feelings from companies and politicians across the spectrum. A digital rights advocacy group known as La Quadrature du Net stated their delight by arguing the provisions would have translated to inappropriate censorship. Moving forward, lawmakers in support of the bill are working to create revised provisions to mitigate concerns provided by the Constitutional Court.

France is far from alone in the fight against online hate speech, with lawmakers in Germany, Great Britain, and the United States also discussing similar laws. With the emergence of new technology and increased access to the internet around the world, discussions about how to deal with online hate speech and content is urgent and necessary.<sup>9</sup>

## The United Kingdom

### *Brexit leaves a trail of racism*

On 31 January 2020, the United Kingdom officially withdrew from the European Union (EU), an event commonly referred to as Brexit. The decision to leave the European Union came after a vote in 2016 which caused intense polarization across the country. The main argument for those who voted to leave the European Union had to do with immigration. This is far from the only reason, but is the one that caused the most tension. According to EU law, which in most cases overrules

<sup>8</sup> <https://www.nytimes.com/2020/06/18/world/europe/france-internet-hate-speech-regulation.html>

<sup>9</sup> <https://www.nytimes.com/2020/06/18/world/europe/france-internet-hate-speech-regulation.html>

national laws of its Member States, allowed for citizens of one EU country to find work, live, and travel to another EU country. This internal immigration between states was faced with criticism, as countries with weaker economies and job infrastructure then relied on those with stronger economies. However, besides internal immigration, many in support of Brexit did so because of their disapproval of migrants and refugees seeking jobs and a place to live.



Jack Taylor/Getty Images: Nigel Farage, leader of the Brexit party, poses in front of a popular Brexit poster which reads “BREAKING POINT: The EU has failed us all. We must break free of the EU and take back control of our borders” with a photograph of migrants and refugees on the quest to settle in the EU.

Brexit propaganda involved stereotyping and degrading minorities, immigrants, and refugees who people claimed stole their jobs and were taking away their culture. The rejection of multiculturalism through hate speech discriminating against minority groups saw a simultaneous rise in hate crimes. With politicians openly advancing their nationalist and racist agendas, this provided a sense of unspoken approval for others to express racist sentiments through hate crimes.<sup>10</sup>

At the same time, many citizens resorted to social media platforms to voice racist viewpoints, thus encouraging hate speech and therefore an increase in discrimination. To help counteract this, in 2019, the United Kingdom police announced they would be using artificial intelligence to help detect hate speech aimed at minorities including refugees, Muslims, Jews, LGBTQ+, and others. Many view this as censorship, but the main goal is for police departments to be able to note and track patterns to prevent hate crimes. They have found a recurring pattern where when verbal abuse escalates, physical abuse starts and in 2019 the team established that “an increase in hate speech on Twitter leads to a corresponding increase in crimes against minorities on London streets”.<sup>11</sup>

<sup>10</sup> <https://www.bbc.com/news/uk-wales-48692863>

<sup>11</sup> <https://www.newscientist.com/article/mg24332453-500-uk-police-are-using-ai-to-spot-spikes-in-brexit-related-hate-crimes/>

To counter online hate speech, government authorities and anti-discrimination advocacy groups need to launch more campaigns that provide awareness to the consequences that hateful speech has the potential to carry and make clear hate crimes will not be tolerated. Racist comments by politicians embolden people with discriminatory views to express themselves and Prime Minister Boris Johnson and the UK government need to instill more measures to ensure a hate speech is monitored and that there is a zero tolerance of hate crimes.

## Germany

### ***Far-right parties are running their platforms in the name of nationalism and rejection of multiculturalism***

Germany, like many other Western democracies, is seeing the rise of right-wing extremism become more and more influential within politics. This rise of right-wing extremism is linked to the spread of online hate speech as groups attempt to convince masses to join them, using a nationalistic platform.

