

# COMMISSION GUIDE

HRC



# CCB MUN XVIII

Human Rights Council

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2020

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## 1. Presidents' Letter

Dear delegates,

We are so happy and proud to see that all of you made it to CCBMUN XVIII and especially to the Human Rights Council commission. We are María José Gallego and Maria Antonia Peláez from Gimnasio la Colina, currently in 9th grade. We are extremely excited about being your presidents and have really high expectations of all of you. We know that you all are capable of doing everything you set yourselves to do. We've been part, as delegates, of the UN model for some time now, and this is our third time being presidents, so we hope to live up to your expectations too.

When we thought about the topics for this commission, we made sure, of all things, that they would make the delegates feel passionate about their position, therefore creating an interesting debate. You can appreciate this on our first topic, violence towards non-violence protesters. In it, delegates must find a solution while defending their countries and pointing out problems in other countries. Regarding our second topic, penalization of hate speech, we are really hoping for delegates to stand out with their countries' positions, reflecting the actions their leaders have done concerning this issue. We really hope that our effort in the selection of the topics will reflect in the development of the commission and in the performance of the delegates.

We would also like to share some of our experiences as presidents with you, and why we like the UN model, so you can feel motivated to appreciate it and become good presidents in the future. We were pretty scared the first time we were presidents, we thought we wouldn't be good enough for the delegates, even though they were all rookies. However, we gave our best and tried to have the best close relationship with all of them and ended up winning Best Chair. Then, we participated in a public-school model, and it was one of the best experiences of our lives. The UN model is about that, it's a rollercoaster of emotions that at the end brings joy and satisfaction, even if you're a delegate or president, whether you win a prize or not, and that's why we love it. Finally, the relationship we want to achieve with our delegates is not only of respect and admiration, but of trust and friendship.

It's not a lie when UN model presidents tell you that we were all rookies once, and since the Human Rights Council is a middle school commission, we want to say it again. It doesn't matter whether you are a rookie or if it's your 10th model, a good delegate is defined by the same things. A key point is for delegates to do some good research, and to consequently have a good base for your interventions. It's alright to be scared to stand up and speak at first, regardless, we strongly motivate you to not feel intimidated and to bring out your best argumentative skills. We are truly thrilled to meet you, so remember, as presidents we are only there to help you and make your experience in this model amazing.

Yours sincerely,

María Antonia and María José

HRC presidents.

## 2. Commission Information

### i. History

The United Nation Human Rights Council (UNHRC) is the main inter-governmental body within the United Nations system responsible for enhancing the promotion and protection of human rights in the world and within specific countries, and for tackling situations of human rights violations by establishing viable solutions. It receives reports from independent mechanisms, for example, from the Office of the High Commissioner for Human Rights.



The Council was created by the United Nations General Assembly on 15 March 2006 by resolution 60/251, and its first session was from June 19 to 30, 2006. It served to replace the UN Commission on Human Rights (CHR), that had been strongly condemned for allowing countries with poor human rights records to be part of the commission. In 2007, the Council wrote its “institutional-building package” with procedures and baselines in order to guide its work

and create efficient mechanisms. Due to the past failure commission, the Council was reviewed 5 years later by the General Assembly.

On the 10th of December of 1948, the United Nations General assembly endorsed the Universal Declaration of Human Rights. Subsequently, there has been a notable growth to the strength of the international human rights movement and the United Nations human rights activities. The Declaration was crucial because it was the first official document in history to set standards for humans to live fairly and peacefully by setting economic, political, social and cultural rights for everyone equally. Through the years, governments around the world have widely accepted human rights and implemented them, accepting the fact that it is fundamental for everyone to have these rights. Nowadays, December 10 is claimed as International Human Rights Day.

In June 2016, the 10th anniversary of the council was commemorated. In the organizational session of December 2018 and 2019, the council adapted to concrete measures set by the president of the UN, Antonio Guterres, to have more efficiency in the financial aspects and restrictions.

The Task Force on Secretariat services, accessibility and use of information technology was created in July 2011, its role is to study issues related to the improvement of the functioning of the Council, the accessibility to the Council's work for disabled people and the efficiency of the use of information technology.

