

**Amnesty International's
Recommendations to Governments
for the World Conference Against Racism,
Racial Discrimination, Xenophobia
and Related Intolerance**

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Racism as a global phenomenon

In just 100 days up to a million people were slaughtered in one country largely because of racism. The place was Rwanda. The year was 1994. The vast majority of the victims were Tutsi, killed by Hutus who for generations had lived by side-by-side with Tutsis in relative harmony.

The genocide in Rwanda showed just how quickly racism -- in the form of ethnic hatred -- can erupt into bloodshed and despair, particularly when it is fuelled by those in power or those seeking power. It also showed the devastating consequences when the state and the international community fail to act to stop racism. Rwanda should serve as a stark reminder to us all that racism, in whatever form it takes, must be combated whenever it raises its ugly head as it inevitably leads to violations of human rights.

Racism is an attack on the very notion of human rights. It systematically denies certain people their full human rights just because of their race, colour, descent, ethnicity, caste or national origin. It is an assault on the fundamental principle underlying the Universal Declaration of Human Rights (UDHR) -- that human rights are everyone's birthright and apply to all without distinction.

The right not to suffer racial discrimination is one of the most fundamental principles of international human rights law. The principle appears in virtually every major human rights instrument as well as in the UN Charter. Indeed, one of the main purposes of the UN is to "achieve international cooperation... in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion" (UN Charter, Article 1, para 3).

And yet racial discrimination persists in every society. Around the world people continue to suffer human rights violations simply because of their racial identity. Some have been victims of genocidal onslaughts. Some have suffered "ethnic cleansing". Some have had their land stolen and been thrown into destitution.

As the concept of race has no biological basis, racial categories are inevitably arbitrary and are often used for political ends. Moreover, the meaning of race and the expression of racism change over time and across continents. Racism may be used by those in power to divide and rule, or may be an expression of alienation and despair among the powerless, including victims of racism.

Racism manifests itself in different ways according to the nature of the society. However, racism is invariably linked to broad economic and social issues, such as poverty and lack of education. In the modern globalized market economy, the poor and the marginalized are frequently members of racial or ethnic groups whose position has been determined by generations of exploitation, oppression and discrimination. Racism then reinforces the inequalities -- people from ethnic minorities impoverished and disenfranchised by historical developments are viewed as somehow inferior and then blamed for their own deprivation. Such racist attitudes then act to further block their access to education, land, jobs and positions of influence.

Around the world, racism is being nourished by increasingly xenophobic responses to immigration. Immigrants, migrant workers and asylum-seekers who have left their homes in search of a life with basic dignity and security are often met with racist ill-treatment and denial of their rights by officials in the countries to which they travel. This is happening in the north and south, in the east and west, and in developing as well as industrialized countries.

Harsh treatment of migrants appears to be increasingly integral to official immigration policies, often inflaming xenophobic fears among the population at large. In December 1999, the UN General Assembly recognized this trend, expressing its deep concern "that racism and racial discrimination against migrant workers continue to increase". Such an atmosphere, often fostered by governments, political parties and the media, leads not only to violations of the

rights of asylum-seekers and refugees. It also allows racism to seep into every pore of criminal justice systems, leading to widespread violations of fundamental human rights.

Amnesty International's work against racism worldwide is guided by its mandate. The term racism is understood to include discrimination on the basis of race, descent, colour, ethnicity or national origin, based on the definition provided by Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination:

"In this Convention the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Amnesty International opposes racism through its campaigning for the observance of the UDHR worldwide. The organization calls for ratification and implementation by states of international and regional human rights instruments that prohibit all forms of discrimination. Amnesty International opposes racism also by working worldwide on specific cases of grave violations of the right to be free from racial discrimination. It intervenes when racial discrimination prevents redress for victims and perpetuates impunity for perpetrators of human rights violations, or hinders the right of those fleeing persecution to seek asylum.