Germany passed a law in 2017 known as the Network Enforcement Act which forced social media platforms to delete hate speech within 24 hours, or else the company would be fined. Now, in June of 2020, the Network Enforcement Act has expanded to force platforms to immediately report criminal content to the Federal Criminal Police Office. Many citizens fear their personal information will be abused by the police and that what happens on a private social media platform should not be used against them or censored.<sup>12</sup>

Picture-alliance/dpa - U. Zucchi: Walter Lübcke, a pro-refugee politician and member of the Christian Democratic Union.



Despite being a controversial law met with a lot of criticism on both sides, the design of the Network Enforcement Act aims to increase transparency between users, allowing them to object to removed content. Many believe social media platforms are meant to be open spaces where anyone can practice their freedom of expression, whereas the new provisions to the Network

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<sup>12</sup><https://techcrunch.com/2020/06/19/germany-tightens-online-hate-speech-rules-to-make-platforms-send-reports-straight-to-the-feds/>



Enforcement Act seem to be interpreted as having social media platforms act as censors to the public.<sup>13</sup>

In 2019, a pro-refugee politician, Walter Lübcke, was killed by a far-right extremist by the name of Stephan Ernst. Ernst said his motive was in response to Lübcke's stance on refugees. The pro-refugee stance which had been circulated online by far-right forums who disagreed substantially, and used hate speech against Lübcke and those with similar viewpoints on the internet. After Lübcke was killed, neo-Nazis circulated support of his murder online, solidifying the frightening reality of the situation: people are willing to commit and support hate crimes that are against their political viewpoint and celebrate attacks as "victories" online. This shows how online hate speech can lead to drastic repercussions, making it harder to argue against censorship laws knowing they could potentially help save lives and prevent crimes.<sup>14</sup>



Getty Images: Stephan Ernst during a court trial where he was officially charged with the murder of Walter Lübcke.

Police later linked Markus H. as an accomplice in Lübcke's assassination when Ernst made a statement explaining their relationship, arguing Markus H. manipulated him throughout their friendship into committing this attack. Ernst said Markus "... always spoke of civil war-like conditions that would soon prevail in Germany... how Western life in Germany must be defended against Islamization."<sup>15</sup> Building off their hatred concerning the current migration crisis and view that Islam is dangerous, Markus H. is also said to have stated Merkel and Lübcke represent a "stooge of Jewish interests."<sup>16</sup> This blatant statement connects Markus to the Nazi's who ruled

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<sup>13</sup> <https://www.politico.eu/article/germany-hate-speech-internet-netzdg-controversial-legislation/>

<sup>14</sup> <https://www.theguardian.com/world/2019/jun/26/far-right-suspect-confesses-to-killing-german-politician-walter-lubcke>

<sup>15</sup> <https://www.dw.com/en/walter-l%C3%BCbcke-murder-germany/a-54450245>

<sup>16</sup> <https://www.dw.com/en/walter-l%C3%BCbcke-murder-germany/a-54450245>

over Germany through World War II, and collectively murdered over 6 million Jews, hoping to rid Europe of Jews entirely.

### *Nativist agendas*

Neo-Nazis and right-wing extremists in Germany have been growing in popularity, committing hate crimes against politicians, refugees, and migrants. Lübcke's murder has been added to a long list of hate crimes and countless other murders, all claimed to be committed in the name of "purifying" Germany.



Getty Images: Supporters of the AfD party held a "anti-Islamisation" rally in 2018

Further, Germany's far-right party known as Alternative für Deutschland (Alternative for Germany) and commonly referred to as AfD, has become Germany's most extreme party. The party grew as the refugee crisis intensified in 2016 and continues to grow with its anti-immigration platform and open rejection of Islam. Due to its growing size, AfD has representatives in every state parliament pushing for nativist agendas and protests have been held over the years to promote "anti-Islamisation".<sup>17</sup>

In 2017, a study found that anti-refugee attacks were motivated by an AfD Facebook post.<sup>18</sup> With one click of a button, the 400,000 followers of AfD's page, as well as the rest of the internet, is able to view content. This shows how prevalent social media can be by allowing masses of people to view political statements within seconds. Depending on how individuals interpret the various

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<sup>17</sup> <https://www.bbc.com/news/world-europe-36130006>

<sup>18</sup> <https://www.dw.com/en/new-study-shows-afd-facebook-posts-spur-anti-refugee-attacks/a-41972992>

posts, if hateful or discriminatory language is used, this can easily instigate violence and has proven to do so.

