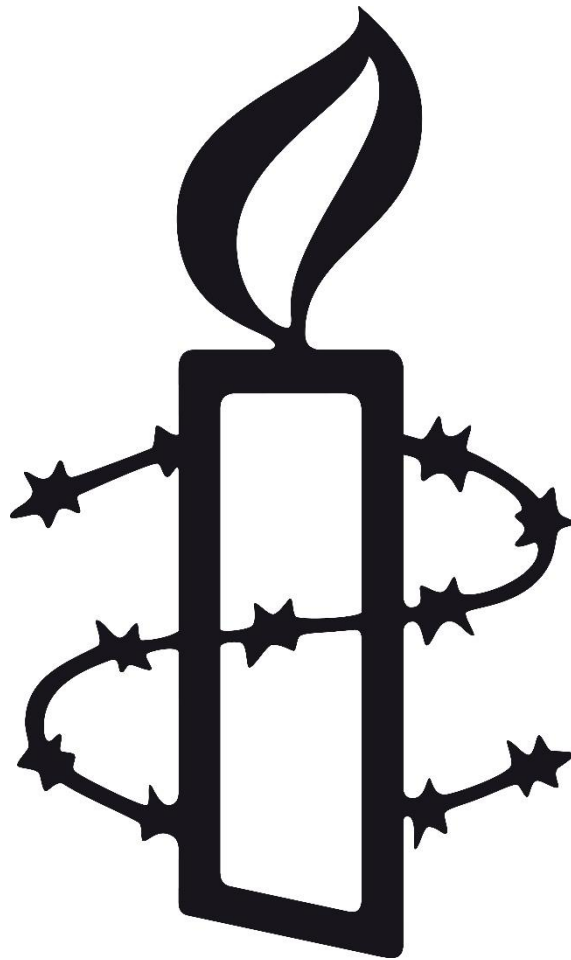


# **OBLIGATIONS OF STATE PARTIES ON ADDRESSING AND ERADICATING XENOPHOBIA AND ITS IMPACT ON THE RIGHTS OF MIGRANTS, THEIR FAMILIES, AND OTHER NON-CITIZENS AFFECTED BY RACIAL DISCRIMINATION**

SUBMISSION TO THE UN CERD-CMW JOINT GENERAL  
COMMENT/RECOMMENDATION



**AMNESTY  
INTERNATIONAL**



# CONTENTS

1. —	<b>INTRODUCTION</b>	<b>3</b>
2. —	<b>XENOPHOBIA AND SYSTEMIC RACISM</b>	<b>3</b>
3. —	<b>RACIAL PROFILING</b>	<b>4</b>
4. —	<b>APPROACHES TO PUBLIC POLICY: DISCRIMINATORY OUTCOMES OF “RACE-NEUTRAL” POLICIES</b>	<b>5</b>
5. —	<b>DISCRIMINATORY OUTCOMES OF MIGRATION POLICIES</b>	<b>6</b>
6. —	<b>DISCRIMINATORY OUTCOMES OF SECURITY AND LAW ENFORCEMENT MEASURES</b>	<b>7</b>
7. —	<b>ADVOCACY OF RACIAL AND XENOPHOBIC HATRED THAT CONSTITUTES INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE</b>	<b>8</b>

Amnesty International welcomes the opportunity to contribute to the concept paper for the Committee on the Elimination of Racial Discrimination and the Committee for the Protection of the Rights of Migrants Workers and their Families Joint General Comment/Recommendation on Obligations of State Parties on public policies for addressing and eradicating xenophobia and its impact on the rights of migrants, their families, and other non-citizens affected by racial discrimination.

# 1. INTRODUCTION

Amnesty International welcomes the opportunity to contribute to the concept paper for the Committee on the Elimination of Racial Discrimination and the Committee for the Protection of the Rights of Migrants Workers and their Families Joint General Comment/Recommendation.<sup>1</sup> The submission is structured around some of the questions and outline laid out by the CERD and CMW, focusing on questions 1, 2 and 5. It is not an exhaustive analysis.

## 2. XENOPHOBIA AND SYSTEMIC RACISM

The Durban Declaration and Programme of Action (DDPA) recognizes that xenophobia is one of the main contemporary sources and forms of discrimination. However, the lack of internationally recognized legal definition continues to pose obstacles to effectively addressing it. At the international level, there have been attempts not only to define xenophobia but also to differentiate it from racism.