The most egregious violations of human rights based on racism tend to catch the headlines. Less well publicized are the abuses that take place every day in the administration of justice partly or solely because of racism. Amnesty International seeks to draw attention to these abuses in the context of the 2001 UN World Conference Against Racism.

Racism and the administration of justice

Amnesty International's work over the years has highlighted many patterns of racism in the administration of justice. Around the world, conflicts being fought out along national or ethnic lines form the backdrop to -- and sometimes the official justification for -- systemic discrimination in the administration of justice. Indigenous peoples, minority ethnic groups and people from so-called lower castes are among those most often abused because of their identity. They are often systematically denied state protection and the perpetrators enjoy almost total impunity.

Such people suffer disproportionately from police brutality and other violations of their rights when they come into contact with the law. Many people face routine harassment and ill-treatment by police because of their colour or ethnic origin. Some minorities have no chance of a fair trial or face harsher penalties than other groups in their society. Countless people are suffering racist abuse by officials, armed gangs or neighbours and are offered no protection by the state.

In some countries, racial discrimination by the state through its laws and administration of justice is overt and intentional. The law blatantly discriminates against certain groups, and the police are drawn mainly or entirely from one ethnic background. In other countries, ostensibly neutral laws have a racially discriminatory impact, sometimes intentional, sometimes not, because of the way they are implemented.

Foreigners in many places face discrimination in the administration of justice, particularly where xenophobia is either encouraged or left unchallenged by the authorities. In such circumstances, foreigners are frequently at greater risk of ill-treatment by police than nationals of the country. Foreigners also often suffer violations of the right to fair trial, in particular the right to have interpreters and translations at all stages of judicial proceedings, and may face disproportionately harsh sentences.

Racism heightens the vulnerability of certain people to physical and mental abuse once they are caught in the justice system. It can give a green light to officials to ill-treat

and torture detainees, particularly if, in the context of conflict, the government requires convictions of people from particular ethnic or other minority backgrounds. It can make it more likely that immigration and other officials will use unnecessary violence against asylum-seekers they are detaining or forcibly deporting, and against those suspected of being illegal immigrants.

In some countries, those arrested from minority ethnic communities are tortured as a matter of course. Torture and ill-treatment are nourished by racism. These abuses involve the dehumanization of the victim. The process of dehumanization is made easier if the victim is from a racial group that is perceived negatively in society or is denigrated by the state. Racism paves the way for such abuses by allowing the victim to be seen not as human but as an object who can be treated inhumanely.

The victim's identity may also affect the nature and consequence of their ill-treatment. For example, women from "despised" racial groups are particularly vulnerable to rape and sexual violence in custody. People from groups facing racial discrimination often find they have less access to legal remedies. Racism thus reinforces impunity, lessening the likelihood that the abuses will stop.

Institutional racism can also mean that certain groups are denied equal protection of the law against violence inflicted on them in society at large, such as racist attacks by political groups or crimes such as murder. Racism may also compound the effect of other forms of discrimination already suffered by certain groups because of other aspects of their identity, such as age, gender or sexual orientation.

In many countries, racial discrimination persists despite clear anti-discrimination laws and directives. Often this is the result of official disinterest and neglect, which leads to a failure to put in place adequate checks to correct patterns of discrimination. In other words, state inaction, as well as state action, may result in racial discrimination in the administration of justice.

In other countries, the degree of inaction by the state in response to abuses directed at certain communities -- sometimes combined with indirect or direct state involvement in the abuses -- makes the state complicit in the abuses. This pattern is often apparent in countries where the authorities and big businesses are in conflict with indigenous populations over land and other natural resources.

Action to end racism

Most governments would be hard pressed to eradicate all traces of racism in society. However, they are obliged by international human rights instruments to work to ensure

that the state does not in any way promote or foster racism, and instead should actively combat racism.

