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Tradition vs. Human Rights?

Analyzing Racialized Branding from a Business and Human Rights Perspective

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Abstract

Systemic racism is a prevalent and longstanding problem in society that gained widespread public interest through the Black Lives Matter movement. Following the murder of George Floyd in May 2020, the movement expanded to Austria and brought heightened attention to the racialized branding of an Austrian brewery. Here, this expansion contributed to an existing resistance of the NO MOHR campaign against the racialized branding. The company, having already been criticized for nearly ten years for using racial stereotyping in the brand logo and a derogatory brand name, eventually presented a slight change in the branding in 2022. This study examines the problem of racialized branding from a Business and Human Rights perspective, as the link between human rights and racialized branding is currently underrepresented in research. The ground for the analysis lays in the discourse on the racialized branding of the Austrian company. The discourse, consisting of statements by the protest campaign and the company, as well as newspaper articles published on the case, is the primary data within which this study is grounded. The data is analyzed through Critical Discourse Analysis and discussed in the broader context of Austria's Business and Human Rights field and in consideration of the UN Guiding Principles on Business and Human Rights. It is argued that this international standard on Business and Human Rights is lacking implementation on a state and business level.

Keywords: Racism, brand logos, racialized branding, Business and Human Rights, UN Guiding Principles on Business and Human Rights, corporate responsibility, Austria

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List of Abbreviations

BHR: Business and Human Rights

BLM: Black Lives Matter

CDA: Critical Discourse Analysis

CRT: Critical Race Theory

CSR: Corporate Social Responsibility

ECRI: European Commission against Racism and Intolerance

EU CSDDD: European Union Corporate Sustainability Due Diligence Directive

FRA: European Union Agency for Fundamental Rights

IBHR: International Bill of Human Rights

ICCPR: International Covenant on Civil and Political Rights

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR: International Covenant on Economic, Social and Cultural Rights

NAP: National Action Plan

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNGPs: United Nations Guiding Principles on Business and Human Rights

1 Introduction

Systemic racism is a prevalent and longstanding problem in society. The Black Lives Matter (BLM) movement, initiated in response to the murder of Trayvon Martin in 2013 and directed against racial injustice in the United States (US),¹ gained momentum in 2020 when the brutal murder of George Floyd led to worldwide protests and highlighted the problem of systemic racism. Although the protests started in the US, they rapidly expanded to Europe, where protests were organized in solidarity with the BLM movement. In Austria, over 50,000 people joined the protest in Vienna in June 2020.² The movement does not only intend to combat police brutality but racism in every form that is predominant in society,³ for example, by challenging visible signs of racism in the public sphere, one being the depiction of racial stereotypes in brand logos. This resistance has resulted in the long overdue change of some brand logos.⁴ Many companies have rebranded the whole trademark, such as the Pearl Milling Company (formerly Aunt Jemima)⁵ and Bens Originals (formerly Uncle Bens)⁶, while others have only changed the brand logo like the German brand Sarotti⁷. Other companies have only rebranded some products, like the “Eskimo Pie” by the Danish company Hansens Floedeis.⁸

¹ C. J. Lebron, *The making of Black Lives Matter, A brief history of an idea*, New York, Oxford University Press, 2017, p. 11.

² Farid Hafez, ‘Black Lives Matter – In Austria Too’, n.d., <https://botstiberbiaas.org/black-lives-matter/>, (accessed 01 February 2023).

³ T. A. van Dijk, *Antiracist Discourse*, Cambridge University Press, 2021, p. 226.

⁴ F. J. G. Aoun, ‘The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks’, *IDEA: The Law Review of the Franklin Pierce Center*, vol. 61, no. 3, 2021, pp. 545–672, pp. 548–551.

⁵ C. Alcon, ‘Aunt Jemima finally has a new name’, *CNN*, 9 February 2021, <https://edition.cnn.com/2021/02/09/business/aunt-jemima-new-name/index.html>, (accessed 13 May 2023).

⁶ G. Friedman, ‘Uncle Ben’s rice products will be rebranded as Ben’s Originals.’, *The New York Times*, 23 September 2020, <https://www.nytimes.com/2020/09/23/business/uncle-ben-name-change.html>, (accessed 01 February 2023).

⁷ Stollwerck GmbH, ‘EINE REISE DURCH DIE ZEIT’, SAROTTI - VON 1852 BIS HEUTE, 2023, <https://www.sarotti.de/historie/>, (accessed 10 April 2023).

⁸ S. Tanno, ‘Danish ice cream maker drops 'Eskimo' lolly name after Greenland politician said 'pejorative' term was offensive to Arctic people’, *Mail Online*, 15 July 2020,

Similarly, the Austrian company *Mohrenbräu* (hereinafter *M*bräu*⁹) started a rebranding process in 2020 but only presented a minor change of the company logo in 2022.¹⁰ The beer company and brewery has consistently faced criticism for using racial stereotyping in the brand logo and for using the term ‘*Mohr*’ (hereinafter M-word¹¹) in the company name, a German term that is derogatory towards Black people. Hereinafter, the term ‘racialized branding’ will refer to the combination of racial stereotyping in the brand logo as well as a derogatory brand name.¹² The intention is to not merely focus on racial stereotyping in the brand image but to highlight problems in the entire logo, including both the brand image and name. *M*bräu* has been criticized for racialized branding for over ten years, mainly by the NO MOHR protest campaign. The *M*bräu* case has brought about a public debate twice. First, in 2020 when the BLM movement brought awareness to the issue, and second, in 2022, when the company presented a slight change of the brand logo. The case and discursive events of *M*bräu* lay the ground for this research and are investigated throughout this study.

1.1 Research Problem

The discursive events of the *M*bräu* case demonstrate the problem of systemic racism, taking on various forms in society, one being the display of racial stereotypes or derogatory names in brand logos. Brand logos are of high visibility in society as they circulate both in the public and private spheres.¹³ Furthermore, businesses have the power to influence and shape the perception of groups in society through advertising and

<https://www.dailymail.co.uk/news/article-8526573/Danish-ice-cream-maker-drops-Eskimo-lolly-name.html>, (accessed 10 April 2023).

⁹ See explanation in Chapter 1.3.2

¹⁰ See Chapter 6 for more context on the case.

¹¹ See explanation in Chapter 1.3.2

¹² The term ‘racialized branding’ is derived from Ela Veresiu, who introduced the term ‘racialized brands’, defining it as „brands that employ racial stereotypes to enliven themselves“; See E. Veresiu, ‘Delegitimizing Racialized Brands’, *Journal of the Association for Consumer Research*, vol. 8, no. 1, 2023, pp. 59–71, p. 59

¹³ F. J. G. Aoun, ‘The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks’, p. 668.

branding.¹⁴ Racialized brand logos are often portraying ‘the other’, making a person or group distinct from the norm. This form of ‘othering’ is a key element of racism and is predominantly present and manifested through language and images.¹⁵

From a human rights perspective, companies have a corporate responsibility to respect human rights. The field of Business and Human Rights (hereinafter BHR) targets such a responsibility and focuses on businesses as actors in the human rights regime. John Ruggie, UN Special Representative on Business and Human Rights from 2005 to 2011 and author of the UN Guiding Principles on Business and Human Rights (hereinafter UNGPs), showed through his work that businesses affect nearly all internationally recognized human rights, ranging from indigenous peoples' rights, labor rights, civil rights to economic, social and cultural rights.¹⁶ Although states are the main subject of international human rights law, businesses are expected to respect human rights, address adverse impacts, and provide effective remedies.¹⁷ These expectations are written down in the UNGPs and include the human right to non-discrimination, which is adversely impacted through racialized branding. The UNGPs further emphasize the importance of the state in reinforcing the corporate responsibility of businesses through regulations and policies.¹⁸

Although research on racialized branding is often focused on the BLM movement’s achievements, the link between human rights and racialized brand logos is underrepresented in research. More specifically, there is a lack of research on racialized branding from a BHR perspective.

¹⁴ E. George, ‘Racism as a Human Rights Risk: Reconsidering the Corporate ‘Responsibility to Respect’ Rights’, *Business and Human Rights Journal*, no. 6, 2021, pp. 576–583, p. 580.

¹⁵ T. Ogette, *Exit racism, Rassismuskritisch denken lernen*, 7th edn., Münster, München, Unrast; Ciando, 2020, pp. 61 & 68.

¹⁶ J. G. Ruggie, *JUST BUSINESS, Multinational Corporations and Human Rights*, 2013, p. 34.

¹⁷ The Office of the High Commissioner for Human Rights (OHCHR), ‘OHCHR and business and human rights’, 2023, <https://www.ohchr.org/en/business-and-human-rights>, (accessed 28 April 2023).

¹⁸ J. G. Ruggie, *JUST BUSINESS*, pp. 171–172.

1.2 Research Aims and Questions

This study combines the research areas and topics of racism and corporate responsibility to respect human rights. It is predominantly situated in the field of BHR, as this study aims to investigate the problem of racialized branding from a BHR perspective. More specifically, it aims to explore the interconnectedness between different actors, i.e., civil society, state and the company. Investigating the discourse on *M*bräu's* racialized branding can give insights into the relevance of each of the mentioned actors, the responsibility of the business and state, and its impacts on civil society.

As the case is grounded in a public debate, the discourse on the racialized brand logo of *M*bräu* is analyzed through Critical Discourse Analysis (CDA). The theoretical framework outlined through a BHR perspective on racism, Critical Race Theory (CRT) and Anti-racist Discourse Theory is shaping and informing this study. The public discourse entails statements by the NO MOHR group, the company and newspaper articles from 2020 to 2022 published on the case. Hence, the data used in this research is drawn from these sources.

The research questions guiding this research are: What does the discourse on the racialized branding of *M*bräu* reveal about the responsibility of the state and business in Austria's BHR field? Which implications does this have on Austria's civil society?

1.3 Terminology

This section will explain the use of certain terminology throughout the research. It is relevant to understand the implication of words, especially when the research addresses marginalized groups in society.

1.3.1 Use of the Words Black and white

Throughout this research the term Black will be written in capital letters to acknowledge that it does not refer to a color or physical attributes but to a self-imposed term that shows

the shared struggles of people experiencing racism in society.¹⁹ The term further links to the experiences of resistance of a social group.²⁰

White (*weiß*) in German research is commonly stated in italics. This writing style is also encouraged by Amnesty International Germany²¹ and the Austrian organization ZARA - Civil Courage and Anti-Racism Work²². Opinions on how white should be written in English deviate. While the term is rarely spelled in italics in English, some capitalize the word for the same reasons why Black is capitalized. A summary of the different approaches was collected by The Cross Cultural Solidarity History Project.²³ This study follows the approach of the Associated Press, which does not capitalize white, as white people “do not share [...] the experience of being discriminated against because of skin color”.²⁴

1.3.2 Historical and Contemporary Use of the M-word

History shows that the M-word was not a self-imposed term (as, for example, the word Black). The M-word is an old term that was used to refer to Black people and to define the ‘other’. Even in its earliest mentions, it had a negative connotation.²⁵ Black people who were kidnapped and enslaved in the 13th century were forced to work as servants at European courts as so-called court-m* (*Hof-M**). Black servants were a symbol of wealth and power and therefore were depicted in coats of arms or signs on restaurants.²⁶ The M-word is still widespread in the names of pharmacies, restaurants, coats of arms, or street

¹⁹ T. Ogette, *Exit racism*, pp. 63–64.

²⁰ T. Ogette, *Exit racism*, p. 63; C. Unterweger, *Talking Back, Strategien Schwarzer österreichischer Geschichtsschreibung*, 1st edn., Wien, Zaglossus, 2016, p. 215.

²¹ Amnesty International, ‘GLOSSAR FÜR DISKRIMINIERUNGSSENSIBLE SPRACHE’, 28 February 2017, <https://www.amnesty.de/2017/3/1/glossar-fuer-diskriminierungssensible-sprache>, (accessed 13 April 2023).

²² Verein ZARA – Zivilcourage & Anti-Rassismus-Arbeit, *Rassismus Report 2022, Analyse zu rassistischen Übergriffen & Strukturen in Österreich*, 2023.

²³ The Cross Cultural Solidarity History Project, ‘ON CAPITALIZING “WHITE”’, 2023, <https://crossculturalsolidarity.com/on-capitalizing-white/>, (accessed 13 April 2023).

²⁴ AP NEWS, ‘Explaining AP style on Black and white’, 2020, <https://apnews.com/article/archive-race-and-ethnicity-9105661462>, (accessed 14 May 2023).

²⁵ S. Arndt and U. Hamann, ‘>Mohr_in<’, in S. Arndt and N. Ofuatey-Alazard (eds.), *Wie Rassismus aus Wörtern spricht. (K)Erben des Kolonialismus im Wissensarchiv deutsche Sprache. Ein kritisches Nachschlagewerk*, Münster, Unrast, 2011, pp. 649–653, pp. 649–650.

²⁶ P. Martin, *Schwarze Teufel, edle Mohren*, 1st edn. H. W. Debrunner, Hamburg, Junius, 1993, p. 49.

names in Austria, Germany, and Switzerland.²⁷ Furthermore, it has been contested in advertising campaigns already in 2009 when the Austrian ice cream company *Eskimo*²⁸ introduced an advertising campaign “with the Austro-English slogan “I will Mohr” (a ridiculed and racially adapted translation of “I want more” [...])” referring to the M-word.²⁹ The campaign was stopped after protests.³⁰ Similarly, the Austrian coffee company *Julius Meinl* was criticized in 2007³¹ for depicting a Black person – the so-called *Meinl-M** – in the brand logo and only saw recent changes in 2021.³²

To not reproduce the term, researchers and activists decided to censor the word as it is commonly done with the N-word. Arndt and Hamann emphasize that even though the term is often perceived as outdated, the term remains prevalent in the food industry and also in street and pharmacy names and is by no means obsolete. The authors advocate for getting rid of the M-word. The word should not be replaced but erased “because replacing a racist word would be paradoxical”.³³ Similarly, the Research Group for Black Austrian History (*Recherchegruppe zu Schwarzer österreichischer Geschichte*) decided that as an intervention strategy, the terms that were imposed on Black people in history should not

²⁷ N. Scheck, ‘„Hof-Apotheke zum Mohren“: Warum der Begriff „Mohr“ genauso rassistisch wie das N-Wort ist’, *Frankfurter Rundschau*, 14 August 2020, <https://www.fr.de/panorama/rassismus-streit-hof-apotheke-zum-mohren-friedberg-apotheke-blockt-rassistisch-wie-das-wort-90017664.html>, (accessed 02 February 2023); Deutsche Presse-Agentur, ‘Der „Mohr“ – ein Zeichen der Würdigung oder des Rassismus?’, *RNA*, 12 July 2020, <https://www.rnd.de/politik/bedeutung-von-mohr-ein-zeichen-der-wuerdigung-oder-des-rassismus-4003RQYADG2YMHS24RK3ROYVOE.html>, (accessed 02 February 2023).

²⁸ The term *Eskimo* is similar to the M-word, seen as derogatory. For further discussion on the term see S. Arndt and N. Ofuatey-Alazard (eds.), *Wie Rassismus aus Wörtern spricht, (K)Erben des Kolonialismus im Wissensarchiv deutsche Sprache. Ein kritisches Nachschlagewerk*, 1st edn., Münster, Unrast, 2011, pp. 629–631.