With an increase in attacks against Muslims, refugees, and other minorities, and studies published proving that these attacks are linked with posts containing hate speech, Germany needs to be responsible for coming up with ways to counter these attacks and monitor free speech so it does not result in harm against others.

## Denmark

### *Anti-immigrant and anti-Muslim platforms rise in popularity*

Denmark's far-right party, known as Stram Kurs (Hard Line), is infamous for its anti-Islam platform. Founded in 2017, the party has already grown significantly because of its popular and attention-grabbing demonstrations advocating against anti-Western immigration. In the 2019 national elections, Stram Kurs ran on the platform of deporting all Muslims from Denmark and prohibiting Islam. This openly discriminatory platform received 1.8% of the vote, 0.2% shy of being able to enter Denmark's parliament.<sup>19</sup>

The party's leader and founder, Rasmus Paludan, first gained popularity for openly speaking against Muslims in YouTube videos. Although he was convicted for these anti-Islam videos, he argued they were acceptable because of his right to free speech.



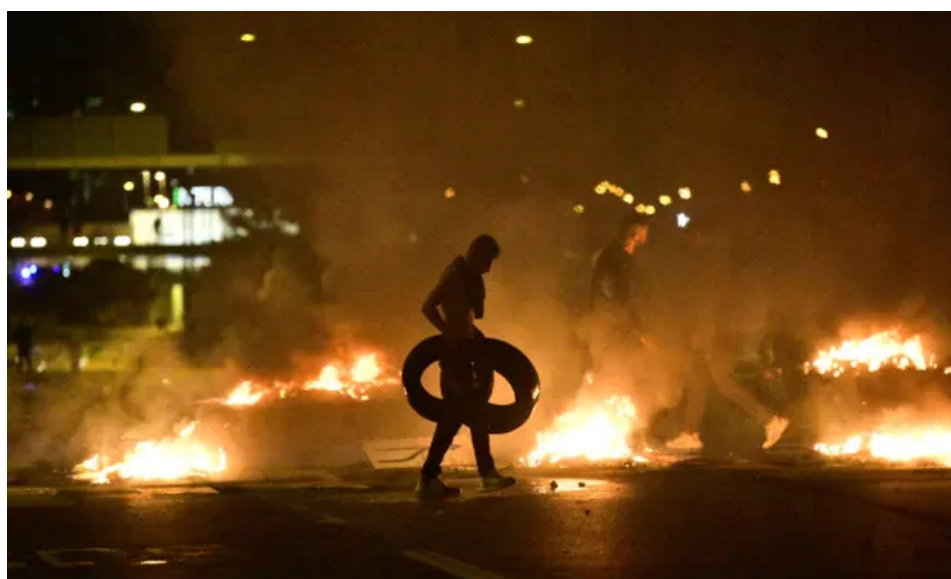
Getty Images: Rasmus Paludan, leader of the far-right party Stram Kurs (Hard Line).

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<sup>19</sup> <https://www.bbc.com/news/world-europe-53185194>

In June of 2020, Paludan was sentenced to three months in prison for expressing racist views. Although he ended up only having to serve one month of jail time, he was found guilty of 14 different charges, and suspended from practicing law for 3 years and restricted from driving for 1 year.<sup>20</sup>

Despite his claim that he is exercising his right to engage in free speech, his actions all carried hateful connotations and dangerous consequences. In August of 2020, members of his party burned the Qur'an in Malmo, Sweden, causing widespread debate about the boundaries of free speech and giving rise to public outrage across online mediums where the video of the demonstration was uploaded. In response to the demonstration, a riot of around 300 individuals broke out protesting against right-wing extremist groups who engage in anti-Islam activities.