There are many steps that can be taken. First, the law should clearly prohibit all forms of discrimination, and such law should be rigorously enforced. Secondly, the government should send a clear message that racism will not be tolerated - in society in general and in all agencies of the state. All crimes with a racist nature should be thoroughly investigated and the perpetrators brought to justice.

In many states, racist abuses by officials are rarely prosecuted -- and in the few cases that do come to court there is a failure to convict. A major step forward, therefore, would be to ensure that prosecution and conviction rates are increased by determined and thorough investigations.

However, it is not enough to simply punish individuals as and when cases of racist abuses by officials come to light. Such action on its own does not address issues such as institutional racism among public officials, discriminatory patterns of recruitment into the agencies that administer justice, and disparities in sentencing practices between different racial groups. Mechanisms must be put in place to uncover patterns of racism in the administration of justice -- and to institute remedies that tackle the causes of the discrimination. Among such remedies are race-awareness training for those working in the justice system, whether they are law enforcement or custodial agents, lawyers or judges, or asylum determination officials; recruitment drives among ethnic minorities; and reviews of laws and practices that have a disparate impact on particular communities.

The responsibility for combating racism extends to us all. There are countless initiatives that we can take to fight against bigotry, discrimination and injustice, whether we act as individuals, through our social, political, cultural or sporting societies, or with organizations that focus on human rights.

Around the world, campaigns to raise awareness about racism, to expose miscarriages of justice or to defend the rights of persecuted minorities and asylum-seekers have brought success. They have resulted in the release of prisoners wrongfully convicted because of racism. They have forced governments to repeal discriminatory laws. They have stopped movements growing that aimed to scapegoat asylum-seekers or migrant workers for social problems. They have led to courses on racism being introduced into educational establishments and police academies. They have given confidence to persecuted communities to organize themselves and defend their rights. And in many countries they have marginalized racists and helped to make racism be seen for what it is -- a poison that needs to be eradicated from society.

Amnesty International welcomes the opportunity that the 2001 UN World Conference Against Racism provides to cast the spotlight on racism and renew the commitment to eradicate it. The organization hopes that the recommendations that follow will feed into the agenda for action by governments to end racial discrimination.

**AMNESTY INTERNATIONAL'S
RECOMMENDATIONS TO GOVERNMENTS
FOR THE WORLD CONFERENCE AGAINST
RACISM, RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE**

Amnesty International firmly believes that human rights are universal and should be enjoyed by everyone everywhere, in fulfilment of the promise of the Universal Declaration of Human Rights. It urges all governments to protect all people, without distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin, from any form of abuse. Governments should protect and promote the human rights of all in accordance with international human rights standards, including the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.

In the context of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Amnesty International seeks to draw specific attention to the need to eliminate racism (as defined for the purposes of the World Conference) from the **administration of justice**. This includes the functioning of law enforcement and custodial agencies, the judiciary, and asylum determination systems.

Amnesty International calls on governments to adopt national strategies and plans of action to combat racism that include specific measures relating to the administration of justice. Representatives of affected groups, relevant NGOs and experts working on the issue of racism and the administration of justice, as well as relevant officials, should be involved in the process of designing such strategies and plans, which should contain measurable goals and monitoring mechanisms. Amnesty International calls on governments to include, where appropriate, the following specific measures:

Ratification of treaties and cooperation with international mechanisms

1. Governments that have not already done so should become a party to the International Convention on the Elimination of All Forms of Racial Discrimination, without making limiting reservations. They should also make a specific declaration under Article 14 of the Convention which allows individuals or groups to submit communications to the Committee on the Elimination of Racial Discrimination.

2. Governments should periodically provide full reports to relevant international monitoring bodies on the implementation of measures they have taken against racism. The conclusions and recommendations of such bodies should be publicized, debated and implemented. Good practices in particular should be identified and promoted.