²⁹ M. Hinrichsen, ‘Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States’, in I. Calboli and S. Ragavan (eds.), *Diversity in intellectual property. Identities, interests, and intersections*, Cambridge University Press, 2015, pp. 130–148, p. 141.

³⁰ M. Hinrichsen, ‘From *Æcumene* to Trademark’, *The Symbolism of the ›Moor‹ in the Occident*, in W. D. Hund, M. Pickering, and A. Ramamurthy (eds.), *Colonial Advertising & Commodity Racism*, Vienna, Lit, 2013, pp. 145–169, p. 145.

³¹ See <http://www.meinjulius.at/>

³² The only company who changed the logo was the Julius Meinl shop in Vienna (*Meinl am Graben*). Julius Meinl Austria still uses the criticized logo. See A. Preusser, ‘Ein Logo, zwei Zugänge: "Mohrenkopf" bei Meinl nicht überall Geschichte’, *Kurier*, 22 October 2021, <https://kurier.at/chronik/wien/ein-logo-zwei-zugaenge-mohrenkopf-bei-meinl-nicht-ueberall-geschichte/401780018>, (accessed 10 April 2023).

³³ S. Arndt and U. Hamann, ‘>Mohr_in<’, p. 653.

be reproduced verbally or in a written context. Therefore, they decided to use the term M-word.³⁴ In the context of the brewery, the founders of the NO MOHR campaign spell the company's name as either *M*bräu* (M*brew) or *M*brauerei* (M*brewery).³⁵ Other scholars choose to write the full German word in inverted commas³⁶ or the English word 'moor'³⁷. Arndt and Haman point to the dilemma that even with censoring the term the racist concept needs to be described to understand the history and context behind it. This means that racist concepts are inevitably reproduced.³⁸ This research faces the same dilemma, as the word and the company name need to be fully written once, and the racist concepts have to be explained. As this study critically investigates racialized branding, the M-word is censored to not actively reproduce the term. Consequently, the company name is written as *M*bräu* throughout this research.

³⁴ C. Unterweger, *Talking Back*, p. 214.

³⁵ See for example Black Austria Info, 'NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER', 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

³⁶ See M. Hinrichsen and W. D. Hund, 'Metamorphosen des ‚Mohren‘, Rassistische Sprache und historischer Wandel, in G. Hentges, M. M. Jansen, and J. Adamou (eds.), *Sprache - Macht - Rassismus*, Berlin, Metropol Verlag, 2013 or K. Klein and I. Wigger, "'Bruder Mohr'", in W. D. Hund (ed.), *Entfremdete Körper. Rassismus als Leichenschändung*, Bielefeld, transcript, 2009.

³⁷ See S. Hadely and I. Wigger, 'Angelo Soliman: desecrated bodies and the spectre of Enlightenment racism', *Race & Class*, vol. 62, no. 2, 2020, pp. 80–107.

³⁸ S. Arndt and U. Hamann, '>Mohr_in<', pp. 649–653.

2 Political and Human Rights Context

This chapter aims to give an overview of the Austrian political context in relation to racism and human rights, as this research analyzes a case of an Austrian company. Furthermore, the international standards on BHR will be outlined.

2.1 Political Context of Austria

This section presents information on racism in Austria, the engagement of the public in the issue and state actions in relation to human rights, specifically BHR.

2.1.1 Racial Discrimination and Xenophobia in Austria

Reports show that xenophobic and racist public discourse is predominant in Austria. The European Commission against Racism and Intolerance (ECRI) stated that the public discourse “has become increasingly xenophobic”.³⁹ The racist discourse is mostly targeting migrants, refugees and Muslims. While this discourse is mainly dominated by the far-right party (*FPÖ*) it also influenced the “mainstream political parties, such as the People’s Party (*ÖVP*)”.⁴⁰

A European Union Agency for Fundamental Rights (FRA) survey showed that Austria had one of the highest rates of racist violence in 2018.⁴¹ People of African descent living in Austria showed the lowest level of trust in the police compared to 11 other EU Member States included in the FRA survey.⁴² Mistrust of people of color in the police results in

³⁹ European Commission against Racism and Intolerance, *ECRI REPORT ON AUSTRIA, Sixth monitoring cycle*, 02 June 2020, p. 7.

⁴⁰ European Commission against Racism and Intolerance, *ECRI REPORT ON AUSTRIA, Sixth monitoring cycle*, 02 June 2020, p. 18.; Dieter Schindlauer, *Country report Non-discrimination, Transposition and implementation at national level of Council Directives 2000/43 and 2000/78; Reporting period 1 January 2021 - 31 December 2021*, 2022, p. 5.

⁴¹ European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey, Being Black in the EU*, 2018, p. 13.

⁴² European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey, Being Black in the EU*, 2018, p. 30.

the under-reporting of racist incidences. As Black and Muslim communities are the most frequent targets of hate-motivated crimes, ECRI proposes that the authorities work more closely with these communities.⁴³ Furthermore, the Universal Periodic Review indicates that racial discrimination is an important and critical issue in Austria. The majority of recommendations that other states gave to Austria from 2012 to 2016 were on the topic of racial discrimination.⁴⁴

The peak of systemic criminalization of Black people in Austria – as stated by Unterweger – was the so-called *Operation Spring* in 1999. At this time, it was the largest operation of the Vienna police, which was carried out against one hundred Black people suspected of drug trafficking. The majority of the detained people were proven to be innocent.⁴⁵ Similarly, systemic criminalization of Muslim citizens took place in 2020 through *Operation Luxor*, where “the Austrian government carried out its largest wave of peacetime police raids in post-war Austria”, which were proven unlawful by Austrian courts.⁴⁶

2.1.2 Referendum to Combat Racism and Racial Discrimination

In 2020 a referendum called Black Voices was initiated to combat structural racism in Austria. The organizers of the referendum stated different actions that should be discussed in the parliament once the referendum reaches 100.000 signatures. The goal of the referendum was that the demands (on topics like anti-racist-education, mandatory anti-racism workshops for police, etc.) would be included in the National Action Plan (hereinafter NAP) for Racism and Discrimination.⁴⁷ Unsuccessfully, the referendum did

⁴³ European Commission against Racism and Intolerance, *ECRI REPORT ON AUSTRIA, Sixth monitoring cycle*, 02 June 2020, p. 25.

⁴⁴ UPR Info, ‘Recommendations for Austria on racial discrimination 2012 - 2016’, n.d., [⁴⁵ C. Unterweger, *Talking Back*, pp. 177–178.](https://upr-info-database.uwazi.io/library/?q=(allAggregations:!f,filters:(cycle:(values:!(b237423c-6c85-4329-b3b0-acd1ceae04ed)),issues:(values:!(%276922f29e-0cc8-4524-9169-88b221b4d61a%27)),state_under_review:(values:!(zg9bu78pkt))),from:0,includeUnpublished:!f,limit:30,order:desc,sort:creationDate,treatAs:number,types:!(%275d8ce04361cde0408222e9a8%27),unpublished:!f)”, (accessed 21 May 2023).</p></div><div data-bbox=)

⁴⁶ CAGE Advocacy and ACT-P, *Operaton Luxor, Unravelling the myths behind Austria’s largest ever peacetime police raids*, 2021, p. 11.

⁴⁷ Black Voices, ‘Unsere Forderungen’, 2021, <https://blackvoices.at/>, (accessed 15 April 2023).

not reach 100.000 signatures from the Austrian society. Due to the effort of two members of the parliament, the Black Voices claims could be presented to the parliament on the International Day for the Elimination of Racial Discrimination in March 2023.⁴⁸

2.1.3 State Actions

Austria is a party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which requires regular reports to the Committee on the Elimination of Racial Discrimination. However, the latest report of the Committee states that Austria's combined twenty-first and twenty-second periodic reports have been overdue since 2015.⁴⁹ The Ministry for European and International Affairs states on its website that those reports are currently in preparation. Although those reports have been missing for over seven years, the Ministry commits to combat racism through its work in international institutions like the United Nations (UN) as well as through legislative and non-legislative measures. One of those non-legislative measures to combat racism would be to create a NAP for Human Rights in Austria and a “comprehensive strategy to prevent and combat all forms of racism, xenophobia, radicalisation and violent extremism”.⁵⁰ Nonetheless, the last proposal of this NAP is from 2015 and was never adopted.⁵¹ Additional to the NAP for Human Rights, the government committed to establish a NAP against Racism and Discrimination. This is mentioned in the government program for the legislative period of 2020 to 2024⁵² and the Report of the

⁴⁸ OTS, ‘AVISO: Öffentliches Parlamentshearing von Black Voices, 22. März 2023, 18:00 Uhr’, 2023, https://www.ots.at/presseaussendung/OTS_20230320_OTS0077/aviso-oeffentliches-parlamentshearing-von-black-voices-22-maerz-2023-1800-uhr, (accessed 13 May 2023).

⁴⁹ United Nations, *Report of the Committee on the Elimination of Racial Discrimination 104th session from 9–25 August 2021, 105th session from 15 November - 3 December 2021 and 106th session from 11 - 29 April 2022*, A/77/18, 2022, p. 17

⁵⁰ Federal Ministry for European and International Affairs, ‘Fight Against Racism and Discrimination’, 2023, <https://www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/fight-against-racism/>, (accessed 13 May 2023).

⁵¹ Austrian Ombudsman Board, ‘Nationaler Aktionsplan Menschenrechte’, <https://volksanwaltschaft.gv.at/praeventive-menschenrechtskontrolle/nationaler-aktionsplan-menschenrechte-1>, (accessed 13 May 2023).

⁵² Federal Chancellery Republic of Austria, *Aus Verantwortung für Österreich., Regierungsprogramm 2020 - 2024 Zusammenfassung*, 2020, p. 27.

Working Group on the Universal Periodic Review. The latter states that consultations for the NAP had taken place.⁵³ Yet, in practice, the plan does not exist.⁵⁴

2.1.4 BHR in Austria

Although many countries worldwide have published a NAP on BHR – as suggested by the UN Working Group on Business and Human Rights – Austria did not develop such a NAP yet.⁵⁵ The last Universal Periodic Review Report from 2020 states that the country is aware of the importance of the issue and “takes steps to improve the compliance of enterprises operating from Austria with human rights standards further”.⁵⁶ The report further states a commitment to implement the OECD Guidelines for Multinational Enterprises and to support the Austrian Network withing the UN Global Compact.⁵⁷ Both the OECD Guidelines and the UN Global Compact state voluntary principles for responsible business conduct and are not describing corporate responsibility as comprehensively as the UNGPs.⁵⁸ Civil society organizations organized through The Austrian Network on Social Responsibility of Corporations (*Netzwerk Soziale Verantwortung*) are for many years demanding the Austrian government to incorporate the UNGPs into national law.⁵⁹ Furthermore, they are demanding laws from the government targeting corporate actions.⁶⁰ The Social Democratic Party of Austria (*SPÖ*)

⁵³ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review, A/HRC/47/12*, 09 April 2021.

⁵⁴ Dieter Schindlauer, *Country report Non-discrimination, Transposition and implementation at national level of Council Directives 2000/43 and 2000/78; Reporting period 1 January 2021 - 31 December 2021*, 2022, p. 5.

⁵⁵ OHCHR, ‘National action plans on business and human rights’, Working Group on Business and Human Rights, 2023, <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-human-rights>, (accessed 21 May 2023).

⁵⁶ Federal Ministry for European and International Affairs, *UN Human Rights Council, Universal Periodic Review, Third National Report of Austria*, 2020, p. 4.

⁵⁷ Federal Ministry for European and International Affairs, *UN Human Rights Council, Universal Periodic Review, Third National Report of Austria*, 2020, p. 4.

⁵⁸ Netzwerk Soziale Verantwortung (NeSoVe), *Menschenrechte ohne Grenzen, Menschenrechtliche Unternehmensverantwortung bei Auslandsaktivitäten – eine Einführung*, 2016, p. 8.

⁵⁹ Netzwerk Soziale Verantwortung (NeSoVe), *Menschenrechte ohne Grenzen, Menschenrechtliche Unternehmensverantwortung bei Auslandsaktivitäten – eine Einführung*, 2016, p. 12.

⁶⁰ Netzwerk Soziale Verantwortung (NeSoVe), ‘Menschenrechte brauchen Gesetze!’, 07 October 2020, https://www.ots.at/presseaussendung/OTS_20201007_OTS0066/menschenrechte-brauchen-gesetze, (accessed 22 April 2023).

presented a draft human rights due diligence proposal in March 2021 targeting all companies that sell products, offer services in Austria, or exceed a minimum annual turnover. The party was not in the government at the time of the proposal. Thus, it did not get any updates since 2021.⁶¹

2.2 International Standards on BHR

This section describes the main document and international standard on BHR, the UNGPs, and presents upcoming mandatory regulations.

2.2.1 The UNGPs

The UNGPs were unanimously endorsed in 2011 by the UN General Assembly⁶² and are considered soft law as they do not create international obligations.⁶³ The UNGPs – which are also called the Protect, Respect and Remedy Framework – address the state’s duty to protect against human rights abuses by corporations (pillar I), the business’s responsibility to respect human rights through due diligence (pillar II), and the access to remedy for affected groups or individuals (pillar III). The expectation on how corporations should respect human rights was never described in more detail, making the UNGPs a key document when discussing the corporate responsibility to respect human rights.⁶⁴ Without going into too much detail of the guidelines, the most important principles relevant to this research should be explained shortly.

States have a responsibility to protect people from human rights abuses and adverse impacts of businesses⁶⁵ and set expectations for companies to respect human rights in

⁶¹ Parlament Österreich, ‘ein Lieferkettengesetz für eine soziale, menschenrechtskonforme und nachhaltige Produktionsweise’, 1454/A(E), 2021, <https://www.parlament.gv.at/gegenstand/XXVII/A/1454?selectedStage=100>, (accessed 13 May 2023).

⁶² Business & Human Rights Resource, ‘UN Guiding Principles’, n.d., <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/>, (accessed 12 January 2023).

⁶³ A. F. López Latorre, ‘In Defence of Direct Obligations for Businesses Under International Human Rights Law’, *Business and Human Rights Journal*, vol. 5, no. 1, 2020, pp. 56–83, p. 71.

⁶⁴ J. G. Ruggie, *JUST BUSINESS*, pp. 171–172.

⁶⁵ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Foundational Principle 1.

their operations.⁶⁶ This means that the state's duty to protect human rights is met when the state creates laws and policies that enable businesses to respect human rights. Furthermore, states should “encourage [...] business enterprises to communicate how they address their human rights impacts”, conduct human rights due diligence and “consider effectively issues of gender, vulnerability and/or marginalization [...]”.⁶⁷

Businesses, on the other hand, have to respect, at minimum, the human rights laid out in the International Bill of Human Rights (IBHR) consisting of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁶⁸ These Covenants include the right to non-discrimination on the ground of race. Furthermore, the UNGPs assert that companies should “[...] identify and assess any actual or potential adverse human rights impacts [...]”.⁶⁹ This should “involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation”.⁷⁰

2.2.2 Future Regulations and Standards on Human Rights Due Diligence

At this point, it should also be mentioned that there are upcoming legally binding regulations for human rights due diligence. The European Commission presented a proposal for the Corporate Sustainability Due Diligence Directive (EU CSDDD) in 2022 which focuses on anchoring “human rights and environmental considerations in

⁶⁶ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Foundational Principle 2.