## ii. Structure

As mentioned before, the United Nations Human Rights Council (UNHRC or HRC for short), is an inter-governmental body whose task is to protect and promote the Universal Declaration of Human Rights in all countries. It has 47 members, elected by the General Assembly, with three-year contracts. The resolution establishing the UNHRC states that "when electing members of the Council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto", and that "members elected to the Council shall uphold the highest standards in the promotion and protection of human rights"<sup>1</sup>.

No member may occupy a seat for more than two continuous terms, and they're distributed among the UN's regional groups: 13 for Africa, 13 for Asia, six for Eastern Europe, eight for Latin America and the Caribbean (GRULAC) and seven for the Western European and Others group (WEOG)<sup>2</sup>. They discuss topics about freedom of association and assembly, of expression, of belief and religion, freedom of women, LGBT, and racial and ethnic minorities rights.

The General Assembly can interfere with the rights and privileges of any member of the Council that it considers has persistently committed terrible and systemically violations of human rights during their membership; this suspension process requires two-thirds majority vote by the General Assembly. Additionally, the HRC holds regular meetings three times a year (March, June and September), however, it can also decide to hold a special session to handle human rights violations, meeting the petition of one-third of Member States. As of May 2020, there have been 28 of these.

The Council works with the UN Special Procedures created by the Commission on Human Rights. "Special Procedures" is the name given to the mechanisms set up by the

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<sup>1</sup> Ghandhi, S., & Ghandhi, P. R. (2012). Blackstone's International Human Rights Documents. Retrieved July 8, 2020, from <https://books.google.com.co/books?id=RcicAQAAQBAJ&lpg=PA238&dq=%22when+electing+members+of+the+Council,+Member+States+shall+take%22&pg=PA238&redir>

<sup>2</sup> Suncity School. (n.d.). Human Rights Council (HRC). Retrieved July 19, 2020, from <http://suncitymun.weebly.com/human-rights-council-hrc.html>

HRC to collect professional observations and recommendations on human rights problems worldwide. They are differentiated as: thematic mandates, which emphasize major phenomena of human rights violations worldwide; and country mandates, which report human rights conditions in countries or territories. These are made up of special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on theme issues or human rights conditions in countries. In August 2017, there were 44 thematic and 12 country mandates.

With the creation and growth of the international human rights law there have been simultaneously human rights bodies to fulfil the need of new challenges regarding human rights around the world. These bodies are supported by the OHCHR for the effective performance of their tasks. Most of these are either based on mandates established by the United Nations Charter, which means they are Charter based, as they were established by resolutions of principal organs of the UN whose authority flows from the UN Charter<sup>3</sup>.

The Universal Periodic Review (UPR) is a review that is done periodically for all the 193 UN member states which is an essential component of the Council. Non-governmental organizations (NGOs) and different sources have a role to contribute in more recent mechanisms that examine and report each country's situation during a 3-and-a-half-hour debate.

On June 10<sup>th</sup>, 2007 the United Nations Human Rights Commission established a strategy to report repeated and consistent behaviours of human rights violations in any part of the world in any case, counting on the reliability of the complaint. There is a course of action for each complaint. The Chairman of the Working Group of Communications (WGC) oversees admissions. For approval, it shall be written and cannot be sent anonymously. Lastly, the complaints must show patterns so they shall not be made by one victim or a single violation, no matter where in the world the victims are. Finally, each complaint is confidential between the UNHRC and the people who made it, the only exception is when the council decides that the issue will be addressed in a public way.

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<sup>3</sup> United Nations. (2019a, May 9). Research Guides: UN Documentation: Human Rights: Charter-based Bodies. Retrieved August 28, 2020, from <https://research.un.org/en/docs/humanrights/charter#:~:text=The%20Human%20Rights%20Council%20and,flows%20from%20the%20UN%20Charter.&text=This%20led%20to%20the%20establishment,of%20the%20Human%20Rights%20Council>.