Legislative and institutional reform

3. Laws must provide effective protection against racism. International instruments relevant to racism and related forms of discrimination should be fully integrated into national laws, regulations and administrative practices. All discriminatory laws, regulations and administrative practices based on, or resulting in, discrimination for reasons of race, colour, descent, or national or ethnic origin must be abolished.
4. Governments should pay specific attention to identifying and eliminating forms of institutionalized racism, that is racism which resides overtly or covertly in policies, procedures, practices and culture of private or public institutions, reinforcing individual prejudices and being reinforced by them in turn.
5. Recruitment policies and practices of state agencies should aim at reflecting the diversity of their societies at all organizational levels.

Protection against racist attacks and practices in society

6. Law enforcement agencies should act promptly and decisively to prevent and respond to all forms of attack against the rights of people who may be particularly vulnerable because of their race, colour, descent, national or ethnic origin. Alleged offences with a racist character should be effectively investigated and the perpetrators brought to justice.
7. Specific directives and training should be given to law enforcement officials on how to identify racially motivated crimes and to investigate them, and how to take into account the victims' views. Such training of law enforcement and judicial officials should include awareness of the various manifestations of racism and measures to combat it.
8. Any evidence of collusion between non-state actors and law enforcement officials in instigating or perpetrating these abuses, or obstructing subsequent

investigations, should be fully investigated. Anyone responsible for abuses should be brought to justice.

Protection against abuses by public officials

9. The programs for the selection, training and monitoring of public officials involved in the administration of justice should include specific measures to ensure that in the performance of their duties their conduct is not in any way racist or discriminatory, either directly or indirectly. For this purpose cross cultural awareness and anti-racist programs should be an essential element in the training of public officials.
10. Racist behaviour by public officials, including law enforcement and custody agents, judicial and administrative officials, should not be tolerated. The use of racist or derogatory language by officials should be addressed with disciplinary and criminal measures.
11. Specific policing operations should be reviewed to ensure that they are not targeted in a discriminatory fashion against communities because of their race, colour, descent or national or ethnic origin.
12. Complaints against public officials involved in the administration of justice must be effectively investigated. Those complaining should receive protection against any form of intimidation. Any perpetrator should be brought to justice. Victims should receive full reparation.
13. Monitoring agencies should maintain and publish regular and comprehensive information on complaints relating to racism against public officials involved in the administration of justice and how they have been dealt with, identify patterns of racial abuse and recommend appropriate remedial action.

Detention and trial

14. Trial procedures should ensure that members of minority groups are not discriminated against. At the outset of any form of detention, detainees should be informed in a language they understand of the reason for their detention, any charges against them, and be informed of their rights. They should receive an explanation of their rights, and how to exercise them.

15. Members of minority groups should receive effective legal assistance and, where appropriate, the assistance of a competent interpreter, free of charge, at all stages of their detention, particularly during interrogation.
16. Foreign nationals who so wish should have prompt and regular access to their diplomatic representatives.

Death penalty

17. In countries where the death penalty is still imposed, a commission of inquiry should investigate any disproportionate impact on racial groups, whether due to discrimination or other associated adverse factors, such as economic and social deprivation.
18. In the absence of immediate measures to abolish the death penalty or commute the sentences of those condemned to death, a moratorium on executions should be imposed pending the outcome of such inquiries into racism in the application of the death penalty.

Treatment of asylum-seekers and refugees

19. *All countries should accede to and fully implement in a non-discriminatory manner the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. All countries that have maintained a geographical limitation incompatible with the intention of the 1967 Protocol should withdraw it.*
20. The principle of *non-refoulement* must be scrupulously observed. *Asylum-seekers should not be punished on account of their illegal entry or presence.*
21. Any kind of discrimination based on race, colour, descent or national or ethnic origin in laws, administrative and other measures regulating asylum should be prohibited. Governments should act promptly and decisively to prevent and respond to all forms of attacks and threats against the rights and security of asylum-seekers and refugees because of their race, colour, descent or national or ethnic origin.