⁶⁷ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Operational Principle 3.

⁶⁸ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Foundational Principle 12.

⁶⁹ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Operational Principle 18.

⁷⁰ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Operational Principle 18.

companies' operations and corporate governance".⁷¹ The directive saw its last update in March 2023.⁷²

Moreover, the UN Human Rights Council established an open-ended intergovernmental working group (IGWG) in 2014 to "elaborate an international legally binding instrument on Transnational Corporations and Other Business Enterprises with respect to human rights".⁷³ The Third Revised Draft was published in 2021, while sessions are still ongoing.⁷⁴

Although these upcoming regulations cannot be discussed in more detail in this study, it shows the consistent development in the field of BHR and its relevance in current times. It also shows the complexity of the field that is shaped by the "different interests and preferences of the major players: states, businesses and civil society".⁷⁵

⁷¹ European Commission, 'Corporate sustainability due diligence', 2022, https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en, (accessed 20 May 2023).

⁷² Publications Office of the European Union, 'Procedure 2022/0051/COD', 2023, https://eur-lex.europa.eu/procedure/EN/2022_51?sortOrder=desc, (accessed 20 May 2023).

⁷³ Business & Human Rights Resource Centre, 'Binding Treaty', 2022, <https://www.business-humanrights.org/en/big-issues/binding-treaty/>, (accessed 20 May 2023).

⁷⁴ Business & Human Rights Resource Centre, 'Binding Treaty', 2022, <https://www.business-humanrights.org/en/big-issues/binding-treaty/>, (accessed 20 May 2023).

⁷⁵ J. G. Ruggie, *JUST BUSINESS*, p. 128.

3 Literature review

The literature review provides an overview of relevant studies within the field of racism and racialized branding. Racism, as a central topic of this research, is explored through the concepts of ‘race’, which was historically introduced and changed over time. This led to research about commodity racism that made racialized brand logos mainstream. The expansion of the BLM movement in 2020 marks an important period for the research field. Hence, the last section presents research on racialized brands and studies on racism and BHR. Through this, a research gap is identified, and the study is placed in the research field.

3.1 Perceptions of ‘Race’ and Racism

Various scholars widely discuss the definitions of racism and ‘race’. Research on racism often considers a distinction between a narrow and broad understanding of the term. A narrow understanding of racism is based on the assumption that people can be classified into biologically distinct races which are connected to specific intellectual skills or moral integrity.⁷⁶ This understanding was, amongst other philosophers, shaped by the German philosopher Immanuel Kant and was defended by natural scientists of the late 18th century. Such a ‘scientific’ biological theory of race became the basis of European racism of the 18th and 19th centuries.⁷⁷ It was further used to justify the colonial slave trade and exploitation.⁷⁸

⁷⁶ K. Scherschel, *Rassismus als flexible symbolische Ressource, Eine Studie über rassistische Argumentationsfiguren*, Bielefeld, transcript, 2006, pp. 37-38.

⁷⁷ K. Scherschel, *Rassismus als flexible symbolische Ressource*, p. 39; S. Sandford, ‘Kant, race and natural history’, *Philosophy and Social Criticism*, vol. 44, no. 9, 2018, pp. 950–977, p. 951.

⁷⁸ I. Geiss, *Geschichte des Rassismus*, 1st edn., Frankfurt am Main, Suhrkamp, 1988, p. 15.

Contemporary research clearly disagrees with such a biological theory of race⁷⁹ and sees racism from a broad understanding that contextualizes racism in its historical and present forms⁸⁰. In contrast to biological race, race is nowadays seen as a social construct.⁸¹

[‘Race’] has been used as a legitimising ideological tool to oppress and exploit specific social groups and to deny them access to material, cultural and political resources, to work, welfare, services, housing and political rights.⁸²

Researchers in the field, therefore, introduce the concept of racialization. It focuses on the process that is making ‘race’ relevant instead of focusing on ‘race’ itself. It puts ‘race’ into a context and looks at who is involved in the process and how. This is important for the analysis of racism as it cannot be seen as an isolated event.⁸³ Garner concludes:

Racism is a multifaceted social phenomenon with different levels and overlapping forms. It involves attitudes, actions, processes and unequal power relation. [...] Racism is not confined to extreme cases, but is present in a whole continuum of social relations.⁸⁴

This means that racism needs to be discussed in particular circumstances, i.e., where and when does it occur and in which context? For example, ‘Islamophobia’ or racism towards Muslims is often grounded in culture, while antisemitism or racism towards Black people is more commonly grounded in the concept of ‘race’.⁸⁵ Therefore, Steve Garner speaks

⁷⁹ S. Sandford, ‘Kant, race and natural history’, p. 951; A. Jacquard, ‘Ein unwissenschaftlicher Begriff’, *Unesco-Kurier*, vol. 3, 1996, pp. 18–21, p. 2.

⁸⁰ K. Scherschel, ‘Racial discrimination between the extremist periphery and center of society’, in K.-S. Rehberg (ed.), *Die Natur der Gesellschaft. Verhandlungen des 33. Kongresses der Deutschen Gesellschaft für Soziologie in Kassel 2006. Teilbd. 1 u. 2. Verhandlungen des ... Kongresses der Deutschen Gesellschaft für Soziologie*, Frankfurt/Main, Campus, 2008, pp. 2028–2036, pp. 2028–2029.

⁸¹ M. Reisigl and R. Wodak, *Discourse and discrimination, Rhetorics of racism and antisemitism*, 1st edn., London, Routledge, 2001, p. 2.

⁸² M. Reisigl and R. Wodak, *Discourse and discrimination*, p. 2.

⁸³ A. Rattansi, ‘The Uses of Racialisation: The Time-Spaces and Subject-Objects of the Raced Body’, in K. Murji and J. Solomos (eds.), *Racialization: Studies in Theory and Practice*, Oxford University Press, 2005, pp. 271–302, p. 296; S. Garner, *Racisms, An introduction*, 1st edn., Los Angeles, SAGE, 2010, p. 30.

⁸⁴ S. Garner, *Racisms*, p. 27.

⁸⁵ A. Rattansi, *Racism: A Very Short Introduction*, 2nd edn., Oxford University Press, 2020, p. 16.

of racisms in plural, in order to create an understanding of the different forms and to recognize its diversity.⁸⁶

Another linguistic implication that must be taken into account for studies in the field of racism is the different use of terms in different countries. Due to the social and historical characteristics of German-speaking countries like Germany and Austria, the word ‘race’ is not as prominent as it is in English-speaking countries such as the United States and the United Kingdom. Scherschel focuses on this particularity in her research on racism in Germany, stating that a narrow definition of racism is still predominant in German research and debates about racism.⁸⁷ The term racism is still closely connected to Nazi fascism and its ideologies and can, therefore, hardly be separated from this historical connection. This narrow view of German-speaking culture limits a broader understanding of racism as it is internationally discussed.⁸⁸ Reisigl and Wodak go as far as to say it is a taboo for anyone to use the term race in Germany or Austria.⁸⁹ This is further supported by Gingrich, who explores those linguistic differences of ‘race’ through an ethnographic case from Austria:

[...] non-academic and political references to any such notion of *Rasse* among humans became completely discredited and absolutely unacceptable very soon after 1945, as part of the efforts to leave Nazism behind. Things changed more gradually inside academia, but elsewhere anyone continuing to publicly use the term in an affirmative form for humans would overtly indicate strong sympathies for Nazism.⁹⁰

Since the stated research was conducted before 2020 and the rise of BLM in Europe, these perceptions could have been subject to change. However, this particularity is important when discussing racism in Germany and Austria.

⁸⁶ S. Garner, *Racisms*, p. 34.

⁸⁷ K. Scherschel, ‘Racial discrimination between the extremist periphery and center of society’,

⁸⁸ K. Scherschel, *Rassismus als flexible symbolische Ressource*, pp. 33-34.

⁸⁹ M. Reisigl and R. Wodak, *Discourse and discrimination*, p. 5.

⁹⁰ A. Gingrich, ‘Concepts of Race Vanishing, Movements of Racism Rising? Global Issues and Austrian Ethnography’, *Ethnos*, vol. 69, no. 2, 2004, pp. 156–176, p. 158.

This research draws on the findings of Scherschel when concluding that the analysis of racist phenomena needs a broad understanding of racism to see its diversity and complexity and look at how different social actors make use of racial attributions.⁹¹ Therefore, this research is situated in a broad understanding and recognizes different forms of racism in society. Notwithstanding, this study focuses on racism towards Black people due to the research subject of racialized branding.

3.2 Commodity Racism and Trademarks

Historically, racializing the ‘other’ and marking racial differences started as early as the 16th century when traders from Europe started exploiting enslaved Black. Imperial imagery was found in various types of media and advertisements and became mainstream in ‘western’ popular cultures during the European colonization of Africa.⁹² This form of commodity racism and racialization of advertisements is also described by Anne McClintock:

Images of colonial conquest were stamped on soap boxes [...] biscuit tins, whisky bottles, tea tins and chocolate bars [...] No pre-existing form of organized racism had ever before been able to reach so large and so differentiated a mass of the populace⁹³

Black people were represented as subordinate and primitive and stereotypically portrayed with thick lips, fuzzy hair, and a broad nose.⁹⁴ Such stereotyping is a demonstration of power as one group decides how to represent another group in a specific way and is described by Hall as a “key element [...] of systemic violence”.⁹⁵ Products were used to racialize, as race was made relevant in advertisements, e.g., Pears’ Soap advertisement showed how a Black kid’s skin turned white after washing the advertised product. This

⁹¹ K. Scherschel, ‘Racial discrimination between the extremist periphery and center of society’, p. 2034.

⁹² S. Hall (ed.), *Representation: Cultural Representation and Signifying Practices*, London, SAGE Publications, Ltd, 1997, p. 239.

⁹³ A. McClintock, *Imperial Leather, Race, Gender, and Sexuality in the Colonial Contest*, Routledge, 1995, p. 209.

⁹⁴ S. Hall (ed.), *Representation: Cultural Representation and Signifying Practices*, pp. 244–249.

⁹⁵ S. Hall (ed.), *Representation: Cultural Representation and Signifying Practices*, p. 259.

not only made Black people appear dirty but showed how the product could keep the “imperial body clean”.⁹⁶

Malte Hinrichsen’s research on commodity racism and trademarks shows that racist trademarks were first emerging in the mid-19th century.⁹⁷ Hinrichsen states that racial advertising made the stereotypical depiction of a Black M* “the most persistent trademark stereotype in German commodity culture”.⁹⁸ In German and Austrian commodity culture and advertising, the M-word became a synonym for a Black person. Racialization became mainstream after the First World War. This was also the time when the well-known German chocolate company Sarotti registered the Sarotti-M* as a trademark. During that time, Black people were the target of racist propaganda portraying Black people as threatening. On the other hand, the racist trademarks portrayed Black people in an allegedly positive way.⁹⁹ Throughout Hinrichsen’s publications, the logo of *M*bräu* is mentioned as an example of a racist trademark.¹⁰⁰

3.3 From BLM to Corporate Responsibility to Respect Human Rights

Compared to the long history of commodity racism, critical mainstream awareness of racialized branding emerged quite late through the BLM movement in 2020.¹⁰¹ Thus, the issue only recently entered the public discourse and gained increased attention in research that explores racialized brands from different perspectives. Fady Aoun approaches the topic from a legal perspective showing that legal structures, especially trademark law, did

⁹⁶ S. Hall (ed.), *Representation: Cultural Representation and Signifying Practices*, pp. 241–242.

⁹⁷ M. Hinrichsen, ‘Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States’, p. 132.

⁹⁸ M. Hinrichsen, ‘From Œcumene to Trademark’, *The Symbolism of the ›Moor‹ in the Occident*, p. 159.

⁹⁹ M. Hinrichsen, ‘Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States’, pp. 136–137.

¹⁰⁰ See M. Hinrichsen and W. D. Hund, ‘Metamorphosen des ‚Mohren‘’, *Rassistische Sprache und historischer Wandel*, pp. 74–75; M. Hinrichsen, ‘Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States’, p. 137; M. Hinrichsen, ‘From Œcumene to Trademark’, *The Symbolism of the ›Moor‹ in the Occident*, p. 159.

¹⁰¹ F. J. G. Aoun, ‘The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks’, pp. 548–552.

not protect marginalized groups in society, as racist trademarks could be registered throughout the years.¹⁰²

Aoun's finding goes hand in hand with Hinrichsen's research, concluding that trademark law has been ineffective in combating racialized branding. It instead protects images in trademarks instead of preventing discriminatory imagery.¹⁰³ According to the author, the legal system should aid in eradicating racial stereotypes from trademarks and avoid promoting the concept of 'tradition', which is often used to justify these practices. Instead, "the principle of non-discrimination" should be the essence of such a law.¹⁰⁴ The concept of tradition is, for example, also mentioned by the Austrian Advertising Council in connection to *M*bräu's* brand logo.¹⁰⁵ In addition to trademark law, Hinrichsen also describes that international human rights law has not changed the reality of racialized brands in the public sphere. Although racial discrimination is prohibited through the ICERD, Hinrichsen concludes that "symbolic racism in advertising has not disappeared".¹⁰⁶

Since trademark law is not able to prevent or stop racialized branding, Deborah Gerhardt analyzed the problem from a consumer investment perspective that brings "value-based thinking into trademark law".¹⁰⁷ The values of customers are an important factor that influences "the choice to end the use of economically successful iconic marks".¹⁰⁸ In other words, if values change in society, consumers might step away from a brand that doesn't reflect such values. Gerhardt concludes:

¹⁰² F. J. G. Aoun, 'The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks', p. 669.

¹⁰³ M. Hinrichsen, 'Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States', pp. 131 & 148.

¹⁰⁴ M. Hinrichsen, 'Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States', p. 146.

¹⁰⁵ M. Hinrichsen and W. D. Hund, 'Metamorphosen des ‚Mohren‘, Rassistische Sprache und historischer Wandel, p. 75.

¹⁰⁶ M. Hinrichsen, 'Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States', p. 142.

¹⁰⁷ D. R. Gerhardt, 'The Last Breakfast with Aunt Jemima and Its Impact on Trademark Theory', *JLA*, vol. 45, no. 2, 2022, pp. 231–262, p. 262.

¹⁰⁸ D. R. Gerhardt, 'The Last Breakfast with Aunt Jemima and Its Impact on Trademark Theory', p. 262.

If brand owners are to remain relevant to their consumers steeped in contemporary culture, they must be open to change as culture and values evolve. In moments of political and cultural upheaval, a brand owner must be prepared to respond, even if an act of creative destruction is the only solution to unconflicted consumer investment.¹⁰⁹

Gerhardt's analysis shows that social justice movements like the BLM movement influence consumer behavior and change values in society.¹¹⁰ This is confirmed by Aoun, stating that the BLM movement contributed to a "more inclusive public sphere for marginalized groups" by contesting racialized brands.¹¹¹

Scholars in the field agree that racial stereotyping and racialized branding have a negative effect on marginalized groups in society. Aoun states it leads to exclusion, adverse psychological effects, and limits civic rights.¹¹² Ela Veresiu's research on the delegitimization of racialized brands supports this argument stating that "racialized brands can (...) negatively affect marginalized consumers' individual identity projects, social identity, and self-worth."¹¹³ This leads Veresiu to the conclusion that:

any brand perpetuating racial stereotypes and slurs should be terminated regardless of owner. All market stakeholders should actively stop the spread of racial discrimination, even if the product may appear harmless on the surface, like a sauce condiment [referring to the term Gypsy Sauce common in Germany] or a sombrero-shaped bowl, in the fight for racial justice.¹¹⁴

Brands profited from racialized products, names, and logos for many years. However, many companies fail to take responsibility for perpetuating harmful stereotypes that negatively impact certain groups of people.¹¹⁵ Veresiu demands companies to address any

¹⁰⁹ D. R. Gerhardt, 'The Last Breakfast with Aunt Jemima and Its Impact on Trademark Theory', p. 262.