Xenophobia must be understood as an **intersectional form of discrimination**<sup>2</sup> that is not limited to a sole protected ground of discrimination under international law. Xenophobia has often been defined as discrimination based on the perception of being a foreigner and non-citizen, but it also involves an intersection between racial and other grounds such as religion or language. Instead of differentiating xenophobia from racism, recognizing their inextricable link provides a clearer understanding of their roots and manifestations. People on the move face heightened contexts of racialization that perpetuate prejudices and biases which favour racial exclusion and discrimination. Religion, language, and culture are often racialized categories. Race, ethnicity, religion, language, and other characteristics are used to determine someone's migration status and nationality. Amnesty International has documented increasing xenophobic discrimination linked to systemic racism.

In the **Americas**, Haitians on the move have faced intersectional discrimination based on their race, skin colour, national origin, and language.<sup>3</sup> In **Mexico**, they faced racial profiling and arbitrary detention by officials who did not speak their language and without interpreters, being forced to sign documents in Spanish and without information about the possibility of claiming asylum.<sup>4</sup> In **Peru** and **Chile**, Haitians and Venezuelans have been subjected to racial and ethnic profiling based on their skin colour, language, and other factors during identity checks at borders.<sup>5</sup> In the **Dominican Republic**, Haitians have faced expulsions and Dominicans of Haitian descent denationalization as the result of racist policies historically implemented.<sup>6</sup>

In the **United States of America (USA)**, Haitian migrants and asylum seekers have been subjected to arbitrary detention and race-based torture at the US-Mexico border. Amnesty International found that

---

<sup>1</sup> UN Committee Against Racial Discrimination (CERD) and UN Committee for the Protection of the Rights of Migrant Workers and Their Families (CMW), "Call for submissions on concept paper for the CERD-CMW Joint General Comment/Recommendation on obligations of state parties on public policies for addressing and eradicating xenophobia and its impact on the rights of migrants, their families, and other non-citizens affected by racial discrimination", 31 March 2023, <https://www.ohchr.org/en/calls-for-input/2024/call-submissions-concept-paper-cerd-cmw-joint-general-comment-recommendation>

<sup>2</sup> Shreya Atrey, "Comment: Understanding Xenophobia as intersectional discrimination", 2022, Washington and Lee Law Review, Volume 79, Issue 3, <https://scholarlycommons.law.wlu.edu/wlulr/vol79/iss3/5>.

<sup>3</sup> Amnesty International, "Haiti: Not safe anywhere: Haitians on the move need urgent international protection", 28 October 2021, <https://www.amnesty.org/en/documents/amr36/4920/2021/en/>

<sup>4</sup> Amnesty International, "Haiti: Not safe anywhere: Haitians on the move need urgent international protection", 28 October 2021, <https://www.amnesty.org/en/documents/amr36/4920/2021/en/>

<sup>5</sup> Amnesty International, "Americas: Open letter to the president of Peru and the president of Chile regarding the protection crisis at the border", 4 May 2023, <https://www.amnesty.org/es/documents/amr01/6744/2023/en/>

<sup>6</sup> Amnesty International, "Dominican Republic: Authorities must end racist treatment and guarantee the right to nationality", 22 September 2023, <https://www.amnesty.org/en/latest/news/2023/09/dominican-republic-racist-treatment-right-to-nationality/#:~:text=Amnesty%20International%20again%20stresses%20that,employment%20of%20their%20human%20rights>.

Haitians were subjected to anti-Black racism based on their race, national origin, migration status, and other grounds, including higher evidentiary burden for Haitians asylum seekers over other nationalities.<sup>7</sup>

In **Europe**, systemic racism and rising **Islamophobia** continue to affect racialized migrants, refugees and other non-citizens disproportionately.<sup>8</sup> In **Cyprus**, migrants and refugees faced racist attacks. In the context of racist rhetoric and abuses, migrant-owned shops were destroyed, and several people were attacked based on racial and other grounds of discrimination as religion or language, such as targeting shops with signs in other languages and racialized people.<sup>9</sup>

In **Qatar**, Black migrant workers were discriminated based on their race, skin colour and lack of language proficiency in Arabic with lower wages and less opportunities to promotions.<sup>10</sup>

### 3. RACIAL PROFILING

CERD has defined racial profiling as “the practice of law enforcement relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity.”<sup>11</sup> Racial and ethnic profiling constitutes a violation of the right to equality that paves the way for additional human rights violations, such as excessive use of force or unlawful detention.<sup>12</sup> People subjected to xenophobia experience racial profiling in different law enforcement operations, including at borders.