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### 3. Topic 1: *Violence against non-violent protesters in the United States*

#### i. History/Context

Non-violent protests come from the term “non-violent resistance” or NVR, a practice that has been done for centuries, and that has been counterattacked with violence from certain governments for centuries. In this context, violence refers to members of the police or military physically harming pacific protesters, in other words, unnecessary use of force. The official definition of the term NVR is the practice of accomplishing goals, for example, social change, through symbolic protests, civil disobedience, economic or political non-cooperation, satyagraha, and other methods, without being violent. This type of act emphasizes the desire of the protesters to improve their wellbeing or that of others. Let’s look at the oldest and most important NVR of all time that were subjected to some type of violence:

- **I century:** As mentioned before, NVR (and violence towards NVR) dates back to around the I century in Judea, when Jews agglomerated in Caesare to convince Pontius Pilate not to establish Roman standards, that included images of the Roman emperor and the eagle of Jupiter in Jerusalem, as they were considered idolatrous by the religion. The governor enclosed the protesters with soldiers and threatened them with death, so they replied they’d rather be dead than watch as the Torah was violated.
- **Peterloo massacre, 1819:** Famine and continuing unemployment, alongside the lack of suffrage in northern England ended up in the peaceful demonstration of about 60,000 to 80,000 people. The leaders of the protest clearly stated that weapons of offence or defence were prohibited, and that their only weapon was a self-approving conscience. They were attacked by the cavalry (soldiers mounted on horses), killing 15 people and injuring around 400 to 700. Fortunately, the government made a reform with the passing of the Six Acts.
- **Chicano Movement, 1940s and 1950s:** This was a civil rights movement of citizens of Mexican descent, especially Pachucos, in Southwestern United States during the 1940’s and 1950’s. Its purpose was to fight structural racism, and to foster community empowerment by rejecting assimilation and cultural revitalization. Even though some of their demonstrations included riots, police used tear-gas projectiles and use of excessive force against protesters, who were actually protesting peacefully. After one riot, popular journalist Ruben Salazar was killed by a tear-gas projectile that entered the café he was in.
- **Ghandi, 1930s:** One of the most important figures of non-violence opposition is Mohandas Karamchand Gandhi, popularly known as Gandhi. He's known for



successfully leading the campaign for the independence of India from being a British colony. His most famous demonstration was the Salt March or the Salt Satyagraha. It was a nonviolent civil disobedience operation that lasted 24 days from March 12, 1930 to April 6, 1930. The motive of the march was to protest about the British salt monopoly; protesters collected their own salt from the sea and broke the law established by the British colony. Since the protest broke the salt-tax, the British used police brutality against protesters: thousands of Indians were violently arrested and those who resisted were beaten.

**Martin Luther King, 1960s:** To talk about peaceful protests, it's necessary to mention one of the most important figures of the topic, Martin Luther King. He led various peaceful protests like the Montgomery bus boycott, the Albany movement, the march on Washington for jobs and freedom, the Vietnam war opposition, the "poor people's campaign" and many more. Among these movements one stands out in history, due to violence towards protesters is Bloody Sunday. This march



was one of three from Selma to Montgomery, protesting for the right to vote for everyone. Unfortunately, the police used violence and police brutality against hundreds of protesters which explains the name the march was later given. As a result of the footage of police brutality around the U.S., there was outrage that helped to increase the support for this movement.

**Vietnam War 1960s:** One last example of violence against nonviolent protesters in history is the protest in 1967 against the Vietnam War in front of the Pentagon. There are famous photographs from the movement because the protesters put flowers in the rifles of the military police. Sadly, even though this became an icon for pacific protesters around the world, there was a lot of violence. This was one of the first anti-war movements with violence, the military police spread tear gas into the crowd. Dozens of citizens were beaten and 681 were arrested.

## ii. Current Situation

Nowadays, there is still violence towards nonviolent protesters in the U.S. In some cases, it's difficult to tell if special police forces were necessary in protests, but most of the time it isn't crucial to maintain peace and order in the area, as in the case of NVR, there already is an organization of order. The presence of armed police makes protesters uneasy, uncomfortable and incites in them the need for violence protest, so countries need to develop a proper protocol to determine when to use force and special forces police.