¹¹⁰ D. R. Gerhardt, 'The Last Breakfast with Aunt Jemima and Its Impact on Trademark Theory', p. 261.

¹¹¹ F. J. G. Aoun, 'The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks', p. 669.

¹¹² F. J. G. Aoun, 'The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks', p. 555.

¹¹³ E. Veresiu, 'Delegitimizing Racialized Brands', p. 68.

¹¹⁴ E. Veresiu, 'Delegitimizing Racialized Brands', p. 68.

¹¹⁵ E. Veresiu, 'Delegitimizing Racialized Brands', p. 65.

harm caused by their actions through Corporate Social Responsibility (CSR) initiatives, such as making donations to organizations that support the affected groups.¹¹⁶

Audra Savage presents a similar argument as Veresiu analyzing the accountability of corporations for racism and the need to “retire racist brands”.¹¹⁷ Savage highlights that companies leave the responsibility for social justice to states and merely focus on economic growth. Companies would only address racism and racial equality internally, for example, through diversity policies or hiring staff from different ethnicities, as it arguably is better for the financial stance of companies. Nonetheless, Savage argues that companies should have a responsibility outside financial reasons.¹¹⁸

Corporate responsibility in regard to racism is investigated by Erika George through a BHR perspective. Regarding racism, George states that “Rather than active antiracism efforts, many corporations appear to be engaged in ‘defensive diversity’ to pre-empt accusations of prejudice.”¹¹⁹ The author sees racism as a BHR issue and emphasizes the importance of anti-racist business approaches.¹²⁰ The argument that companies should be following an antiracist approach is supported by Savage, claiming that being ‘not racist’ is not enough.¹²¹

Although researchers are investigating BHR and racism, the field is specifically connected to the effect of racialized brandings. As George, Martin and Van Ho have argued, the connection between BHR and racism is not sufficiently researched. Further research on BHR and racism is needed to understand “how it embeds or challenges racism within its structures”.¹²²

¹¹⁶ E. Veresiu, ‘Delegitimizing Racialized Brands’, p. 68.

¹¹⁷ A. L. Savage, ‘Aunt Jemima’s Resignation Letter’, *Columbia Law Review Forum*, vol. 121, no. 7, 2021, pp. 186–219, p. 216.

¹¹⁸ A. L. Savage, ‘Aunt Jemima’s Resignation Letter’, pp. 196–197.

¹¹⁹ E. George, ‘Racism as a Human Rights Risk: Reconsidering the Corporate ‘Responsibility to Respect’ Rights’, p. 582.

¹²⁰ E. George, ‘Racism as a Human Rights Risk: Reconsidering the Corporate ‘Responsibility to Respect’ Rights’, p. 581.

¹²¹ A. L. Savage, ‘Aunt Jemima’s Resignation Letter’, p. 206.

¹²² E. George, J. Martin, and T. Van Ho, ‘Reckoning: A Dialogue about Racism, AntiRacists, and Business & Human Rights’, *Washington International Law Journal Association*, vol. 30, no. 2, 2021, pp. 171–254, p. 254.

To sum up, this overview of scholarship showed that racialized branding has a long history and is rooted in imperial and colonial times. The depiction of the ‘Black M*’ in brand logos is an essential part in Austrian and German history. In recent times, social justice movements such as the BLM movement and customers have influenced the decision of brands more than trademark or human rights law. Presented scholarship shows the negative impacts of racialized branding on society, especially on marginalized groups, and the urge to hold companies accountable. Both these issues constitute a human rights problem and lead to two reasons for the investigation of the racialized branding in this study. First, the human rights of marginalized groups are negatively impacted through racialized branding. Second, the corporate responsibility to respect human rights is a key concern of the BHR research field and is operationalized through the UNGPs. This international framework is so far missing in the discussions by mentioned scholars, which shows the need to investigate the problem of racialized branding from a BHR perspective. This study addresses that gap in the field and contributes to research on racialized branding through a BHR perspective.

4 Theoretical Framework

To connect the study fields of racism and BHR, a theoretical framework with different theories is outlined that is, both, shaping the overall perspective of this study and helping to analyze the data.

4.1 A BHR Perspective on Racism

BHR gained recognition in the 1990s when globalization challenged not only businesses but states to address risks of adverse impacts or even human rights abuses by companies. Thus, it is still a very recent field within human rights. “The idea that business enterprises might have human rights responsibilities independent of legal requirements in their countries of operation is relatively new and still not universally accepted.”¹²³ In contrast to CSR, which focuses on voluntary corporate actions that positively contribute to society, BHR aims for corporate accountability.¹²⁴ Such accountability is outlined by the UNGPs.

The field of BHR is challenged with regard to racism as it is built on capitalism, which in turn is built on racial exploitation.¹²⁵ Nonetheless, the UNGPs have the potential for businesses to create strategies to reduce the risk of racial discrimination. Even if the UNGPs do not cover the ICERD, the right to non-discrimination is included in the ICCPR and ICESCR that are covered by the UNGPs.¹²⁶ To create such a strategy human rights due diligence and impact assessments should be conducted to understand the impact on affected marginalized groups. Then, the impact can be prevented or mitigated, and

¹²³ J. G. Ruggie, *JUST BUSINESS*, p. 25.

¹²⁴ A. Ramasastry, ‘Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability’, *Journal of Human Rights*, vol. 14, no. 2, 2015, pp. 237–259, pp. 238 & 250.

¹²⁵ E. George, J. Martin and T. Van Ho, ‘Reckoning: A Dialogue about Racism, AntiRacists, and Business & Human Rights’, pp. 201–217.

¹²⁶ E. George, ‘Racism as a Human Rights Risk: Reconsidering the Corporate ‘Responsibility to Respect’ Rights’, pp. 578–579.

effective anti-racist approaches can be introduced and communicated.¹²⁷ Impact assessments depend on the size of the business and the severity of the impact.¹²⁸ In other words, a small company might only conduct impact assessments that include known and severe risks of adverse impact and focus on the mitigation of such.

Furthermore, states are essential and powerful actors in the BHR field when it comes to the implementation of the UNGPs. This implementation is mainly seen through a NAP on BHR.¹²⁹ The NAP would “promote business respect for human rights including through due diligence processes and corporate measures to allow for access to remedy”.¹³⁰ Furthermore, civil society organizations and “persons impacted by business-related human rights harms” should be included in the establishment of a NAP.¹³¹

The BHR approach outlined is the main theoretical perspective that informs this research. It lays the ground for the investigation of a business case from a human rights perspective, as businesses are understood as important actors in the human rights field. It is used to understand the data, specifically the company’s responsibility and adverse impacts on the right to non-discrimination, but also the connection to state actions that influence the BHR field.

4.2 Critical Race Theory

CRT originated in legal studies in the 1970s. Legal scholars of color challenged how “race and racial power are constructed and represented in American legal culture and, more

¹²⁷ E. George, ‘Racism as a Human Rights Risk: Reconsidering the Corporate ‘Responsibility to Respect’ Rights’, pp. 579–582.

¹²⁸ United Nations, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04, 2011, Operational Principle 17.

¹²⁹ D. De Felice and G. Andreas, ‘The Potential of National Action Plans to Implement Human Rights Norms: An Early Assessment with Respect to the UN Guiding Principles on Business and Human Rights’, *Journal of Human Rights Practice*, vol. 7, no. 1, 2015, pp. 40–71, p. 64.

¹³⁰ UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, 2016, p. 4.

¹³¹ UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, 2016, p. 4.

generally, in American society as a whole”.¹³² It builds on critical legal studies and racist feminism but has spread across all disciplines since its beginnings. CRT questions the liberal order and aims to understand the connection between race and power. Therefore, it also focuses on the study of racism.¹³³

Amongst many features of CRT, one should be specifically mentioned as an underlying theoretical assumption for this study. CRT perceives racism as the norm and the basis of how society operates, while at the same time, racism is hard to address and resolve.¹³⁴ This is because society is mostly color-blind, pretending that everyone is equal, regardless of their race.¹³⁵ Color-blindness is problematic as it makes racism difficult to address, following the thought that if color is not seen, then racism cannot exist.¹³⁶ Color-blindness is not inherently wrong as it can, for example, assure equality in governing decisions. Nonetheless, it can also lead to the denial of discriminatory experiences that people or groups face.¹³⁷

CRT informs this research in the way that society is understood as fundamentally built on racism. Critically investigating racism is only possible if racism is understood as the norm. The concept of color-blindness is essential to understand racism and will be applied to company statements in the analysis. By focusing on the protest voices of the NO MOHR campaign, this study follows the approach of CRT to listen to voices of color.¹³⁸

4.3 Anti-Racist Discourse Theory

Similarly to CRT, the anti-racist discourse theory by van Dijk focuses on the reproduction of racism and, specifically its resistance through anti-racist discourse. To understand how

¹³² K. Crenshaw et al. (eds.), *Critical Race Theory, The key writings that formed the movement*, New York, The New Press, 1995, p. 13.

¹³³ R. Delgado and J. Stefancic, *Critical Race Theory, An Introduction*, 4th edn., New York University Press, 2023, pp. 4–6.

¹³⁴ R. Delgado and J. Stefancic, *Critical Race Theory*, p. 8.

¹³⁵ R. Delgado and J. Stefancic, *Critical Race Theory*, pp. 8 & 170.

¹³⁶ R. Delgado and J. Stefancic, *Critical Race Theory*, p. 8.

¹³⁷ R. Delgado and J. Stefancic, *Critical Race Theory*, p. 27.

¹³⁸ R. Delgado and J. Stefancic, *Critical Race Theory*, p. 11.

racism is reproduced through discourse the process of reproduction should be explained first. Reproduction in this sense, is “the dialectical interaction of general principles and actual practices that underly the historical continuity of a social system.”¹³⁹ Based on this, the repetition of the same general principles throughout history can be seen as a macro level of reproducing a system. Those general principles are, however, only upheld by actual practices on the micro level. In other words, racism is reproduced on the macro level by repeating processes similarly over time, although contexts might change. Actors who engage with these processes on the micro level reproduce racism through actions and actual practices. The ruling principles are either respected and confirmed or challenged and resisted by the practices of members of the system.¹⁴⁰ This understanding of the production of racism can be applied to racialized branding. Following van Dijk’s explanation, the circulation and display of racialized branding uphold racism on a macro level while the consumers who buy the product uphold it on a micro level. The underlying assumption here is that racism might not be as explicit and evident in branding. Therefore, this interpretation of the reproduction of racism does not claim that all consumers of brands with a racist logo are racist themselves. Neither should it mean that employees of the company are racist. Instead, it is used to conceptualize how racist structures can be upheld in society, possibly without knowing.

Although racism in brand logos might be covert, it becomes uncovered through anti-racist movements like the BLM movement. Anti-racism is a resistance to racism on the macro level. Van Dijk speaks of anti-racism as a macromovement¹⁴¹ in which members are engaged and whose key is anti-racist discourse. Anti-racism is seen as a macromovement because antiracism is not systemic yet, as is the case for racism, which is present at all levels of society. However, if systemic racism has to change, it is necessary that anti-racism becomes systemic too.¹⁴² This shows that the existence of anti-racism presupposes

¹³⁹ T. A. van Dijk (ed.), *Racism and the press*, London, Routledge, 1991, p. 33.

¹⁴⁰ T. A. van Dijk (ed.), *Racism and the press*, pp. 32-35.

¹⁴¹ For a detailed definition of macromovements see van Dijk, 2021, pp. 17-18

¹⁴² T. A. van Dijk, *Antiracist Discourse*, pp.15 & 248-249.

the existence of racism.¹⁴³ Both, however, are not just self-existent but have to be learned by society, for which discourse is an important driving force. Wodak and Reisigl state:

[...] racism, as a social practice, and as an ideology, manifests itself discursively. On the one hand, racist opinions and beliefs are produced and reproduced by means of discourse; on the other hand, through discourse, discriminatory exclusionary practices are prepared, promulgated and legitimised.¹⁴⁴

Importantly, discourse, in that sense, is not only limited to text but includes images.¹⁴⁵ Therefore, branding is understood as part of the discourse that carries meaning. Similarly to racism, anti-racism is manifested discursively through communication, for example, through shared experiences of discrimination, movements, protests, media, public debates, etc.¹⁴⁶ Anti-racist discourse is based on the belief that it is a crucial mode of resistance, essential for an antiracist practice. The goal is not only resistance to racist structures but to find alternative anti- or non-racist forms of social practices.¹⁴⁷ Anti-racism can be expressed through different actions, for instance, through protest activities and slogans.¹⁴⁸ In this research, anti-racism can be seen in the example of the NO MOHR campaign. The theory will be applied to understand the anti-racist discourse used by the group and to understand the broader public discourse in newspapers.

¹⁴³ T. A. van Dijk, *Antiracist Discourse*, p. 2.

¹⁴⁴ M. Reisigl and R. Wodak, *Discourse and discrimination*, p. 1.

¹⁴⁵ T. A. van Dijk, 'Multidisciplinary Cda: A Plea for Diversity', in R. Wodak and M. Meyer (eds.), *Methods of Critical Discourse Analysis*, London, SAGE Publications, Ltd, 2001, p. 98.

¹⁴⁶ T. A. van Dijk, *Antiracist Discourse*, pp. 15–16.

¹⁴⁷ T. A. van Dijk, *Antiracist Discourse*, p. 43.

¹⁴⁸ T. A. van Dijk, *Antiracist Discourse*, pp. 44–45.

5 Method

This research utilizes a mixed-methods approach to analyze a case study through CDA. This chapter outlines the chosen approach for the qualitative research, as well as the research design and the data collection process. Finally, the ethical considerations of this study are described.

5.1 Case Study

A case study is interpreted in different ways and used in various research fields. It is the study of a specific phenomenon or case that is further analyzed by different methods, qualitative or quantitative.¹⁴⁹ In this research, the case is investigated through CDA, described in 5.2.

A case study aims to develop in-depth knowledge and awareness of a specific case, situated in a real-life context, and to investigate different perspectives of the key actors.¹⁵⁰ This aligns with this study's aim, which is to analyze different actors through a real-life context, i.e., the company case and discourse on the racialized branding of *M*bräu*.

Furthermore, an in-depth case study can lead to an understanding of the particular context and a broader understanding of the investigated topic.¹⁵¹ Regarding this research, the case study can give insights into the broader societal context the case is embedded.

¹⁴⁹ H. Simons, *Case Study Research in Practice*, Online publication, SAGE Publications, Ltd, 2012, pp. 20–21.

¹⁵⁰ H. Simons, *Case Study Research in Practice*, pp. 20–23.

¹⁵¹ H. Simons, 'Case Study Research: In-Depth Understanding in Context', in P. Leavy (ed.), *The Oxford Handbook of Qualitative Research*, Oxford University Press, 2020, pp. 676–703, pp. 695–696.