Racial and ethnic profiling affects migrants, refugees, and other non-citizens based on factors such as phenotype, cultural markers or actual or perceived irregular migration status. **Amnesty International** has called attention to the need to recognize that profiling normally occurs as a form of direct discrimination on the part of authorities and has documented several instances in which xenophobia intertwines with racial profiling.<sup>13</sup>

In the **EU**, Amnesty International and other civil society organizations warned about the potential extension of screening procedures to all undocumented migrants, and not just to those apprehended at the border, as consequence of the retention of article 5 of the proposed EU screening regulation.<sup>14</sup>

---

<sup>7</sup> Amnesty International, “*They did not treat us like people*” Race and migration-related torture and other ill-treatment of Haitians seeking safety in the USA (Index: AMR 36/5973/20220), 22 September 2022, <https://www.amnesty.org/en/documents/amr36/5973/2022/en/>

<sup>8</sup> Amnesty International, “EU/Tunisia: Agreement on migration ‘makes EU complicit’ in abuses against asylum seekers, refugees and migrants”, 17 July 2023, <https://www.amnesty.org/en/latest/news/2023/07/eu-tunisia-agreement-on-migration-makes-eu-complicit-in-abuses-against-asylum-seekers-refugees-and-migrants/>. Amnesty International, *Regional overview of Islamophobia in Europe* (Index: EUR 01/5659/2022), 1 June 2022, <https://www.amnesty.eu/wp-content/uploads/2022/09/PACE-submission-Islamophobia-1-June-2022.pdf>

<sup>9</sup> Amnesty International, “Cyprus: Authorities must protect migrants and refugees from racist attacks”, 6 September 2023, <https://www.amnesty.org/en/latest/news/2023/09/cyprus-authorities-must-protect-migrants-and-refugees-from-racist-attacks/>

<sup>10</sup> Amnesty International, “*They think that we’re machines*” Forced labour and other abuse of migrant workers in Qatar’s private security sector (Index: MDE 22/5388/2022), 7 April 2022, [https://www.amnesty.org/en/documents/mde22/5388/2022/en/?utm\\_source=annual\\_report&utm\\_medium=epub&utm\\_campaign=2021](https://www.amnesty.org/en/documents/mde22/5388/2022/en/?utm_source=annual_report&utm_medium=epub&utm_campaign=2021)

<sup>11</sup> UN Committee on the Elimination of Racial Discrimination (CERD), General Recommendation 36: Preventing and combating racial profiling by law enforcement officials, 17 December 2020, UN Doc. CERD/C/GC/36, para. 72.

<sup>12</sup> UN Human Rights Council, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General on its Forty-Seven Session, “Racism, racial discrimination, xenophobia and related forms of intolerance follow-up to and implementation of the Durban Declaration and Programme of Action”, 28 June 2021, UN Doc. A/HRC/47/CRP.1, para. 84.

<sup>13</sup> Amnesty International, *Amnesty International’s observations to the United Nations Committee on the Elimination of Racial Discrimination’s Draft General Recommendation no. 36 on preventing and combating racial profiling* (Index: IOR 40/0624/2019), 28 June 2019, <https://www.amnesty.org/en/documents/ior40/0624/2019/en/>, 4 May 2023, <https://www.amnesty.org/es/documents/amr01/6744/2023/en/>

<sup>14</sup> Amnesty International, “Despite widespread racial profiling in the EU, legislators are considering measures that would increase it – Joint NGO statement”, 16 November 2023, <https://www.amnesty.eu/news/despite-widespread-racial-profiling-in-the-eu-legislators-are-considering-measures-that-would-increase-it-joint-ngo-statement/>

In the **Netherlands**, the judicial system has proscribed the Royal Netherlands Marechaussee from using racial or ethnic identity for selecting individuals perceived to be non-citizens for border checks since this practice was commonly used.<sup>15</sup>

In **Switzerland**, in the Wa Baile case, the European Court of Human Rights condemned Switzerland for its failure to examine whether racial discrimination played a role in the police search Wa Baile was subjected to and for failure by the police to provide any valid justification for the identity check. European authorities, like in this case, often attempt to justify discriminatory identity checks with immigration control policies. However, using only the perceived race or ethnicity as a proxy for an individual's nationality and migration status constitutes racial discrimination.<sup>16</sup>