Agency/AFP/Getty Images: Images of the riot in Sweden in August 2020 protesting against the burning of the Qur'an and anti-Islam activities.

Those participating in the riots were overheard shouting they were upset that the “system” allows people to get away with burning the Qur'an and engaging in flagrant discriminatory behavior. This is why the conversation surrounding the complete liberation of free speech is important. The blurry line between free speech and hate speech needs to be distinguished so the international community can differentiate between what is and is not acceptable, and so countries can work together to uphold dignity for all individuals.

Stram Kurs is not the only right-wing party with an anti-Islam platform and nativist agenda. Two other popular parties include Nye Borgerlige (New Right) and Dansk Folkeparti (Danish People's Party). Nye Borgerlige promotes itself by supporting the stance that immigration policies in

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<sup>20</sup><https://www.reuters.com/article/us-denmark-crime/danish-far-right-party-leader-sentenced-to-jail-on-racism-and-defamation-idUSKBN23W22T>



Denmark need to change. The party argues that immigrants should be deported if they cannot support themselves or if they live in Denmark on a temporary visa.

Similarly, Dansk Folkeparti runs on an anti-immigrant platform and states openly their rejection of multiculturalism, arguing Denmark should be for Danish people and should not become multiethnic. In 2017, Dansk Folkeparti went as far as to argue the Christmas holiday should be celebrated by all immigrants “to prove their Danishness”.<sup>21</sup> They validate this argument by stating it is important for Danish culture and tradition to be upheld by all citizens so the country can be in solidarity as a nation. However, it seems instead to be a way to reject multiculturalism by arguing for increased nationalism and patriotism.

Nye Borgerlige, Dansk Folkeparti, and Stram Kurs all carry similar platforms based on opposing Islam and rejecting both immigration and multiculturalism. Many believe these parties argue that anti-blasphemy laws undermine their right to free speech in order to help cover up their larger political agendas which target minorities through “free speech”. Either way, Denmark needs to harden the lines between free speech and hate speech to avoid miscommunication between politicians and citizens.

## Hungary

In Hungary, Prime Minister Viktor Orban and his party Fidesz regularly and freely engage in hate speech, taking advantage of the misinformation of the public to build a political order based on the scapegoating of minorities. Refugees, Muslims, Arabs, Roma and LGBTQ + people are specifically at risk, as they do not abide by the narrow categorization of “Hungarian,” promoted by the conservative government. In 2019, the United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD) stated in its concluding observations that it was “deeply alarmed by the prevalence of racist hate speech” and violence committed against members of these groups.<sup>22</sup>

Hate speech and other forms of discrimination against minorities in Hungary has been a reality since Viktor Orban came to power in 2010. It reached a point of acceleration in 2015 during the refugee ‘crisis’ in Europe when Orban decided to take a hardline against accepting any refugees into the country. He called migrants “poison” and claimed that, “every single migrant poses a public security and terror risk.”<sup>23</sup> This statement shows that Hungarian policy is that all migrants are dangerous, notwithstanding their own personal background. This is a clear example of

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<sup>21</sup> <https://www.nytimes.com/2017/03/12/opinion/something-is-unspoken-in-the-state-of-denmark.html>

<sup>22</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fHUN%2fCO%2f18-25&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fHUN%2fCO%2f18-25&Lang=en)

<sup>23</sup> <https://www.theguardian.com/world/2016/jul/26/hungarian-prime-minister-viktor-orban-praises-donald-trump>

discriminatory speech. Orban has continued to engage in hate speech in the years since 2015. For example, in 2018, he made the inflammatory comment that Hungary considers Muslim refugees “Muslim invaders.”<sup>24</sup>



EPA-EFE/Edvard Molnar 2020: Migrants hoping to enter the EU gather in front of Hungary’s closed border.