5.2 Critical Discourse Analysis

CDA's main concern is the connection between power and language, based on the belief that power and domination are manifested through language.¹⁵² The field of CDA is influenced by various researchers who follow similar approaches with some distinction. This research draws on the scholarship of Teun van Dijk, who focuses on the importance of social cognition in a discursive event. The approach is chosen as it investigates social cognition, i.e., the shared knowledge, values, or ideologies of groups that are then connected to society.¹⁵³ Following that approach, businesses and movements are groups of society that engage in discourse through shared beliefs and values. Another reason for the social cognition approach of van Dijk is that society is seen as the combination of the local and global context in which a discursive event is situated.¹⁵⁴ The context of the discourse is, therefore, a crucial part of the analysis.

Van Dijk's newest research on antiracist discourse, as laid out in the theory chapter, focuses less on the "social power abuse" but "on the resistance against such domination".¹⁵⁵ Additionally, other scholars focus on the connection between antiracism and CDA. Wodak and Reisigl state that CDA contributes to antiracism as "[...] discourse serves to criticise, delegitimise, and argue against racist opinions and practices – that is to pursue anti-racist strategies".¹⁵⁶ Further, CDA helps to dismantle implicit linguistic racist practices but also to see discourse in a socio-political context.¹⁵⁷ CDA defines discourse very broadly, including written text and semiotics, e.g., images.¹⁵⁸ Hence, this study focuses on *M*bräu's* logo as a form of discriminative discourse.

¹⁵² R. Wodak, 'What CDA Is About – A Summary of Its History, Important Concepts and Its Developments', in R. Wodak and M. Meyer (eds.), *Methods of Critical Discourse Analysis*, London, SAGE Publications, Ltd, 2001, pp. 2–3.

¹⁵³ T. A. van Dijk, 'Multidisciplinary Cda: A Plea for Diversity', pp. 97-98 & 113.

¹⁵⁴ T. A. van Dijk, 'Multidisciplinary Cda: A Plea for Diversity', pp. 97-98 & 113.

¹⁵⁵ T. A. van Dijk, *Antiracist Discourse*, p. 1.

¹⁵⁶ M. Reisigl and R. Wodak, *Discourse and discrimination*, p. 2.

¹⁵⁷ M. Reisigl and R. Wodak, *Discourse and discrimination*, pp. 267–268.

¹⁵⁸ T. A. van Dijk, 'Multidisciplinary Cda: A Plea for Diversity', p. 98.

Lastly, it should be mentioned that CDA is not only a method but an interdisciplinary approach with various theories depending on the posed question and research design.¹⁵⁹ For the purpose of this research, CDA is applied as a method to investigate the discursive event of the *M*bräu* case. However, it is not feasible to conduct a ‘full’ CDA due to the limited resources available for this research. Van Dijk states that even analyzing a brief text can already take months if the focus is put on all levels of analysis.¹⁶⁰ This said, the research design outlined in the following section presents how the research is conducted and how CDA is used.

5.3 Research Design

The research is built on a case study design. The case is a discursive event situated in a public discourse, namely the discourse on the Austrian company *M*bräu* which was criticized for racialized branding. Therefore, the next chapter (Chapter 6) focuses on the description of the case to provide the local context in which the discourse is grounded. After introducing the case, the analysis focuses on the main actors involved. The main identified actors in the case of *M*bräu* are, on the one hand, the company itself and, on the other hand, the NO MOHR campaign initiating the protest against the racialized branding. Furthermore, newspapers have a crucial role in enabling communication between these two actors and are significant players in shaping public discourse as well as society's knowledge and beliefs.¹⁶¹ Therefore, newspaper articles on the case will be analyzed to gain an understanding of the broader public discourse within which the case is grounded. Through the variety of actors, the analysis targets different forms of text such as newspaper articles, statements from the company mostly found online, and articles published by Black Austria Info. Section 5.4. describes the collection process.

¹⁵⁹ T. A. van Dijk, ‘Multidisciplinary Cda: A Plea for Diversity’, p. 98.

¹⁶⁰ T. A. van Dijk, ‘Multidisciplinary Cda: A Plea for Diversity’, p. 99.

¹⁶¹ T. A. van Dijk, ‘Media contents’, The interdisciplinary study of news as discourse, in N. W. Jankowski and K. B. Jensen (eds.), *A Handbook of Qualitative Methodologies for Mass Communication Research*, London, Routledge, 1991, pp. 108–120, p. 110.

The mentioned documents are analyzed through CDA. As CDA is not a clearly laid out method, this section outlines how the data is analyzed through van Dijk's socio-cognitive approach. Van Dijk starts by identifying topics or semantic macrostructures, the meanings people remember about the discourse. The meaning of discourse can also be influenced by topics that actors assign to the discourse, which influences the mental models that people remember about the event. Therefore, those topics can often be seen in headlines or summaries. After identifying macrostructures such as topics, van Dijk focuses on the local level and the meaning of the discourse (semantic level). This includes linguistic aspects such as the choice of words by the actor. When analyzing the discursive event on the semantic level, subtle formulations are of main interest for CDA, e.g., emotions or perspective of the actor.¹⁶² The analysis explores semantic macrostructures or topics and local-level meanings for each actor respectively. The macrostructures are understood through a summary of the contents or common topics between several texts, like in the case of the company website or newspaper articles.

Finally, van Dijk's approach emphasizes the significance of contextual analysis, highlighting two distinctions – local and global contexts. The local context is the “communicative event”¹⁶³, which is, as mentioned, the discursive event in the case of *M*bräu* described in Chapter 6. The global context is the broader structure the case is embedded in, such as political, social, or cultural structures.¹⁶⁴ For this research, the global context is considered the political and human rights context of Austria described in Chapter 2. The case is connected to the global context in the discussion (Chapter 8).

The analysis focuses on a positive self-presentation that is often signaling dominance over marginalized group. is also seen as a strategy for the denial of racism.¹⁶⁵ Tolerance is frequently cited as a means of denying racism. Both individuals and society as a whole may use claims of tolerance as a way to deny the existence of racism.¹⁶⁶ Ideologies,

¹⁶² T. A. van Dijk, ‘Multidisciplinary Cda: A Plea for Diversity’, pp. 101–108.

¹⁶³ T. A. van Dijk, ‘Multidisciplinary Cda: A Plea for Diversity’, p. 108.

¹⁶⁴ T. A. van Dijk, ‘Multidisciplinary Cda: A Plea for Diversity’, p. 108.

¹⁶⁵ T. A. van Dijk, ‘Discourse and the denial of racism’, *Discourse and Society*, vol. 3, no. 1, 1992, pp. 87–118, pp. 88–89.

¹⁶⁶ T. A. van Dijk, ‘Discourse and the denial of racism’, p. 97.

known as values, are principles that individuals in a group associate with. These principles can be acquired through the social circles that members participate in, as well as media exposure.¹⁶⁷ Regarding newspapers, the analysis focuses on how they present opinions from different perspectives. According to van Dijk, having access to discourse is a sign of dominance and power.¹⁶⁸

5.4 Data Collection

When conducting a case study, the abundance of data involved can often restrict its scope.¹⁶⁹ This is applicable to this study as the data collection is limited to the mentioned actors, namely the NO MOHR campaign, the company, and newspapers. The comment sections of the newspaper articles and social media interactions regarding the case could not be analyzed due to the time and space restrictions of the study.

Data on the NO MOHR campaign is found on the website of Black Austria Info. For this study, two statements of Black Austria Info from 2012 and 2022 lay the ground for the analysis as they mark important dates for the campaign. The statement of 2012 introduces the protest logo and campaign, and the statement from 2022 states the protestor's point of view on the new branding.

Data on the *M*bräu* company is for the purpose of this study, narrowed down to a statement in 2020, which denotes the start of the rebranding process, and available information on the new branding from 2022 on the company's website.

As not all articles from newspapers or media outlets regarding the case could be included in this study, the two most widespread Austrian newspapers, which are distributed in every region of Austria, are chosen as data sources for the analysis. The search for newspaper articles was limited to online articles as these are easily accessible.

¹⁶⁷ T. A. van Dijk, 'Discourse and ideology', in T. A. van Dijk (ed.), *Discourse Studies.*, SAGE, 2011, pp. 379–407, pp. 386–387.

¹⁶⁸ T. A. van Dijk, 'Principles of critical discourse analysis', *Discourse and Society*, vol. 4, no. 2, 1993, pp. 249–283, p. 257.

¹⁶⁹ H. Simons, *Case Study Research in Practice*, pp. 23–24.

Additionally, the search was restricted to articles published from 2020 to 2022, covering the period between the company's announcement of rebranding and the presentation of its new logo. To collect the data, a search of the keywords “*Mohrenbräu*” (name of the brand) and “*Mohrenbrauerei*” (name of the brewery) has been conducted on the mentioned newspapers, as either one or both terms could be used in relation to the company. Most of the articles overlapped when searching for both keywords. Articles from *Der Standard* can be found through the search function on the newspaper’s website, www.derstandard.at. *Kronen Zeitung* does not have this function. Thus, Google News was used. In this case, the newspaper’s name was added to the keywords. While some of the found articles do not mention the brewery, the branding, or racism directly in their headline, they still mention the brewery’s name in the text and are therefore included in the analysis. In total, twelve articles were found, of which eleven are news articles and one is an interview. Six of the twelve articles target the racialized branding directly, while the other six articles mention the company throughout the text. Articles on the sales of the company or other company activities were deemed irrelevant to this research.

5.5 Ethical Considerations

Applying CDA as a method leads to some ethical considerations for the research. The objectivity of CDA can be questioned due to varying interpretations of findings by researchers. However, this study takes an explicit critical view on racialized branding and as van Dijk highlights, there is no “‘neutral’ position of critical scholars.”¹⁷⁰ On the contrary, research in CDA wants to take on a position.¹⁷¹ CDA is taking on a certain socio-political stance as this approach stands in “solidarity with the oppressed”.¹⁷² This said, I am aware that I am a white researcher and, thus, will never experience racism myself. By studying racism and focusing on Black marginalized groups in society, I do not aim to speak for Black people but precisely stand in solidarity.

¹⁷⁰ T. A. van Dijk, ‘Principles of critical discourse analysis’, p. 252.

¹⁷¹ T. A. van Dijk, ‘Principles of critical discourse analysis’, p. 270.

¹⁷² T. A. van Dijk, ‘Multidisciplinary Cda: A Plea for Diversity’, p. 3.

CDA, as an analytical approach, is also self-critical. It does not focus on criticizing but investigates discourse and structures to provide insights and contributions to the study field. Even though CDA stands in solidarity with the oppressed, it still critically evaluates all actors that are in conflict with a just society, which could be oppressed groups themselves.¹⁷³ This research does not aim to portray the company as a villain but rather wants to understand the corporate responsibility to human rights in a discursive setting. It further intends to contribute to a broader understanding of the BHR field in Austria. It should be stated that I, as the researcher, have no affiliation with the company.

Gathering data through a case study that presents different actors can have ethical considerations. The researcher has to consider presenting all sides and display the different opinions fairly.¹⁷⁴ This risk is posed in this study by translating statements from German to English. Through the translation process, meanings could get lost. Especially subtle formulations might be challenging to portray in another language. The research aims to stay as close to the original text as possible when presenting the different actor's statements. Furthermore, the data presented in the case study and the data analyzed are publicly accessible.

6 Context of *M*bräu*

*M*bräu* was established in 1763 in the Westernmost province of Austria called Vorarlberg. The company was founded by *Johann Mohr*, who the company is named after. According to the company, it has used the image of a Black person's head since the 18th century because such an image was shown in the family coat of arms of *Johann Mohr*.

¹⁷³ See T. A. van Dijk, *Antiracist Discourse*, p. 8.

¹⁷⁴ H. Simons, *Case Study Research in Practice*, pp. 97–98.

Allegedly, the Black person shows Saint Maurice (*Heiliger Mauritius*), which is a patron saint.¹⁷⁵

6.1 Protest

The beer company was first criticized for its racialized branding in 2012 when Simon Inou and Mara Niang designed a protest logo (Figure 1).



Figure 1: Company branding before 2022 (left)¹⁷⁶ and protest logo (right)¹⁷⁷

The protest logo replaced the company logo with a silhouette of a stereotypical Black person with a baobab tree. The baobab tree was chosen as it is a symbol of peace and quiet as well as a place for conversations in many African societies. Its fruits are used to produce oil and beverages.¹⁷⁸ The name of the brewery was replaced with the slogan NO MOHR, which was later also used as a hashtag in the social media campaign against the brewery to protest against the frequent use of the M-word.

¹⁷⁵ Mohrenbrauerei, 'Unsere Geschichte', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbrauer/die-geschichte/>, (accessed 03 April 2023).

¹⁷⁶ red and vorarlberg.ORF.at, 'Rassismussvorwürfe gegen Mohrenbrauerei', 19 June 2020, <https://vorarlberg.orf.at/stories/3053936/>, (accessed 22 May 2023).

¹⁷⁷ Black Austria Info, 'NO MOHR: DAS NEUE PROTESTLOGO', 18 November 2012, <https://www.blackaustria.info/2012/11/18/no-mohr-das-neue-protest-logo/>, (accessed 25 March 2023).

¹⁷⁸ Black Austria Info, 'NO MOHR: DAS NEUE PROTESTLOGO', 18 November 2012, <https://www.blackaustria.info/2012/11/18/no-mohr-das-neue-protest-logo/>, (accessed 25 March 2023).

The progress of the NO MOHR campaign is documented in the Facebook group of the same name.¹⁷⁹ Inou and Niang make clear that while the design of the baobab tree is a suggestion for a new brand logo, the name NO MOHR is *not* a suggestion for the company's name. It is instead a signal to the company with a triple meaning. As it is a mix of English and German, the message can, first, be read in English as 'no more' (*nicht mehr*), second, it can be read in German as '*nicht Mohr*' (no Mohr), and last, with the meaning 'no more Mohr' (*nicht mehr Mohr*).¹⁸⁰ The logo was first presented on 18 November, 2012,¹⁸¹ while the Facebook group was created on 1 October, 2012. Despite so, the company logo did not change until ten years after the initial start of the protest. After the murder of George Floyd on 25 May, 2020 and the subsequent BLM protests, a public debate started about the racialized branding, where the company faced harsh criticism through calls and social media.¹⁸² This led the company to shut down its social media channels.¹⁸³ During the same time, two petitions were initiated. One urged the company to immediately change the logo,¹⁸⁴ while the other wanted to 'rescue' the logo.¹⁸⁵ Although the company initially stated that it intended to keep the logo, the company announced in June 2020 that it was going through a rebranding process.¹⁸⁶

¹⁷⁹ See <https://www.facebook.com/nomohrr>

¹⁸⁰ Simon INOU and Mara Niang, 'Über NO MOHR', n.d., https://www.facebook.com/nomohrr/about_details, (accessed 25 March 2023).

¹⁸¹ See Black Austria Info, 'NO MOHR: DAS NEUE PROTESTLOGO', 18 November 2012, <https://www.blackaustria.info/2012/11/18/no-mohr-das-neue-protest-logo/>, (accessed 25 March 2023).