In **Chile** and **Peru**, Amnesty International has warned of the increased risk of racial profiling affecting migrants and refugees, particularly from Venezuela and Haiti, due to the introduction of new emergency rules that strengthen policing, identity checks, registrations, and potential arrests at borders.<sup>17</sup>

Artificial intelligence and technology have created new avenues for racial discrimination to operate. In the **Netherlands**, tax authorities have engaged in racial profiling by using algorithmic decision-making systems, which relied partially on nationality for creating risk profiles of individual with the purpose of detecting potential fraudulent applications for childcare benefits.<sup>18</sup>

**Amnesty International** has also warned of the risks of artificial intelligence-based predictive policing practices and the flaws of facial recognition used in law enforcement operation given their propensity to human rights violations and their introspection of racial profiling in law enforcement contexts.<sup>19</sup> Similarly, Amnesty International have warned of the risks of failing to protect migrants and refugees in European Parliament's ban on facial recognition included in the **Artificial Intelligence Act**.<sup>20</sup>

## 4. APPROACHES TO PUBLIC POLICY: DISCRIMINATORY OUTCOMES OF “RACE-NEUTRAL” POLICIES

Xenophobia manifests in direct and indirect forms of discrimination. Direct xenophobia can manifest in advocacy of hatred, violence, or overly discriminatory policies, while indirect xenophobia includes disproportionate and negative impacts of seemingly “neutral” laws, policies and practices against non-citizens and others perceived as non-citizens. Both forms of discrimination are prohibited under international law. Distinctions, exclusions, restrictions, or preferences made between citizens and non-citizens cannot be applied as pretext for xenophobic and racial discrimination.

The CERD, in its general recommendation No. 30, stated that distinctions based on nationality must be applied pursuant a legitimate aim and must be proportional to the achievement of that aim and States must ensure “the implementation of legislation does not have a discriminatory effect on non-citizens”.<sup>21</sup> As

<sup>15</sup> Amnesty International, “Gerechtshof verbiedt etnisch profileren”, 14 february 2023, <https://www.amnesty.nl/actueel/gerechtshof-verbiedt-etnisch-profileren>

<sup>16</sup> Amnesty International, Switzerland: Mohamed Wa Baile Wins Ethnic Profiling Case as the European Court of Human Rights Unanimously Condemns Racial Discrimination (Index: EUR 43/7774/2024), 4 March 2024, <https://www.amnesty.org/en/documents/eur43/7774/2024/en/>

<sup>17</sup> Amnesty International, “Peru/Chile: Authorities must end militarization of borders in response to arrival of people in need of protection”, 27 April 2023, <https://www.amnesty.org/en/latest/news/2023/04/peru-chile-must-end-militarization-borders/>

<sup>18</sup> Amnesty International, *Xenophobic machines: Discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021), 25 October 2021, <https://www.amnesty.org/en/documents/eur35/4686/2021/en/>

<sup>19</sup> Amnesty International, *Amnesty International's observations to the United Nations Committee on the Elimination of Racial Discrimination's Draft General Recommendation no. 36 on preventing and combating racial profiling* (Index: IOR 40/0624/2019), 28 June 2019, <https://www.amnesty.org/en/documents/ior40/0624/2019/en/> <https://www.amnesty.org/en/documents/eur35/4686/2021/en/>

<sup>20</sup> Amnesty International, “EU: European Parliament adopts ban on facial recognition but leaves migrants, refugees and asylum seekers at risk”, 14 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/eu-european-parliament-adopts-ban-on-facial-recognition-but-leaves-migrants-refugees-and-asylum-seekers-at-risk/>

<sup>21</sup> UN Committee Against Racial Discrimination (CERD), General Recommendation 30: Discrimination against non-citizens, 12 March 2004, UN Doc. CERD/C/64/Misc.11/rev.3, para. 7.

xenophobia and racism are entangled, xenophobic outcomes are exacerbated by seemingly “race-neutral” provisions and practices.

Preventing and eradicating xenophobia requires the implementation of race-conscious approaches to public policy at every government level. “Race-neutral” approaches fail to address systemic racism and xenophobia deeply ingrained in law, policies, and institutions that affect racialized migrants, refugees, and other non-citizens. These approaches overlook systemic inequalities, discrimination, and their root causes. A “race-conscious” approach actively confronts racism and intersectional discrimination, such as xenophobia. It includes ensuring accountability, transparency, and collection of disaggregated data to address systemic discrimination.