Recently, a movement in the U.S. has arisen since the documented murder of George Floyd, a man who was unlawfully choked to death by the police. Following this, people all around the United States started protesting and denouncing racism, saying the names of victims such as Breonna Taylor (who was killed in a police raid on her house). These people are searching for a change in society through the movement called "Black Lives Matter". However, there have been reported cases of police brutality and violations of human rights against protesters.

Amnesty International USA (AIUSA) released a report called 'The World is Watching: Mass Violations by US Police of Black Lives Matter Protesters' Rights'. The report showed human rights violations by police officers against protesters, medics, journalists and legal observers. The research includes more than 50 interviews done by AIUSA showing people's experiences during protests. The main complaint is the unnecessary use of force, confirming that law enforcement agents constantly use physical force, chemical irritants such as tear gas and pepper spray, and kinetic impact projectiles as a first option method against peaceful protesters, instead of using them as a response to threats or violence. Also, the report affirms that the use of tear gas during a pandemic is highly dangerous, since the combination of the gas and masks may escalate the risks of respiratory issues and release airborne particles that spread the virus.

"The Trump administration is now doubling down on military-style crackdowns against protesters, with Attorney General William Barr's egregious defense of the use of federal troops in Portland and threats to deploy more agents to other cities. President Trump's actions represent a slippery slope toward authoritarianism and must immediately stop. We need the country's approach to the policing of protests to be changed from the ground up at the local, state, and federal levels," said Justin Mazzola, a researcher at AIUSA.

One of the experiences cited for the report is the one of intensive care nurse, Danielle Meehan, who treated Aubreanna Inda, a 26 year-old student, after she was hit in the chest with a flash grenade in Seattle. At a given moment, Inda told Meehan: "I feel like I am dying". Meehan explained: "[She] lost her pulse 3-4 times after my medic partners and I started treating her. We resuscitated her each time with [cardiopulmonary resuscitation]."

When police use excessive force against and to disperse pacific protesters (which isn't supposed to happen according to international law), they generally use the following:

- Tear gas: irritates the eyes, mouth, nose and lungs. Causes crying, sneezing, coughing, difficulty breathing, eye pain and temporary blindness.
- Pepper spray: irritates the eyes, causing burning sensation, pain and temporary blindness.
- Rubber bullets: are a less lethal option to bullets, but can cause death if shot in vital organs.
- Driving into protesters: inhuman practice that can cause death and permanent damage to the body.
- Water cannons: can lead to injury or death.
- Beatings: humiliating practice that causes extreme pain and injuries.

Let's remember that initially pacific protests involve women and children, so there have been reported cases of them being victims of those types of unnecessary violence. Also, when NVR are provoked by armed forces, even though the initial protest was pacific, citizens feel the need to counterattack and it then turns into a violent protest. This diverts the protest from its pacific beginnings and purposes, also making it look bad in front of the media. On top of that, when police disperse an NVR with violence, they're not fulfilling the citizen's right to peacefully protest. Finally, the population gets scared of participating in peaceful protests if they see that they generally turn violent and that the police always attack protesters.

### iii. Key points of the debate

- The rights which are violated when the police turn violent towards non-violent protests.
- Protocols for the police to know when to appropriately disperse protesters.
- Tactics currently used by the police to disperse protesters and possible changes to ensure citizen safety.
- Guidelines for citizens to carry out peaceful protests.
- Punishment for excessive use of violence, both for the police and protesters.

### iv. Participating Organisms

- Amnesty International
- United Nations Human Rights Council (UNHRC)

- International Criminal Police Organization (INTERPOL)
- Human Rights Watch
- CIVICUS

## v. Guiding Questions

- Do citizens have the right to protest on the streets in your country? If so, what protocols do they need to follow? If not, why not?
- What protocols do the police have to manage peaceful protests in your country?
- What strategies do the police use to disperse protesters in your country in order to stop a protest getting out of control?
- Has your delegation had cases of violence towards non-violent protesters? Give examples and explain why it happened. If not, how does your country ensure this does not happen?
- What has your country's government stated and proposed regarding this topic, if anything?
- How can violence towards peaceful protesters be prevented?