¹⁸² red, 'Flut an Rassismusrwürfen gegen Mohrenbrauerei', *VOL.at*, 19 June 2020, <https://www.vol.at/flut-an-rassismusrwurfen-gegen-mohrenbrauerei/6651928>, (accessed 10 May 2023).

¹⁸³ Austrian Press Agency, 'Vorarlberger Mohrenbrauerei legt nach Logo Aufregung Social-Media-Accounts still', *Der Standard*, 22 June 2022, <https://www.derstandard.at/story/2000118243374/vorarlberger-mohrenbrauerei-legt-nach-logo-protest-social-media-accounts-still>, (accessed 03 May 2023).

¹⁸⁴ change.org, 'Mohrenbrauerei Dornbirn: Logo jetzt ändern!', 2020, <https://www.change.org/p/inhaber-heinz-huber-mohrenbrauerei-dornbirn-logo-jetzt-%C3%A4ndern?redirect=false>, (accessed 21 May 2023).

¹⁸⁵ Petitionen.com, 'Rettet das Mohrenbräu Logo', 2020, <https://www.petitionen.com/a/273737>, (accessed 21 May 2023).

¹⁸⁶ Austrian Press Agency, 'Offener Brief: Mohren will sich mit Logo auseinandersetzen', *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

6.2 Rebranding 2022

*M*bräu* presented a slight change to the logo and brand name on 8 March, 2022 (Figures 2 and 3).¹⁸⁷

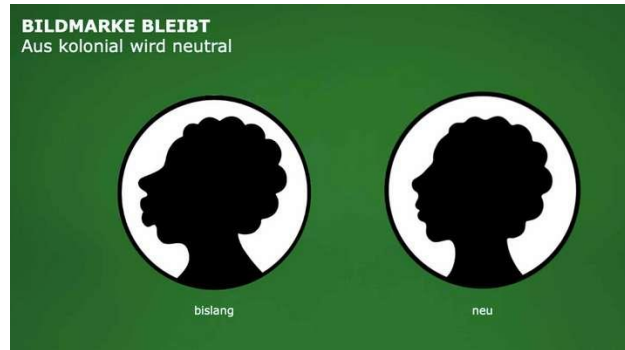


Figure 2: Poster used for the presentation of the new brand logo on 8 March, 2022, showing the old logo on the left and the new logo on the right with the title 'figurative mark stays the same' and subheading 'colonial becomes neutral'.¹⁸⁸



Figure 3: Picture showing full branding including company name (old branding on the left, new branding on the right).¹⁸⁹

The poster (Figure 2) was used to present the new logo in March 2022. The comparison of the logos shows how racial stereotypes like nose and lips were adapted. The subheading

¹⁸⁷ Austrian Press Agency, 'Mohrenbrauerei überarbeitet Logo nach Rassismuvorwürfen minimal', *Der Standard*, 8 March 2022, <https://www.derstandard.de/story/2000133927646/mohrenbrauerei-ueberarbeitet-ihr-logo-nach-rassismus-vorwuerven-minimal>, (accessed 03 May 2023)

¹⁸⁸ Derya Metzler, 'Mohrenbräu präsentiert minimal verändertes Logo', 09 March 2022, <https://www.falstaff.at/nd/mohrenbraeu-praesentiert-minimal-veraendertes-logo/>, (accessed 02 February 2023).

¹⁸⁹ Mohrenbrauerei, 'Eure Fragen von uns beantwortet', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

“colonial becomes neutral” acknowledges that the previous image reproduced colonial and racial stereotypes and was problematic. Furthermore, the brand name was changed from *M****** to *M*bräu* (Figure 3). The protesters saw the change of the racial stereotypes as a partial victory, with the use of the M-word in the brand name still being criticized as discriminatory.¹⁹⁰

The company stated that experts from the field of history and trademarks had been involved in the rebranding process. The CEO of *M*bräu* stated that most of the experts were positive towards the new logo and adjustment of the name. This was contested by some of the experts, claiming that the CEO only said this to please the public. Three of the experts openly criticized the rebranding, concluding that the logo is still racist and discriminatory.¹⁹¹

6.3 Formal Complaints

Complaints about the branding of *M*bräu* were raised to the Austrian Advertising Council (*Österreichischer Werberat*) in the year 2011,¹⁹² 2019,¹⁹³ 2020,¹⁹⁴ and 2022¹⁹⁵. The Advertising Council is a non-political organization consisting of different members of the economy. However, the Advertising Council did not see a reason to intervene in any of the complaints. The anonymous complaint from 2022, amongst others, states that

¹⁹⁰ Black Austria Info, ‘NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER’, 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

¹⁹¹ M. Gasser, ‘Das sagen involvierte Experten tatsächlich zum neuen Mohren-Logo’, *VOL.at*, 10 March 2022, <https://www.vol.at/das-sagen-involvierte-experten-tatsaechlich-zum-neuen-mohren-logo/7324219>, (accessed 03 May 2023).

¹⁹² Österreichischer Werberat, ‘Mohrenbrauerei Vorarlberg’, 27 September 2011, <https://www.werberat.at/beschwerdedetail.aspx?id=3028>, (accessed 10 May 2023).

¹⁹³ Österreichischer Werberat, ‘Mohrenbrauerei’, 24 August 2019, <https://www.werberat.at/beschwerdedetail.aspx?id=6065>, (accessed 10 May 2023).

¹⁹⁴ Österreichischer Werberat, ‘Mohrenbräu’, 25 June 2020, <https://www.werberat.at/beschwerdedetail.aspx?id=6387>, (accessed 10 May 2023); Österreichischer Werberat, ‘Mohrenbrauerei’, 22 June 2020, <https://www.werberat.at/beschwerdedetail.aspx?id=6378>, (accessed 10 May 2023); Österreichischer Werberat, ‘Rassistisches Logo (Biermarke)’, 23 June 2020, <https://www.werberat.at/beschwerdedetail.aspx?id=6380>, (accessed 10 May 2023).

¹⁹⁵ Österreichischer Werberat, ‘Mohrenbräu Spezial’, 21 March 2022, <https://www.werberat.at/verfahrendetail.aspx?id=3501>, (accessed 17 April 2023).

the company, as a market leader in the region Vorarlberg, should remember its corporate responsibility.¹⁹⁶

¹⁹⁶ Österreichischer Werberat, 'Mohrenbräu Spezial', 21 March 2022, <https://www.werberat.at/verfahrendetail.aspx?id=3501>, (accessed 17 April 2023).

7 Analysis

The analysis will first focus on the communication of the NO MOHR campaign and *M*bräu*. Thereafter, newspaper articles are analyzed to understand the discourses the company case is embedded in.

7.1 NO MOHR Campaign Statements

Grounds for this analysis are two articles published on Black Austria Info, one from 2012, as the protest logo was initiated and introduced, and one from 2022, as a reaction to the rebranding of the logo.

7.1.1 Statement Introducing the NO MOHR Logo and Campaign in 2012

The 2012 statement of the NO MOHR campaign marks four important topics. First, the statement claims that racial stereotyping is distributed through the brand logo. Second, the population has internalized the logo with a positive connotation and is, therefore, not aware of its problematic character. Third, the brand name is discriminatory and derogatory as it uses the M-word. And fourth, the company does not listen to activists and anti-racist organizations.¹⁹⁷

On a local level, the text strongly focuses on the region of Vorarlberg and its population. This can be observed through the text speaking to the population when stating that *M*bräu* held the population hostage for 83 years concerning the spread of racism.¹⁹⁸ The text connects the local context with the global context, i.e., the broader political context of Austria, as it directly addresses the population with the appeal to combat racism:

¹⁹⁷ Black Austria Info, 'NO MOHR: DAS NEUE PROTESTLOGO', 18 November 2012, <https://www.blackaustria.info/2012/11/18/no-mohr-das-neue-protest-logo/>, (accessed 25 March 2023).

¹⁹⁸ Black Austria Info, 'NO MOHR: DAS NEUE PROTESTLOGO', 18 November 2012, <https://www.blackaustria.info/2012/11/18/no-mohr-das-neue-protest-logo/>, (accessed 25 March 2023).

We want to appeal to the Austrian population to fight racism in the public sphere and to commit to the respectful treatment of citizens from all over the world who have found their homes in Austria. We believe that the current name M*Bräu and the company logo must be adapted to the realities of a modern, diverse, and tolerant society.¹⁹⁹

Linguistic choices like ‘fight racism in the public sphere’ follows the approach to engage the population in anti-racism. The text engages in an anti-racist discourse, which can be observed through repeatedly pointing to racism in the brand logo and using phrases like ‘racist stereotyping’ or ‘racist logo’. The shared ideologies of this group include anti-racism but also values such as a modern and tolerant society.

7.1.2 Statement on the Rebranding of *M*bräu* in 2022

The rebranding is addressed in the text on Black Austria Info written by Simon Inou and Mara Niang, the initiators of the NO MOHR campaign. Three main topics are identified in this discourse: The partial victory of the change of imagery in the logo, the use of the M-word in the brand name, and the future of the campaign.²⁰⁰

On a micro level, it can be seen that the text targets racist structures through statements like ‘The colonial and therefore the racist context of the logo, that we opposed for years, was acknowledged’.²⁰¹ Furthermore, the authors state that even though the founder was called Josef Mohr, ‘it is not a reason to use his name as a racist term that is placed in the

¹⁹⁹ Black Austria Info, ‘NO MOHR: DAS NEUE PROTESTLOGO’, 18 November 2012, <https://www.blackaustria.info/2012/11/18/no-mohr-das-neue-protest-logo/>, (accessed 25 March 2023).

²⁰⁰ Black Austria Info, ‘NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER’, 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

²⁰¹ Black Austria Info, ‘NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER’, 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

center of the logo'.²⁰² This is 'disrespectful' and shows that 'the company does not listen to the discriminated population'.²⁰³

The statement emphasizes that the fight against the logo will be continued on an international level, namely in global BLM networks in the USA, Canada, France and the United Kingdom. It is stated that further actions are discussed with civil society organizations that fight against the racist logo.²⁰⁴ Although the concrete actions are unclear, the statement shows a unified resistance against the racialized branding and an attempt to engage in a more systemic anti-racist discourse.

7.1.3 Summary of NO MOHR Discourse

The analysis of both statements reveals an explicit engagement with anti-racist discourse. This becomes clear through the censorship of the company name, which is also a form of resistance. The company name is always censored and spelled as *M*bräu* or *M*brauerei* (M-brewery). This shows a crucial form of resistance and is an important part of the discursive event. Furthermore, racism is addressed throughout the texts. This is a necessary strategy for anti-racism as racism is presupposed for engaging in anti-racist discourse.²⁰⁵

The discourse does not explicitly focus on human rights or the corporate responsibility to respect human rights addressed. Rather, it mentions the population that experiences discrimination. This is relevant from a BHR perspective as it highlights the stakeholders that are affected by the racialized branding adopted by the company.

²⁰² Black Austria Info, 'NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER', 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

²⁰³ Black Austria Info, 'NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER', 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

²⁰⁴ Black Austria Info, 'NEUES LOGO DER M*BRAUEREI: ETAPPENSIEG FÜR KRITIKER', 2022, <https://www.blackaustria.info/2022/03/08/neues-logo-der-mbrauerei-etappensieg-fuer-kritiker/>, (accessed 11 April 2023).

²⁰⁵ T. A. van Dijk, *Antiracist Discourse*, p. 2.

7.2 *M*bräu*

The first statement analyzed is an open letter press release sent by the company in 2020 concerning the decision of the company to go into an open-ended process to evaluate if the logo can be developed further. This open letter is found in a newspaper article.

After the rebranding in 2022, the company also addressed the rebranding process and the new logo on the website. Statements about the issue can be found in different sections on the website. The analysis is focused on the section on the company's history, the FAQs regarding the new branding, and the section on what the company stands for, i.e., its values.

7.2.1 *M*bräu's* Open Letter Introducing the Rebranding Process in 2020

On a macrolevel, the letter carries three main messages. The intensity of the debate about the branding concerned the company and its employees. The company does not want to be accused of racism or xenophobic beliefs, as it stands for tolerance and wants to bring people together. And lastly, the company communicates that it will go into a process of deciding together with experts whether the logo will be changed or not.²⁰⁶ This already shows how the company seems to find itself in the middle of two parties, namely the people who criticized the branding and demanded change and the customers that declared that the company should keep the logo. The company states that its values would not correspond with the values from both parties shared in the heated debate about the branding.²⁰⁷ Instead, the company mentions its values throughout the text.

²⁰⁶ Austrian Press Agency, 'Offener Brief: Mohren will sich mit Logo auseinandersetzen', *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

²⁰⁷ Austrian Press Agency, 'Offener Brief: Mohren will sich mit Logo auseinandersetzen', *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

Tolerance is a key word used to resist the accusation of racism. This works together with a positive self-presentation in the discursive strategy to deny racism. It can be seen in the following statement:

We do not allow ourselves to be accused of racism, nor do we allow ourselves to be taken over by people with xenophobic attitudes. We stand for tolerance.
We brew beer for people of all cultures that are living in Vorarlberg.²⁰⁸

The positive self-presentation consists of drawing a clear line against xenophobia and racism, as the company does not want to belong to the group that is against the branding, i.e., people who accuse the company of racism. Nor does it want to belong to the strong believers of the logo that might have racist or xenophobic beliefs and share them in the debate to defend the company logo saying it should stay as it was. The company places itself again in the middle of the two parties, making the company itself appear as neutral. This is reinforced through other linguistic choices, such as saying that drinking beer connects people and brings respect and understanding for each other.²⁰⁹

Regarding the rebranding, specifically, two values are mentioned as the base for the rebranding process, namely tradition and innovation. Those values are stated as the basis of the company culture, shaping the perspective the company will go into the rebranding process. These two values could be seen as a choice to please both parties. Tradition is important for customers that believe the logo should stay, and innovation is important for the critics.

Lastly, the company states that it acts with responsibility.²¹⁰ The responsibility addressed can, however, not be understood as a corporate responsibility to respect human rights.

²⁰⁸ Austrian Press Agency, 'Offener Brief: Mohren will sich mit Logo auseinandersetzen', *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

²⁰⁹ Austrian Press Agency, 'Offener Brief: Mohren will sich mit Logo auseinandersetzen', *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

²¹⁰ Austrian Press Agency, 'Offener Brief: Mohren will sich mit Logo auseinandersetzen', *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

Rather the company states a responsibility it has for the company, its employees and their families, for its suppliers and customers.²¹¹

7.2.2 *M*bräu's* Statements on the Rebranding on Website 2022

On a macrolevel, the company does not only address the rebranding process as a process to eliminate racist connotations to the racialized branding but generalizes it to a process of finding the core values of the company.²¹² This leads to a positive self-presentation as it seems that the company took the time to find its core values and not or not only work on changing the brand logo. This can be seen through various statements like ‘the process went far beyond the design of the logo’ or ‘we have once again become more aware of what we stand for’.²¹³

As in the statement from 2020, values are of great importance throughout the sections on the website. This is reinforced through an illustrated statement on the website (Figure 4).