Amnesty International has documented xenophobia and racial discrimination resulting from the implementation of facially “race-neutral” laws, policies, and practices.

In the Netherlands, racial profiling in unregulated algorithmic decision-making used in the Dutch childcare benefits scheme led to racial discrimination and erroneous fraud allegations against non-Dutch nationals.<sup>22</sup>

In Europe, although the EU Temporary Protection Directive (TPD) granted protection to people fleeing the conflict in Ukraine, its “race-neutral” approach resulted in racial discrimination against some categories of people fleeing Ukraine such as Black people and non-nationals with temporary residency permits.<sup>23</sup> Such approach is riddled with racist double standards.<sup>24</sup>

## 5. DISCRIMINATORY OUTCOMES OF MIGRATION POLICIES

Seemingly “race-neutral” migration policies operate under the premise of equal treatment. This approach overlooks systemic racism and xenophobia that disproportionately impact certain racialized groups of non-citizens. Amnesty International has increasingly documented discriminatory outcomes of “race-neutral” migration policies.

In Italy, the government adopted measures affecting search and rescue provided by NGOs in the Mediterranean Sea putting at further risk racialized people in distress at sea.<sup>25</sup> Italy’s legislation undermines search and rescue and contributes to the death and suffering of mostly Black Africans on the move.<sup>26</sup>

In Lithuania, the government’s pushback policies increased the risk of torture targeting refugees and migrants, particularly from the Middle East and Africa who faced abusive treatment and discrimination.<sup>27</sup> Similarly, in Greece, the government implemented a de facto pushback policy targeting racialized migrants and refugees who faced arbitrary detentions, violence, abuses and discrimination.<sup>28</sup>

Amnesty International has found that “race-neutral” visa schemes that tie migrant workers to a specific employer increase the risk of labour exploitation, xenophobia and racial discrimination in the United

<sup>22</sup> Amnesty International, *Xenophobic machines: Discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021), 25 October 2021, <https://www.amnesty.org/en/documents/eur35/4686/2021/en/>

<sup>23</sup> Amnesty International, “EU: Temporary protection is needed for everyone fleeing Ukraine”, 3 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/eu-temporary-protection-is-needed-for-everyone-fleeing-ukraine/>. Amnesty International, *Amnesty International Report 2022/23: The state of the world’s human rights* (Index: POL 10/5670/2023), 27 March 2023, <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

<sup>24</sup> Amnesty International, “Poland: Cruelty Not Compassion, at Europe’s Other Borders”, 11 April 2022, <https://www.amnesty.org/en/documents/eur37/5460/2022/en/>

<sup>25</sup> Amnesty International, “Italy: Withdraw measures that hinder the work of search and rescue NGOs and increase the risk of drownings”, 1 February 2023, <https://www.amnesty.org/en/documents/eur30/6407/2023/en/>

<sup>26</sup> Amnesty International, “Italy: Avoidable loss of life at sea calls for swift review of search and rescue procedures and visa policies”, 17 March 2023, <https://www.amnesty.org/en/documents/eur30/6569/2023/en/>

<sup>27</sup> Amnesty International, *Lithuania: Forced out or locked up. Refugees and migrants abused and abandoned* (Index: EUR 53/5735/2022), 27 June 2022, <https://www.amnesty.org/en/documents/eur53/5735/2022/en/>

<sup>28</sup> Amnesty International, *Greece: Violence, lies, and pushbacks. Refugees and migrants still denied safety and asylum at Europe’s borders* (Index: EUR 25/4307/2021), 23 June 2021, <https://www.amnesty.org/en/documents/eur25/4307/2021/en/>

Kingdom, Qatar, Saudi Arabia, China/Hong Kong, and Canada.<sup>29</sup> For example, in Qatar, migrant workers with tied visas across the private sector were subjected to serious labour exploitation and reported unequal treatment based on their nationality, race, and language, including in terms of their rate of pay, working conditions and locations.<sup>30</sup> Migrant workers from Africa and South Asia were deployed to locations with harsher working conditions compared to other foreign workers. In Canada, racialized migrant workers with tied visas are subjected to labour exploitation without means of immediate relief from abusive employment and discrimination, experiencing language barriers and complex bureaucracy.<sup>31</sup>

In Japan, repeated attempts to pass legislation allowing for indefinite detention of migrants have drawn human rights concerns.<sup>32</sup>

Migration policies in Europe, Australia, and the USA, including child separation and offshore processing, have exacerbated human rights challenges faced by people on the move, subjecting them to severe mental anguish and other abuses amounting to torture.<sup>33</sup>