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## 4. Topic 2: Penalization of hate speech

### i. History/Context

There isn't a legal worldwide definition of hate speech, just as there is no legitimate definition for wrong ideas, impertinence, unpatriotic speech or other types of speech people might criticize. According to the United Nations, hate speech can be understood as: "any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor"<sup>4</sup>. This is the official definition of hate speech by the UN, however, countries may have their own specific definitions. Hate speech generally comes from, and creates intolerance and hostility and, sometimes, can be humiliating and offensive.

Instead of prohibiting hate speech, international law forbids the incitement to discrimination, hostility and violence. "Incitement" is an unsafe type of speech that explicitly and intentionally has the purpose to trigger discrimination, hostility and violence. Incitement may even end up in or include terrorism or crime. Hate speech that doesn't include incitement is not an aspect that international law demands member states to prohibit. However, it's crucial to highlight that even when hate speech doesn't have incitement or isn't prohibited by international law, it's still harmful to human dignity.

Many people consider that hate speech should be classified as a hate crime, nevertheless there is a difference between these two. First of all, hate crime is a label for crimes that are aimed at individuals because of a particular group they are a part of. There are many types of hate crime, which may be both physical and psychological, including blackmailing, rape, property damage, violence, murder and more.

Looking into the history of hate speech, after the English Civil War, an English historian accused "the paper bullets of the press" for the bloodshed, meaning that newspapers included hateful and discriminatory comments that, even if unintentionally, incited violence. Also, after the end of pre-publication censorship of newspapers in 1695, conservative writers worried that a civil war that started in ink would end with bloodshed. William Blackstone's book *Commentaries on the Laws of England* (18th century) said that "to censure the licentiousness, is to maintain the liberty, of the press"

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<sup>4</sup> United Nations. (2019a, May). UNITED NATIONS STRATEGY AND PLAN OF ACTION ON HATE SPEECH. Retrieved July 18, 2020, from <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>

since a man “may be allowed to keep poisons in his closet, but not publicly to vend them as cordials”.

Movements against hate speech in the United States began with the rise of radical multiculturalism, using for the first time the terms of hate speech and hate crime. Anti-hate-speech advocates wanted to prohibit enunciations, gestures, conducts or writings that are considered to be prejudicial towards an individual or group. However, these movements were only successful on college campuses, creating an abundance of speech codes and imaginative methods to regulate what people could speak about or even think. For the sake of diversity, people like racial minorities, women and homosexuals were considered in need of protection from unpleasant speech. However, when it came to legal action, they weren’t really successful due to the laws in the United States that serve to protect hate speech.

The First Amendment of the Constitution of the USA prohibits behaviour that contains harassment or threats, or that causes hostile behaviour. The protection of hate speech comes from the belief that freedom of speech requires the government to carefully protect debate on issues of public concern, even when they devolve into offensive, discriminating or hateful speech that causes the other person to feel grief, anger or fear. Hate speech may only be criminalized when it encourages criminal actions or inspires specific threats of violence.

“Speech that demeans on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground is hateful; but the proudest boast of our free speech jurisprudence is that we protect the freedom to express “the thought that we hate.” (Matal v. Tam, 2017).

There are hate-speech laws in every Western European country. The European Union has a framework resolution on “Combating Racism and Xenophobia” which commits its members to penalize or criminalize hate-speech in some way. However, the origin of hate-speech is not taken into account because, at first, neither the US nor most of Western Europe had the intention of creating laws against it, mainly to protect freedom of expression. It’s important to know that the banning of hate speech in international law was defended initially by the Soviet Union and allies. At that time, there was a clear reason for communist countries to absolutely limit freedom of speech to protect their ideals and to inhibit anyone from criticizing the system.

Countries that have legislations against hate speech have stated several reasons and arguments against it. Firstly, countries believe they have an obligation to combat discrimination as a part of the UN. Nations believe that the harm hate speech does to the integrity of individuals and groups require protocols and legislation. Basically, the penalization of hate speech believes hate speech needs to be limited because it's against principles of dignity, regardless of whether freedom of speech might be affected.

## ii. Current Situation

There are various countries around the world that have strong hate speech laws. Many people tend to think this is only in Western Europe, but in the following paragraphs there are examples of countries around the world that have this type of law.