Figure 4: Screenshot from company’s website stating “These values - regionality, quality, innovation and tradition - are the essential pillars of the [M*brewery]”,²¹⁴

²¹¹ Austrian Press Agency, ‘Offener Brief: Mohren will sich mit Logo auseinandersetzen’, *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

²¹² Mohrenbrauerei, ‘Eure Fragen von uns beantwortet’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²¹³ Mohrenbrauerei, ‘Eure Fragen von uns beantwortet’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²¹⁴ Mohrenbrauerei, ‘Eure Fragen von uns beantwortet’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

Regionality is strongly connected to the company's success in the market of the Vorarlberg region, which the company leads despite all criticism.²¹⁵ The company is strengthening its market leadership by mentioning several times that *M*bräu* is 'the regional beer of Vorarlberg'.²¹⁶

One main theme throughout the company's communication is the value of tradition. First, it is used in connection to the company logo. It is mentioned that the logo has been the same ever since Johann Mohr founded the brewery.²¹⁷ The founder finds great appreciation and is specifically thanked in the history section on the website because, without him, the company would not exist. Without the founder, the brand logo would also not exist. Second, tradition is closely connected to history to show how long the company existed and kept its tradition. The company states the following:

Since there are few companies that are as old as [M*bräu] and have survived generations and eras, we have been able to learn for 250 years. For example, that well-meant does not necessarily have to be good. And about how unintentional irritation emerges when associations with racism arise in the portrayal of our family patron.²¹⁸

This statement refers to Saint Maurice, who is allegedly portrayed in the family coat of arms of Johann Mohr. However, there is some uncertainty regarding the accuracy of this assertion.²¹⁹ The lexical choice of the word 'unintentional' plays an important role in situating the company in the context of the debate as it takes on an allegedly innocent

²¹⁵ VOL.at, '1000. Sud: Rekordjahr bei der Mohrenbrauerei', 22 December 2022, <https://www.vol.at/1000-sud-rekordjahr-bei-der-mohrenbrauerei/7812460>, (accessed 06 May 2023).

²¹⁶ Mohrenbrauerei, 'Eure Fragen von uns beantwortet', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²¹⁷ Mohrenbrauerei, 'Unsere Geschichte', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/die-geschichte/>, (accessed 03 April 2023).

²¹⁸ Mohrenbrauerei, 'Dafür stehen wir als Familie und als Mensch', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

²¹⁹ Mohrenbrauerei, 'Unsere Geschichte', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/die-geschichte/>, (accessed 03 April 2023).

position and leads to a positive self-presentation. It also makes the company appear as a passive actor. The specific choice of the word ‘unintentional’ is crucial in placing the company within the debate. It makes the company appear as innocent, promoting a positive self-image while also seeming like a passive participant in the debate.

A positive self-presentation can also be seen with regard to the rebranding process. The company states that ‘throughout the past years, we have listened a lot and took the time to reflect our position critically’.²²⁰ Furthermore, the company positions itself in the context of the debate. ‘Some things that were suggested to us have been implemented. Others, however, were not.’²²¹ This is supported through emotions when the company states that it had to ‘disappoint expectations’ although ‘the arguments were well meant’.²²² Through this, the company shows its dominance as it can decide which expectations are disappointed. It also does not acknowledge that the branding is connected to or even reproducing racism, as it sees anti-racist efforts merely as arguments.

Dominance is further demonstrated through the denial of racism. The company positions itself clearly, stating that ‘Racism or discrimination, in whatever form, had and will continue to have no place in our actions. This is what we stand for as a family, as a company, and as people’.²²³ Looking at this statement through CRT and a BHR perspective shows that active anti-racist actions are missing. If racism is understood as the norm that society is built on, it needs concrete actions on how racism is prevented and mitigated. Merely stating that racism has no place in the company’s actions does not show

²²⁰ Mohrenbrauerei, ‘Dafür stehen wir als Familie und als Mensch’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

²²¹ Mohrenbrauerei, ‘Dafür stehen wir als Familie und als Mensch’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

²²² Mohrenbrauerei, ‘Dafür stehen wir als Familie und als Mensch’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

²²³ Mohrenbrauerei, ‘Dafür stehen wir als Familie und als Mensch’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

which anti-racist approaches are taken. The company statement is reinforced by a sign on the website (Figure 5).



Figure 5: Screenshot from company’s website with heading “We are color-blind. We have always been.”²²⁴

The sign stating ‘we are color-blind’ is problematic when analyzed through CRT, as not seeing color is indeed a main factor for racism in society.²²⁵ The statement is furthermore promoting a positive self-presentation and creating a common bond between all consumers of the *M*bräu* beer by emphasizing that everyone is welcome as customers. This is reinforced through the statement, ‘all of us together are [M*bräu]’²²⁶ (Figure 5).

Responsibility

The company refers to responsibility in connection to values, although it is not mentioned as a core value. This statement acknowledges that responsibility extends beyond internal accountability for employees and also encompasses external factors such as the population. The website states: ‘We take on responsibility for our beautiful country and

²²⁴ Mohrenbrauerei, ‘Dafür stehen wir als Familie und als Mensch’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

²²⁵ R. Delgado and J. Stefancic, *Critical Race Theory*, p. 8.

²²⁶ Mohrenbrauerei, ‘Dafür stehen wir als Familie und als Mensch’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/wir-alle-sind-mohrenbraeu/>, (accessed 07 May 2023).

for the people that work and live here'.²²⁷ The company states that it is taking on responsibility through various actions. First, through sponsoring local sports, cultural organizations, or social projects. Second, through the work with local suppliers, and last, through investment into the protection of the environment.²²⁸ This form of responsibility is closely related to the concept of CSR and a company's voluntary initiatives to do good in society.²²⁹ The corporate responsibility to respect human rights as described in the UNGPs, is not mentioned throughout the company's communication.

Apart from this statement, responsibility is used several times. However, its meaning is often vague. For example, the company states: 'We are aware of our sensibility and responsibility which are connected with the trademark' or 'we act responsibly and produce a high-quality, regional and sustainable product'.²³⁰ The responsibility connected to the trademark seems to be acknowledged. Nonetheless, it is unclear how such a responsibility plays out in practice.

7.2.3 Summary of *M*bräu* Discourse

It could be seen that through the communication of the company, the company is denying racism through various statements. This leads to the demonstration of power over the resisting group.²³¹ The denial of racism is problematic as it can also lead to the denial of discriminatory experiences that marginalized groups encounter.²³² However, the evaluation of the impact on marginalized groups would be needed for an anti-racist approach that could mitigate the adverse impact.²³³ Corporate responsibility as

²²⁷ Mohrenbrauerei, 'Eure Fragen von uns beantwortet', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²²⁸ Mohrenbrauerei, 'Eure Fragen von uns beantwortet', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²²⁹ A. Ramasastry, 'Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability', pp. 237–238.

²³⁰ Mohrenbrauerei, 'Eure Fragen von uns beantwortet', 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²³¹ T. A. van Dijk, 'Discourse and the denial of racism', p. 96.

²³² R. Delgado and J. Stefancic, *Critical Race Theory*, p. 27.

²³³ E. George, 'Racism as a Human Rights Risk: Reconsidering the Corporate 'Responsibility to Respect' Rights', p. 582.

understood by the UNGPs is not considered in any statement of the company. Moreover, the company does not explain if and how human rights due diligence is conducted.

Furthermore, tradition and regionality as core values seem arguably to be important factors for the company why the new brand logo was only slightly adapted. The company focuses on tradition and regionality to reinforce its dominance in the market. Interestingly, the company admits that the logo before the rebranding ‘showed colonial and discriminatory traces that through the rebranding became neutral’.²³⁴ However, racism is not admitted, neither in the logo nor in the name. Furthermore, the M-word is not discussed on the company’s website. The main focus is on the brand logo.

The analysis of the company’s communication shows that the overarching themes are values and the denial of racism. This could be seen in both the statement in 2020 and the current statements on the website. The company used similar arguments in both years, for example, by stating the company’s value of tradition to neglect racism. Partly the linguistics has not changed at all, as seen in a statement used in 2020 and 2022. The statement in 2020 declared: ‘Neither do we want to be accused of racism, nor do we want to be taken over by people with xenophobic attitudes’.²³⁵ In 2022 this sentence is still used with a slight change stating ‘Neither can and do we want to be accused of racism, nor do we allow ourselves to be taken over by people with xenophobic attitudes’.²³⁶

7.3 Newspapers

The topics of the newspaper discourse can be found in headlines or subheadings.²³⁷ These state the terms racism, ‘racism-debate’ or ‘racism accusations’. Headlines also target the use of the M-word or the NAP against discrimination. Even if the headline targets another

²³⁴ Mohrenbrauerei, ‘Eure Fragen von uns beantwortet’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²³⁵ Austrian Press Agency, ‘Offener Brief: Mohren will sich mit Logo auseinandersetzen’, *VOL.at*, 24 June 2020, <https://www.vol.at/offener-brief-mohren-will-sich-mit-logo-auseinandersetzen/6656790>, (accessed 07 May 2023).

²³⁶ Mohrenbrauerei, ‘Eure Fragen von uns beantwortet’, 2021, <https://www.mohrenbrauerei.at/die-mohrenbrauerei/wir-sind-mohrenbraeu/noch-fragen/>, (accessed 07 May 2023).

²³⁷ T. A. van Dijk, ‘Media contents’, *The interdisciplinary study of news as discourse*, p. 113.

topic than the racialized branding, *M*bräu* is always mentioned in connection to racism in the articles.

Out of the six articles that directly targeted the racialized branding, one was an interview presenting a historian's opinion on the new branding.²³⁸ The remaining five articles were analyzed in terms of access to the discourse. The perspective of *M*bräu* was presented by the CEO, whose opinion was mainly cited as a direct statement. On the other hand, only one article portrayed the opinion of two BLM activists in the region of Vorarlberg.²³⁹ The NO MOHR campaign was not mentioned in any of the articles. One article mentioned an alternative logo that was invented by a graphic designer and looks similar to the NO MOHR protest sign, depicting a tree. The article states that the published logo by the graphic designer was the reason for the heated debate about the logo.²⁴⁰ While this might be true, the BLM movement and the NO MOHR protest logo were not mentioned for further context.

The micro level analysis shows that tradition is a main keyword throughout the articles. The company strongly focuses on tradition as a core value, for example, by stating already in 2020 that the company decided that the logo should be maintained in its traditional illustration.²⁴¹ A statement that ‘the company stands with its tradition but distances itself clearly from racism’ is repeated in both newspapers.²⁴² The company’s focus on tradition is also influencing how newspapers speak about *M*bräu*, for example, *Kronen Zeitung*

²³⁸ Vorarlberg-Krone, ‘„Das ist keine mutige Lösung“’, *Kronen Zeitung*, 10 March 2022, <https://www.krone.at/2650379>, (accessed 03 May 2023).

²³⁹ Kronen Zeitung, ‘Streit um Mohren-Logo: Brauerei legt Account still’, *Kronen Zeitung*, 23 June 2020, <https://www.krone.at/2178185>, (accessed 03 May 2023).

²⁴⁰ Austrian Press Agency, ‘Vorarlberger Mohrenbrauerei legt nach Logo Aufregung Social-Media-Accounts still’, *Der Standard*, 22 June 2022, <https://www.derstandard.at/story/2000118243374/vorarlberger-mohrenbrauerei-legt-nach-logo-protest-social-media-accounts-still>, (accessed 03 May 2023).

²⁴¹ Austrian Press Agency, ‘Vorarlberger Mohrenbrauerei legt nach Logo Aufregung Social-Media-Accounts still’, *Der Standard*, 22 June 2022, <https://www.derstandard.at/story/2000118243374/vorarlberger-mohrenbrauerei-legt-nach-logo-protest-social-media-accounts-still>, (accessed 03 May 2023).

²⁴² Austrian Press Agency, ‘Mohrenbrauerei überarbeitet Logo nach Rassismuvorwürfen minimal’, *Der Standard*, 8 March 2022, <https://www.derstandard.de/story/2000133927646/mohrenbrauerei-ueberarbeitet-ih-er-logo-nach-rassismus-vorwu-erfen-minimal>, (accessed 03 May 2023); Kronen Zeitung, ‘Mohrenbräu: Neues Logo fast wie das alte’, *Kronen Zeitung*, 8 March 2022, <https://www.krone.at/2648675>, (accessed 03 May 2023).

states that the ‘official logo of the traditional company of Vorarlberg shows a M*. It is 220 years old and still leads to heated debates’.²⁴³ Tradition is also discussed in the interview with a historian who states that the company might not have understood that old thought patterns are not necessarily good.²⁴⁴ Moreover, a BLM activist is cited in an article questioning if it is worth being traditional when others feel discriminated against by it.²⁴⁵ The company also situates itself in between the two opinions, as has already been seen from the statements on the company’s website. Both newspapers cite the company’s statements saying ‘we can never please everyone’ and ‘that there will always be discussions. One thinks it is too much [of a change], one thinks it is too little’.²⁴⁶

Regarding the newspaper articles that do not directly target the company name, it can be seen that *M*bräu* is often connected to the discussion about the M-word, often mentioned in specific product names used in the food industry. Such terms were and partly still are commonly used in Austria, such as *M* im Hemd* (literal translation M* in a shirt), which is a name used for a chocolate lava cake.

Although racism in street and food names is not the main focus of this research, it should be noted that the M-word is grounds for discussions in various newspaper articles primarily seen in the *Kronen Zeitung*. Such articles do not go without mentioning the company case addressed in this research. This points to a core issue of the case, namely the use of the M-word in the company name. The M-word is used to polarize in the news. For example, the *Kronen Zeitung* states that ‘politically correct people’ would not like the

²⁴³ Kronen Zeitung, ‘Streit um Mohren-Logo: Brauerei legt Account still’, *Kronen Zeitung*, 23 June 2020, <https://www.krone.at/2178185>, (accessed 03 May 2023).

²⁴⁴ Vorarlberg-Krone, ‘„Das ist keine mutige Lösung“’, *Kronen Zeitung*, 10 March 2022, <https://www.krone.at/2650379>, (accessed 03 May 2023).

²⁴⁵ L. Hagen, ‘Nach verbrannten Regenbogenfahnen soll Aktionsplan Diskriminierung stoppen’, *Der Standard*, 23 April 2021, <https://www.derstandard.de/story/2000126087587/nach-verbrannten-regenbogenfahnen-soll-aktionsplan-diskriminierung-stoppen>, (accessed 03 May 2023).

²⁴⁶ Kronen Zeitung, ‘Mohrenbräu: Neues Logo fast wie das alte’, *Kronen Zeitung*, 8 March 2022, <https://www.krone.at/2648675>, (accessed 03 May 2023); Austrian Press Agency, ‘Mohrenbrauerei überarbeitet Logo nach Rassismusrwürfen minimal’, *Der Standard*, 8 March 2022, <https://www.derstandard.de/story/2000133927646/mohrenbrauerei-ueberarbeitet-ihr-logo-nach-rassismus-vorwurfen-minimal>, (accessed 03 May 2023).

term.²⁴⁷ Thereby, the newspaper connects the critique of the M-word in branding, street- or dish names with being politically correct. It creates two groups in society, those who are politically correct and those who are not. The meaning of political correctness depends on speaking positions and ideologies.²⁴⁸ In this sense, it can be interpreted as something negative as the newspaper refers to the ‘racism debate about food labeling that was brought to us through the BLM movement in the US’.²⁴⁹ Political correctness is, therefore, something foreign that was brought to Austria. This is reinforced by using ‘us’ when speaking about Austria.