22. Governments must review aspects of policies towards asylum-seekers that may leave them vulnerable to racist attacks. Governments also have a duty not to use or encourage language that promotes xenophobic reactions against asylum-seekers *and refugees* and other foreigners.
23. Appropriate instructions and training should be given to officials involved in the determination of asylum claims to ensure they fully respect the rights of asylum-seekers and refugees. *All officials involved in determining asylum cases should be instructed and trained to follow the guidance given in the Office of United Nations High Commissioner for Refugees (UNHCR) Handbook on Procedures and Criteria for Determining Refugee Status as well as other appropriate guidelines to ensure that all asylum claims are examined thoroughly and individually in a fair procedure. This should take into account the protection needs of vulnerable groups to ensure and that all asylum-seekers are adequately protected.*
24. Asylum-seekers undergoing an asylum determination claim should be informed of their rights in the determination process, including the right to receive competent interpretation assistance during any questioning and throughout all stages of the proceedings. They should not be asked to sign any document that they do not fully understand. The detention of asylum-seekers remains an exceptional measure, which must be imposed in a non-discriminatory manner, for a minimal period and must be for reasons prescribed in law and for specified reasons that are recognized in international standards. Detainees should be informed of the reasons for detention in a language that they understand. Detention orders must be subjected to periodic judicial review.
25. Asylum-seekers must be granted access to legal assistance, the UNHCR and appropriate NGOs at all stages of the procedure, including in detention.

Indigenous people

26. Special instructions and training should be provided to public officials to recognize the specific protection needs of indigenous peoples.
27. The special needs of indigenous people in detention or facing legal proceedings should be respected. In particular, legal proceedings against them should be conducted in their own language or with competent interpretation provided.
28. Human rights education materials should be available in indigenous languages. Members of indigenous groups should be consulted on all matters affecting their rights.
29. Authorities at all levels should ensure that any private bodies, such as commercial enterprises and international corporations, fully respect the rights of indigenous peoples, in particular by ensuring that they are not victims of discrimination.

Women

30. Governments should recognize the special vulnerability of women who are members of indigenous communities or national, ethnic or racial minorities and take appropriate steps to protect them against human rights violations.
31. Special instructions and training should be provided to police, judges and asylum determination officials to recognize the specific protection needs of women detainees and asylum-seekers who are also at risk of racist abuses. In particular, women police or other officials should be present whenever women are interviewed for official purposes.

Children

32. *Governments should ensure that all children are protected from discrimination, including by implementing all of the relevant international instruments regulating the treatment of children, particularly the Convention on the Rights of the Child, the*

United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

33. *Recognising that children from racial or ethnic minorities are particularly vulnerable to physical and mental abuse in police custody and during police interrogation, governments should ensure that children are only interrogated in the presence of legal counsel who either speaks the language of the child or has access to a competent interpreter; and that the interrogation of children is carried out by police officers who have received appropriate training.*
34. *Governments should monitor law enforcement and sentencing policies and practices to ensure that children from racial and ethnic minorities are not being subjected to discrimination.*

Raising public awareness and education

35. Governments should initiate and support campaigns aimed at mobilizing national public opinion against racism through effective programs in the mass media, publishing activities and research projects. Curricula and teaching methods should be reviewed in order to eliminate prejudices and racist attitudes. Negative stereotypes of particular groups should be appropriately challenged.

National monitoring bodies

36. Governments should consider establishing independent commissions or other similar national bodies empowered to conduct full and impartial investigations into all factors which facilitate racism, racial discrimination or disproportionate racial impact in the administration of justice and to recommend remedial measures. The commissions should publish periodic reports on their findings and make specific recommendations. These reports should include statistics and information on complaints relating to racism and the administration of justice and how they were addressed. Governments should report on their actions to implement the commissions' recommendations.

37. Those belonging to racial, ethnic or national minorities should be encouraged to participate fully in any mechanisms set up to monitor the impact of racism on the administration of justice.