In May of this year, the United Nations Special Rapporteur on the Human Rights of Migrants noted that Orban’s insistence on politicizing the situation with migrants in Hungary does not correspond with reality.<sup>25</sup> In Hungary, as in other countries, hate speech has been a harbinger of discriminatory legislation. The labeling of the refugee

situation as a ‘crisis’ and the scapegoating of refugees and migrants was seemingly a political maneuver to legitimize the passing of legislation that severely restricts the process of asylum in Hungary and allows for the indefinite detainment of irregular migrants.

Members of Roma communities in Hungary also commonly experience hate speech both from top ranking government officials and members of the community. Zsolt Bayer, founder of Orban’s party, called the Roma “animals...unfit to live among people” in 2013. He remains a prominent figure in the party and faced no repercussions for such language. There have been several reports of hate speech as well as violent attacks against Roma people and the government does not distinguish them as different from normal criminal actions.<sup>26</sup> The legitimization of hate by the Hungarian government means that such crimes are tolerated.

Hungary has simultaneously suffered from a weakening of its democracy ever since Viktor Orban came to power in 2010 and began to push a slurry of conservative social legislation and restriction

<sup>24</sup><https://www.bild.de/politik/ausland/viktor-orban/orban-interview-54403736.bild.html#fromWall>

<sup>25</sup> [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_44\\_42\\_Add.1\\_E.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_44_42_Add.1_E.pdf)

<sup>26</sup> <https://www.politico.eu/article/the-roma-peoples-hungarian-hell/>

on freedom of expression. He is praised globally by far-right and conservative groups for his rolling back of cultural openness in the country. For Hungary, 2019 was the first year in which its Freedom House status was marked down from “free” to “partly free.”<sup>27</sup>



Politico: A protest against racism and discrimination toward the Roma community, in Budapest.

The rating for 2020 will likely be much lower in the wake of Orbán’s decision to declare an indefinite state of emergency in Hungary as a result of the coronavirus, allowing him to rule by decree. Other sectors of the government that could oppose this action are packed with Orbán-loyalists, so it is likely that the de-facto dictatorship in Hungary will last until Orbán decides it is over. During this time, anyone who speaks against the government’s actions can face imprisonment.

This is important because the Hungarian public, who were likely already misinformed about refugees and migrants, have little to no alternative source of information. Polling has shown that xenophobia in Hungary has increased at a rapid rate since the refugee crisis, with most of the population now reporting negative sentiments against Arabs, Muslims, Roma, LGBTQ people and refugees and migrants.<sup>28</sup> With freedom of expression and freedom of the media further restricted during the coronavirus, it is likely that bias that leads to hate speech will be allowed to grow among the population.

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<sup>27</sup> <https://freedomhouse.org/country/hungary/freedom-world/2020>

<sup>28</sup> <https://www.brookings.edu/research/anti-muslim-populism-in-hungary-from-the-margins-to-the-mainstream/>

In Hungary, hate speech from leadership in the ruling party has legitimized and mainstreamed hatred. The fact that public figures engage so flippantly in hate speech signals to the population that it is acceptable. In Hungary, we see that hate speech can be a means to a political end. While not expressly illegal, politicians that use hate speech to achieve their goals should not be given a platform.

## Italy

### *Hate speech has become normalized within politics*

Italy, like the rest of Europe, has seen a steady rise of right-wing extremism for the past decade. Politicians on the far right have said statements on countless occasions demonizing refugees and mocking people of color. Italy's first black minister, Cécile Kyenge, who served from 2014-2018 has reported to have been called "Zulu" and "Congolese monkey" by colleagues because of her



birth place, born in the Democratic Republic of the Congo.<sup>29</sup> In a public meeting, Senator Roberto Calderoli thought it appropriate to say "when I see pictures of Kyenge I can't help but think of the features of an orangutan".<sup>30</sup> His openness about his discriminatory and racist view of Kyenge shows how normalized hate speech has become.