Lastly, one article connects the company case with the Action Plan against discrimination²⁵⁰. Due to the burning of rainbow flags in the Vorarlberg region, the local government suggested an Action Plan against discrimination in the region of Vorarlberg. This should help to make it easier for discriminated groups to access complaints and seek remedies. A politician pointed out that laws and Action Plans are not always effective. Instead, raising awareness is highly important to make discrimination visible and understood.²⁵¹ Regarding *M*bräu*, the article states, ‘Many fans of the brewery see criticism of the logo as criticism of themselves. Nevertheless, many people in the region feel discriminated against by the logo’.²⁵² This shows the polarization of the company logo and its value for the region. The importance of public awareness of discrimination further leads to the importance of a common human rights understanding which might be

²⁴⁷ Kronen Zeitung, ‘Neuer Name auch für die beliebten Zigeunerräder’, *Kronen Zeitung*, 15 August 2020, <https://www.krone.at/2211483>, (accessed 03 May 2023).

²⁴⁸ S. Arndt and N. Ofoatey-Alazard (eds.), *Wie Rassismus aus Wörtern spricht, (K)Erben des Kolonialismus im Wissensarchiv deutsche Sprache. Ein kritisches Nachschlagewerk*, p. 497.

²⁴⁹ Kronen Zeitung, ‘Neuer Name auch für die beliebten Zigeunerräder’, *Kronen Zeitung*, 15 August 2020, <https://www.krone.at/2211483>, (accessed 03 May 2023).

²⁵⁰ L. Hagen, ‘Nach verbrannten Regenbogenfahnen soll Aktionsplan Diskriminierung stoppen’, *Der Standard*, 23 April 2021, <https://www.derstandard.de/story/2000126087587/nach-verbrannten-regenbogenfahnen-soll-aktionsplan-diskriminierung-stoppen>, (accessed 03 May 2023).

²⁵¹ L. Hagen, ‘Nach verbrannten Regenbogenfahnen soll Aktionsplan Diskriminierung stoppen’, *Der Standard*, 23 April 2021, <https://www.derstandard.de/story/2000126087587/nach-verbrannten-regenbogenfahnen-soll-aktionsplan-diskriminierung-stoppen>, (accessed 03 May 2023).

²⁵² L. Hagen, ‘Nach verbrannten Regenbogenfahnen soll Aktionsplan Diskriminierung stoppen’, *Der Standard*, 23 April 2021, <https://www.derstandard.de/story/2000126087587/nach-verbrannten-regenbogenfahnen-soll-aktionsplan-diskriminierung-stoppen>, (accessed 03 May 2023).

lacking in the region and the broader context of Austria, as a NAP on human rights and discrimination is missing.

The analysis shows that racism is certainly a macrostructure used in connection with the case of *M*bräu*. The case is embedded in a broader field of discourse on discriminatory words. Overall, a local level analysis shows that the choice of language is important for the discourse. As none of the authors of the newspapers decided to censor the M-word or the brewery's name, racist discourse is reproduced. Stating censored terms would contribute to anti-racist discourse and would be needed for anti-racism to become systemic. The censored terms would be inscribed as mental models in people's memory that lead to more awareness of anti-racism.²⁵³

The case is not clearly connected to human rights language in the analyzed newspaper articles. Implicitly, newspapers target human rights by speaking about discrimination that is present in the branding. Non-discrimination as a human right is, however, not specifically mentioned. Furthermore, corporate responsibility is not targeted in the whole discourse. If the company case is critiqued, it is through mentioning the BLM Movement. Lastly, the state, as an important actor in the BHR field, is only addressed in one article mentioning the NAP against discrimination. This shows that the case is mostly discussed on a local level and only finds little connection to the political context of Austria.

²⁵³ T. A. van Dijk, *Antiracist Discourse*.

8 Discussion

This chapter discusses the findings of the analysis together with the presented literature and connects the analysis from the local level to the global, i.e., the political and human rights context of Austria, while considering a BHR perspective.

The analysis reveals that the main discursive strategy of the company is to strengthen the importance of values such as tradition and regionality to position itself against the critique of being racist. As a consequence, the company is failing to fulfill its corporate responsibility to respect the right to non-discrimination, especially on the grounds of race, which confirms Veresiu's arguments regarding companies' failure to address the responsibility for negative impacts on marginalized groups.²⁵⁴ As established, the company was made aware of the human rights risk through the NO MOHR campaign already in 2012. The claims were further reinforced by Austria's BLM movement in 2020. This longstanding resistance against the racialized branding constitutes a considerable risk of adverse impact on the human right to non-discrimination.

The strategy to deny racism links to George's statement on anti-racist business approaches, saying that "Rather than active antiracism efforts, many corporations appear to be engaged in 'defensive diversity' to pre-empt accusations of prejudice."²⁵⁵ This is precisely seen in this study, where the communication is mainly focused on emphasizing values such as tradition, denying racism, and even engaging in critical racist concepts such as color-blindness. These strategies are not following an anti-racist approach and as Savage states, being 'not racist' is not enough.²⁵⁶

²⁵⁴ E. Veresiu, 'Delegitimizing Racialized Brands', p. 65.

²⁵⁵ E. George, 'Racism as a Human Rights Risk: Reconsidering the Corporate 'Responsibility to Respect' Rights', p. 582.

²⁵⁶ A. L. Savage, 'Aunt Jemima's Resignation Letter', p. 206.

Although *M*bräu* acknowledges a colonial and discriminatory connection to the brand logo from before 2022, racism is denied through several statements on the website. This finding can be further understood through Scherschel's as well as Wodak and Reisigl's studies on racism in Germany and Austria. As established by the authors, the term race (*Rasse*) and, subsequently, the term racism (*Rassismus*) are closely connected to nazi-ideologies in these German-speaking countries. Hence, the denial of racism can be understood as an active effort by the company to distance itself from nazi-ideologies. This could explain why the company addresses discrimination and colonialism but does not acknowledge the branding to be racist. Scherschel's, Wodak and Reisigl's research, together with the presented case, could further lead to the argument that racism is a specific human rights risk for companies in Austria and possibly Germany. The countries' history could be detrimental to contemporary efforts to address racism.

Moreover, Hinrichsen's research showed that the notion of tradition is often used to justify racialized brands by the legal system, for example, in trademark law. Likewise, the company's strategy focuses on tradition as a core value. This strategy could have been reinforced by institutions such as the Austrian Advertising Council that confirm the brand as traditional.²⁵⁷ Furthermore, this study confirms the findings of Hinrichsen, stating that Black people in brand logos were, throughout history, represented in an allegedly positive way while at the same time, Black people in society were portrayed as threatening.²⁵⁸ The positive representation of the Black person in the brand logo of *M*bräu* follows the same strategy when mentioning that the person is supposedly representing Saint Maurice. While the historical context of Saint Maurice is proudly presented on the company's website, the discrimination against Black people in society remains unmentioned.

Understanding the *M*bräu* case through a broader societal perspective can show that the case might say little about the company itself but more about the society the case is embedded in. The company has a high market share in the province Vorarlberg and is

²⁵⁷ See Österreichischer Werberat, 'Mohrenbrauerei', 24 August 2019, <https://www.werberat.at/beschwerdedetail.aspx?id=6065>, (accessed 10 May 2023).

²⁵⁸ M. Hinrichsen, 'Racist Trademarks and the Persistence of Commodity Racism in Europe and the United States', pp. 136–137.

perceived as part of the tradition in the region. As a newspaper article stated, many fans of the brewery see criticism of the logo as criticism of themselves.²⁵⁹ The company might fear that radically changing the logo could influence the customer's opinions and buying behavior. This aligns with Savage's research regarding companies' predominant focus on economic growth.²⁶⁰ Here, an important factor, namely the consumers, comes in. Gerhardt's study found that the values of consumers have an important role in the legitimization of brands and their strategies.²⁶¹ As the consumers of *M*bräu's* beer perceive the brand as a tradition, the company reinforces the value of tradition in their communication. This discourse on tradition is further picked up by newspapers. Through this longstanding discourse, the company and tradition seemingly become one.

On the other hand, tradition is contested by the NO MOHR campaign and Austria's BLM movement. As a newspaper article stated, a protestor from this movement questioned if it is worth being traditional when others feel discriminated against.²⁶² Overall, this study revealed that anti-racist voices are not dominant nor receive widespread recognition in the newspapers. Though the claims from the side of the NO MOHR campaign are clear and were supported by the BLM movement, they are not represented in the newspapers. Based on the newspaper analysis conducted in this research, it appears that *M*bräu* is dominating the discourse.

Gerhardt's, as well as Aoun's research, showed that social justice movements could influence the public sphere and challenge values in society.²⁶³ While this is proven true in countries such as the US, I want to argue otherwise for the case of Austria. Based on this case study, it can be seen that relying solely on public pressure may not be sufficient

²⁵⁹ L. Hagen, 'Nach verbrannten Regenbogenfahnen soll Aktionsplan Diskriminierung stoppen', *Der Standard*, 23 April 2021, <https://www.derstandard.de/story/2000126087587/nach-verbrannten-regenbogenfahnen-soll-aktionsplan-diskriminierung-stoppen>, (accessed 03 May 2023).

²⁶⁰ A. L. Savage, 'Aunt Jemima's Resignation Letter', pp. 196–197.

²⁶¹ D. R. Gerhardt, 'The Last Breakfast with Aunt Jemima and Its Impact on Trademark Theory', p. 262.

²⁶² L. Hagen, 'Nach verbrannten Regenbogenfahnen soll Aktionsplan Diskriminierung stoppen', *Der Standard*, 23 April 2021, <https://www.derstandard.de/story/2000126087587/nach-verbrannten-regenbogenfahnen-soll-aktionsplan-diskriminierung-stoppen>, (accessed 03 May 2023).

²⁶³ D. R. Gerhardt, 'The Last Breakfast with Aunt Jemima and Its Impact on Trademark Theory', p. 261; F. J. G. Aoun, 'The Belated Awakening of the Public Sphere to Racist Branding and Racist Stereotypes in Trademarks', p. 669.

to prompt a company to undergo a rebranding. It seems that other normative measures are needed to create a positive incentive for companies to adopt an anti-racist approach.

Understanding the case from a BHR perspective, the international standard laid out by the UNGPs provides such a normative framework that can lead companies to adopt an anti-racist approach. The missing communication from *M*bräu* on how the company prevents and mitigates the adverse impact on non-discrimination on the grounds of race shows that no human rights due diligence and impact assessment was conducted. Through the ongoing critique of the racialized branding by the NO MOHR campaign, the BLM movement and the support of civil society, the adverse impact on the marginalized group was made clear throughout the year. Therefore, *M*bräu* is aware of the severe risk and should, according to the UNGPs, conduct human rights due diligence to prevent and mitigate the impact.

Furthermore, the UNGPs target the state as a major actor in the BHR field. Austria has not implemented the UNGPs on a state level and has not established any expectations for businesses regarding human rights, as a NAP on BHR is not established yet. This has been criticized by The Austrian Network on Social Responsibility of Corporations (*Netzwerk Soziale Verantwortung*) for many years.²⁶⁴ The lack of normative guidelines can have implications for *M*bräu*'s actions, as the company is not encouraged to conduct human rights due diligence. It might influence the company's discursive strategies and communication on the respect of human rights, such as denying racism. The denial of racism on a local level can also be connected to the broader political context.²⁶⁵ The increasingly xenophobic political discourse²⁶⁶ can influence the local context and the discourse in the case of *M*bräu*.

²⁶⁴ Netzwerk Soziale Verantwortung (NeSoVe), *Menschenrechte ohne Grenzen, Menschenrechtliche Unternehmensverantwortung bei Auslandsaktivitäten – eine Einführung*, 2016, p. 12.

²⁶⁵ T. A. van Dijk, 'Discourse and the denial of racism', p. 96.

²⁶⁶ European Commission against Racism and Intolerance, *ECRI REPORT ON AUSTRIA, Sixth monitoring cycle*, 02 June 2020, p. 7.

9 Conclusion

Based on the analysis of the discourse on the racialized branding of *M*bräu*, this chapter summarizes the findings of this research and answers the research questions. The following research questions were posed: What does the discourse on the racialized branding of *M*bräu* reveal about the responsibility of the state and business in Austria's BHR field? Which implications does this have on Austria's civil society?

The case study brought several findings regarding the BHR field in Austria. First, the analysis of the *M*bräu* case demonstrates that Austria's BHR field lacks practical implementations of the UNGPs on a state and business level. As outlined in the UNGPs, states are responsible for protecting individuals from adverse human rights impacts by businesses. In the case of Austria, companies might not be encouraged to respect human rights if the state is absent in creating efficient policies, such as a NAP on BHR. Although it is unclear if a NAP on BHR would have changed the company's action, it could positively contribute to the BHR field and "promote business respect for human rights including through due diligence processes and corporate measures to allow for access to remedy"²⁶⁷. Engaging civil society organizations to establish a NAP, as suggested by the UN Working Group on BHR,²⁶⁸ would further create awareness within society about the issue and possibly strengthen awareness of problematic racialized branding.

Second, this study demonstrates the complexity of the BHR field as it can be caught between profit and human rights, or in the *M*bräu* case, between tradition and human rights. Anti-racist business approaches might not be profitable for *M*bräu* as consumers emphasize traditional values, leading the company to maintain the logo. However, the UNGPs, as an international standard, clearly state the importance of human rights due diligence for businesses. On the basis of the analysis of the company's communication,

²⁶⁷ UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, 2016.

²⁶⁸ UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, 2016, p. 4.

this study argues that *M*bräu* is failing to respect the human right to non-discrimination, specifically on the ground of race, as it did not mitigate the adverse impact sufficiently. This finding is reinforced by the ongoing resistance by the NO MOHR group, that still criticizes the branding as being discriminatory.

The unfulfilled responsibilities of the state and the business have two implications for civil society. First, civil society cannot rely on a BHR framework, such as a NAP, provided by the state to demand the company to respect human rights. The missing NAP could explain why civil society and newspapers do not engage in this case from a BHR perspective, which has been pointed out through this study's analysis of the discourse of the NO MOHR campaign and newspapers. Second, due to the lack of human rights due diligence the racialized branding continues to be a reality, discriminating against marginalized groups in society and contributing to structural racism in Austria.

In the future, corporate responsibility to respect human rights will be enhanced through other international regulations, such as the EU CSDDD, introducing mandatory human rights due diligence. Although this Directive might not immediately affect small companies such as *M*bräu*, it can lead to a shift in corporate action and awareness by the general public. Perhaps, the shift of values in society and the growing developments in the BHR field could push small companies such as *M*bräu* to engage in anti-racist business approaches in the future. It is left for future research to evaluate which effects new regulations in the BHR field will have on corporate actions and, specifically, racialized branding by companies in Austria. Considering the ongoing development of the BHR field, future research could investigate how discourses by companies and civil society will change once the EU CSDDD is adopted or a NAP on BHR is established by the Austrian state.

To sum up, this study contributes to the research field of BHR and racism, specifically racialized branding, by showing that the UNGPs have the potential to address racialized branding as an adverse impact on the right to non-discrimination. Besides the overall respect of human rights that is enhanced by the UNGPs, these Principles provide a valuable framework for anti-racist business strategies. On the state level, the UNGPs lay

the ground for effective policies mostly operationalized through a NAP. While racism constitutes a risk for different company actions, such as in hiring or promotional practices, this study shows that branding should be considered in human rights due diligence as it can lead to discrimination and racism in society.

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