**Canada:** The law states that people who are found guilty of public promotion of hate may face prison. Sharing statements that encourage hate can also be punished by imprisonment under the charge of public incitement of hatred. For this law, there are some exceptions regarding specific cases and situations to protect people from being convicted. This includes: if the statement is important for a debate or for public knowledge; if it is proved that the statement is true and well-intentioned; and other cases where there is a valid justification under the law.

**India:** This country has laws that criminalize the endorsement of hostility between groups for religious, ethnic, racial, or other reasons. It is also considered a crime to make accusations and declarations that negatively affect national integration. The country has two other laws regarding acts that are offensive towards religion, and a final law that prohibits acts of hate speech that spread rumours and can be reported widely.

On other hand, many countries prioritize freedom of speech, and don't have hate speech laws. This doesn't mean that those countries promote hate speech, nonetheless they don't have set laws against it.

**Argentina:** Argentina strongly protects freedom of speech. The Supreme Court has worked and created legislation towards protecting free speech, both publicly and privately. Actually, this country does not have any specific limitation about speech. However, the Supreme Court can establish limits when necessary for legal purposes.

Penalization of hate speech isn't easy for all countries, since there is always a debate between two extremes. A democratic society demands the possibility of having open debates, with individual autonomy and development at one extreme. At the other extreme, its obligation is to prevent assaults on vulnerable communities and guarantee equal and non-discrimination participation of all people in public life<sup>5</sup>. Nevertheless, the UN believes that hate speech exists and must be controlled, considering the rights to equality, life and the obligation of non-discrimination. States must focus on protecting and promoting the voice of the people, especially from those who are marginalized, whilst also fighting against public and private discrimination.

The International Covenant on Civil, and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, are documents that

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<sup>5</sup> UN General Assembly. (2019, October 9). Promotion and protection of the right to freedom of opinion and expression\*. Retrieved July 18, 2020, from [https://www.ohchr.org/Documents/Issues/Opinion/A\\_74\\_486.pdf](https://www.ohchr.org/Documents/Issues/Opinion/A_74_486.pdf)



specifically tackle certain categories of expression, or so-called “hate speech”. Article 20 of the Covenant and article 4 of the Convention, while limited in the definition of hate speech, involve “difficult-to-define” language of emotion, including hatred and hostility, and very context-specific prohibition (promotion of incitement). The Human Rights Committee said that these articles are “compatible and complement each other”.

Also, some political leaders have been reported of using hate speech to attack political rivals, non-believers, nonconformists and the opposition. They hide behind the “it’s just a speech” and fail to address the genuine harms of hate speech, such as the one that creates violence or discrimination against the unprotected, or the one that silences the marginalized.

In conclusion, it’s proven that hate speech causes violence, that communities vulnerable to hate speech are most likely to be attacked and discriminated against, and what scientists consider to be a “dehumanization effect”, which makes it easier for the population to justify suffering, attacks and harm caused to a community or human being. Also, one of the roles of every country is to protect their citizens from discrimination, violence and stigma. However, some countries may consider that hate speech is a part of freedom of speech, a reason to protect it from the law. Freedom of speech consists of being able to express your thoughts and opinions without fear of censorship, and some consider these opinions can include emotions of hate and hostility.

### iii. Key points of the debate

- What can and can’t be considered hate speech
- Reason for and against the penalization of hate speech
- Consequences of hate speech focused on communities
- Freedom of speech vs hate speech
- Ways to regulate hate speech internationally and nationally
- Possible punishment or regulations for use of hate speech

### iv. Participating Organisms

- United Nations Human Rights Council (UNHRC)
- Dangerous Speech Project
- Human Rights Watch
- Office of the High Commissioner for Human Rights (OHCHR)

## v. Guiding Questions

1. What is considered as hate speech in your country, and what position does the government have about it, if any?
2. Does your country have laws against hate speech? If so, what are they and what are the punishments for hate speech? If not, why not?
3. What does your delegation prioritize, preventing hate speech or promoting freedom of speech?
4. What possible solution does your country propose to prevent hate speech and its consequences, taking into consideration the Declaration of Human Rights?

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