Tony Gentile/Reuters: Cécile Kyenge - Italy's First Black Minister

In response, Kyenge wrote:

"It is now acceptable for openly racist parties to enter parliaments as a political force; some have formed ruling coalitions in national and regional governments. This gives them a platform that encourages a political discourse full of hate, and drives legislation that goes against vulnerable communities."<sup>31</sup>

<sup>29</sup> <https://www.theguardian.com/commentisfree/2018/nov/29/italys-first-black-minister-racist-abuse-discrimination>

<sup>30</sup> <https://www.theguardian.com/commentisfree/2018/nov/29/italys-first-black-minister-racist-abuse-discrimination>

<sup>31</sup> <https://www.theguardian.com/commentisfree/2018/nov/29/italys-first-black-minister-racist-abuse-discrimination>

When referring to minorities, such as those of African descent, Roma, and others, politicians need to use respectful language in order to fight against racism. All individuals, regardless of race or ethnicity deserve to be treated with dignity and respect.

### ***Politician's powerful influence over the masses***

In 2018, Matteo Salvini, the former Deputy Prime Minister of Italy, posted on Twitter one of his many discriminatory goals, this time emphasizing his plan to expel non-Italian Roma. Although the illegal policies he proposed to make his goal a reality were not approved, Salvini's followers quickly spread discriminatory language against "non-Italian" Roma on social media, causing an increase in online hate speech and translating to more hate crimes committed. Salvini later stated, "unfortunately we will have to keep the Italian Roma because we can't expel them."<sup>32</sup> This statement is not only inappropriate, but goes directly against the premise of the United Nations to uphold the dignity of all human beings.

Salvini had called his plan to expel Roma "an answer to the Roma question"<sup>33</sup> which aligns directly with Nazi Germany's "answer to the Jewish question" agenda during World War II in which they planned to exterminate all Jews across Europe. This is frightening and politicians need to be held accountable for any discriminatory and racist language they project onto the public due to their huge influence and mass followings.



Francesca Volpi/Bloomberg: Salvini during a speech in 2019 to stop migrant rescue boats

The concern over Matteo Salvini's failed Roma agenda is its popularity amongst Italians. Many Italians seemed to agree with Salvini's extreme language and agenda, with an eagerness to go back to the "old Italy." In this vision, nationalism is celebrated, but highly exclusive in regards to who is included. This ideology of a renewed focus on nationalism is being experienced throughout

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<sup>32</sup> <https://www.theguardian.com/world/2018/jun/19/italy-coalition-rift-roma-register-matteo-salvini>

<sup>33</sup> <https://www.theguardian.com/world/2018/jun/19/italy-coalition-rift-roma-register-matteo-salvini>



Europe with a populist wave sweeping over the continent, posing a danger to minorities everywhere.

In 2018, *Time* magazine named Salvini “the most feared man in Europe”<sup>34</sup> due to many reasons including his belief in sending refugees back to Africa and the Middle East, orders to reject humanitarian rescue ships that come to the Italian ports, and his nationalist platform constantly projecting sentiments for who he considers Italians: those who were born in Italy. He rejects LGBTQ+ individuals because he is a “traditionalist” and denies rescue ships access to ports. He has stated that it is unfair that EU law says wherever refugees first land is the country that needs to provide rescue and support, but because Italy is on the coast, this means the country would geographically speaking receive a majority of the refugees fleeing Africa and the Middle East.

Italy cannot let racism and discrimination win, and politicians need to be called out when they incite violence from hateful speech. Hate speech cannot become normalized because it is too often used as a tool to spread hateful messages about minorities, resulting in hate crimes.

## **New Zealand**

### ***Multiculturalism seen as the enemy***

In March of 2019, the Christchurch mosque shootings took place in New Zealand, resulting in 51 deaths and 40 injuries. The perpetrator Brenton Tarrant said his motive was the “great replacement” theory which refers to the belief people of color will soon replace white people. Many terrorist attacks have been committed in the name of preventing this theory from becoming a reality. These terrorists and white supremacists believe that multiculturalism is the evil that will wash away white people over time as cultures and ethnicities continue to mix.

In the aftermath of the Christchurch mosque shootings, far-right parties began to stress their anti-immigration platform and a study conducted by the University of Auckland found that hate crimes against Muslims were on the rise. Anti-immigrant politicians seem to act as a cover for white supremacists to act upon their hatreds. There are currently four

extreme right parties of concern in New Zealand, all of which are actively posting messages containing hate speech on social media. Although only an extremely small percentage of New Zealand’s population is associated with these far-right parties, they must be continuously monitored as they have the potential to incite violence.

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<sup>34</sup> <https://time.com/5394448/matteo-salvini/>



Getty Images: Prime Minister Jacinda Ardern at a mosque shooting memorial. Thousands of New Zealanders attended memorials throughout the country.

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Prime Minister of New Zealand Jacinda Ardern launched a global campaign only two months after the terrorist attack to fight against violent extremist content online, but there remains a concern due to the fact that she did not specify *religious* hate speech. Several countries are currently facing a dilemma where individuals or groups are infringing upon freedom of religion in the name of freedom of expression. When words used within freedom of expression become discriminatory towards various religions, the question remains if consequences should follow as this "free speech" leaves behind a trail of discrimination towards those of a certain faith that often times leads to hate crimes.

"It's only going to get worse unless we call all as a human race, whether we are black, brown, white, come together and call it out"

- Ibrahim Omar (October 2020)



George Novak: Shane Jones, New Zealand politician and former Member of the New Zealand Parliament.

Further, in the aftermath of the Christchurch mosque shootings, one of the main problems remains that politicians on the right promised tolerance, and delivered racist statements instead after a year passed. Shane Jones, a Member of Parliament for New Zealand's populist and nationalist political party New Zealand First, went on television in March of 2020 making statements about how Indian students are "ruining" universities. He has signaled out Indians in the past, targeting them as the minorities the country should stop letting in. Nonetheless, it is comments such as these that gain traction on media algorithms, and thus more people become exposed to hate speech uttered as if it is part of a casual dialogue.

With the fear looming over minorities in New Zealand that another domestic terrorist attack could happen again at any moment, many continue to live with anxiety and terror. New Zealand needs to push for more reforms in regards to hate speech by politicians that seem to dismiss violent actions. Any discriminatory event needs to be condemned by all leaders to show citizens that the country will not tolerate racism in any regard.

## **Conclusion and Recommendations**

Geneva International Centre for Justice (GICJ) would like to reiterate its support for the freedom of opinion and expression, which is a fundamental human right and should be protected. Free speech is widely recognized as an important baseline for all open and healthy societies and should not be infringed upon. In countries that protect freedom of speech, social movements that increase the ability of all citizens to access their social, economic, cultural and political rights have been able to spread their message and create change. We have seen this occur in recent examples such as the Black Lives Matter protests in the United States and the Māori Protest Movement in New Zealand.



However, there are some who believe that the ideal of free speech can be used as a justification for hate speech. However, free speech does not include the right to make statements at whatever time, in whatever place and in whatever fashion. Free speech also does not include the right to have one's sentiments artificially amplified on social media platforms. This report has provided an overview of some of the recent consequences that have resulted from the unhindered spread of hate speech.

GICJ would like to start with recognizing initiatives relating to preventing hate speech that leads to incitement of violence. In line with the Strategy and Plan of Action on Hate Speech, the Office on Genocide Prevention and the Responsibility to Protect ("the office") has already launched two projects.<sup>35</sup> The first focuses on the prevention of incitement to violence that could lead to atrocity crimes. To this end, the office released guidelines on how states can tackle hate speech.<sup>36</sup> They include advice such as reframing the education system to reflect the ethnic and cultural diversity of the State, with the aim of increasing solidarity and helping to counter hatred. Similarly, enforcing laws and providing justice and accountability surrounding acts of incitement to violence can help with prevention. The document includes policy options not only for States, but also for civil society, the media, the United Nations, and regional, sub-regional and other intergovernmental organizations.

"Freedom of speech... is the essential vehicle for that exchange of ideas between nations and cultures which is a condition of true understanding and lasting cooperation"

- Kofi Annan (1998)

The second project relates to the important role of religious leaders in the fight against incitement to violence. Religious leaders have the power to prevent hate speech and incitement due to their special position of influence and respect. The Office works with religious leaders through the "Fez Process," which includes six consultations with religious leaders and context-specific regional strategy and action plans following each meeting. GICJ believes that, by working in cooperation and solidarity across religions and States, the implementation of these action plans is vital to the success of countering hate speech.

## Recommendations

GICJ has several recommendations for to combat the rise in hate speech. The recommendations echo those made by UN bodies, especially the Office of Genocide Prevention and Responsibility to Protect, outlined above. The main throughline in these recommendations is to aim not to restrict

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<sup>35</sup> <https://www.un.org/en/genocideprevention/advising-and-mobilizing.shtml>

<sup>36</sup> [https://www.un.org/en/genocideprevention/documents/our-work/Doc.10\\_of%20incitement.Policy%20options.Nov2013.pdf](https://www.un.org/en/genocideprevention/documents/our-work/Doc.10_of%20incitement.Policy%20options.Nov2013.pdf)

freedom of speech or expression, but to hinder the proliferation of hate speech so that it does not create norms that can lead to discrimination and violence.

We call on the UN Human Rights Council to:

- Urge Member States to regulate social media platforms through legislation with methods that may include: fact-checking viral content; disclosing why content is recommended to a user; recommending more diverse content to users; and banning micro-targeted advertising
- Continue to emphasize the importance for all Member States to implement the protocols included in the 2001 Durban Declaration and Programme of Action and report regularly on the progress to this effect.
- Urge Member States to end impunity for cases of actionable hate speech and provide justice for victims through transformative justice tools such as reparations.
- Encourage the international community to construct and implement educational curriculums that inform citizens on the consequences of hate speech and discrimination.
- Provide further actionable guidance on how States can hold politicians and government officials accountable for hate speech.
- Continue to call out and condemn hate speech and racism in all its forms as populist extremist leaders and white supremacy are direct threats to the principles of human dignity and equality.

## **Geneva International Centre for Justice** (GICJ)

**GICJ** is an independent, non-profit, international non-governmental organization dedicated to the promotion and reinforcement of commitments to the principles and norms of human rights.

GICJ is headquartered in Geneva, Switzerland and is governed by the Swiss Civil Code and its statutes. Basing its work on the rules and principles of International Law, International Humanitarian Law and International Human Right Law, GICJ observes and documents human rights violations and seeks justice for their victim through all legal means available.

### **Mission:**

GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.

### **Work:**

GICJ has been tackling issues of justice and accountability since it was established. The United Nations and corresponding human rights mechanisms are pivotal to our work. GICJ participates extensively with these mechanisms, in particular the Human Rights Council (HRC) and the Universal Periodic Review (UPR).

### **Network:**

GICJ maintains a partnership with various NGOs, lawyers and a vast civil society network around the world. Through these channels, GICJ is able to receive documentation and evidence of human rights violations and abuses as they occur in several countries. GICJ continues to bring this information to the attention of relevant UN bodies in order to gain justice for all victims.

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