Regarding the deployment of digital technologies for asylum and migration management in the United Kingdom, EU, and USA,<sup>34</sup> Amnesty calls for their uses to be carefully considered in relation to human rights and discrimination.<sup>35</sup>

## 6. DISCRIMINATORY OUTCOMES OF SECURITY AND LAW ENFORCEMENT MEASURES

Security policies often become vehicles for xenophobia and racism, as measures intended to address crime or secure national borders may encroach upon the human rights of migrants, refugees, and other non-citizens without a reasonable justification. Proactive policing and selective border checks, rhetorically justified in the need to combat crime or guarantee national security, can easily morph into instruments of discrimination. Amnesty International has documented instances where facially neutral security and border policies, both domestic and external, have resulted in human rights violations steeped in racism and xenophobia.

In the USA, border enforcement agents have subjected Black Haitian asylum seekers to egregious human rights abuses, including torture, arbitrary detention, and collective expulsions. These actions occur within a context where xenophobia and anti-black racism converge, exacerbating the already dire human rights situation.<sup>36</sup> Also, Amnesty has also warned about the arbitrary detentions and ill-treatment of asylum seekers.<sup>37</sup>

---

<sup>29</sup> Amnesty International, *Canada: Submission to the Standing Committee on Citizenship and Immigration: Study on closed work permits and temporary foreign workers* (Index: AMR 20/7485/2023), 30 November 2023, <https://www.amnesty.org/en/documents/amr20/7485/2023/en/>

<sup>30</sup> Amnesty International, *Qatar: 'They think that we're machines': Forced labour and other abuse of migrant workers in Qatar's private security sector* (Index: MDE 22/5388/2022), 7 April 2022,

[https://www.amnesty.org/en/documents/mde22/5388/2022/en/?utm\\_source=annual\\_report&utm\\_medium=epub&utm\\_campaign=2021](https://www.amnesty.org/en/documents/mde22/5388/2022/en/?utm_source=annual_report&utm_medium=epub&utm_campaign=2021)

<sup>31</sup> Amnesty International, *Canada: Submission to the Standing Committee on Citizenship and Immigration: Study on closed work permits and temporary foreign workers* (Index: AMR 20/7485/2023), 30 November 2023, <https://www.amnesty.org/en/documents/amr20/7485/2023/en/>

<sup>32</sup> Amnesty International, "Japan: 'Endless detention': Migrants speak out as government proposes harsh immigration bill", 14 March 2023, <https://www.amnesty.org/en/latest/news/2023/03/japan-endless-detention-migrants-speak-out-as-government-proposes-harsh-immigration-bill/>

<sup>33</sup> Amnesty International, *Mental Health and Human Rights of People on the Move* (Index: POL 30/3042/2020), 9 October 2020, <https://www.amnesty.org/en/documents/pol30/3042/2020/en/>

<sup>34</sup> Amnesty International, *United States of America: Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (Index: AMR 51/6754/2023), 7 May 2023, <https://www.amnesty.org/en/documents/amr51/6754/2023/en/>

<sup>35</sup> Amnesty International, *Primer: Defending the rights of refugees and migrants in the digital age* (Index: POL 40/7654/2024), 5 February 2024, <https://www.amnesty.org/en/documents/pol40/7654/2024/en/>

<sup>36</sup> Amnesty International, "They did not treat us like people" Race and migration-related torture and other ill-treatment of Haitians seeking safety in the USA (Index: AMR 36/5973/2022), 22 September 2022, <https://www.amnesty.org/en/documents/amr36/5973/2022/en/>

<sup>37</sup> Amnesty International, *United States of America: Submission to the UN Human Rights Committee; 139th session, 9 October – 3 November 2023* (Index: AMR 51/7187/2023), 13 September 2023, <https://www.amnesty.org/en/documents/amr51/7187/2023/en/>

Similarly, in **Saudi Arabia**, Ethiopian migrants have faced discriminatory treatment in migration enforcement campaigns aimed at curbing irregular migration. This has resulted in hundreds of thousands of arrests, prolonged or indefinite detentions in inhumane conditions, torture, and forced removal from the country.<sup>38</sup>

Security policies advocating for harsher security measures, such as militarizing police, loosening the requirements for firearms purchase or use, or authorizing the use of dangerous weapons in protests' control, have led to additional human rights violations. For instance, in **Spain**, security forces have employed kinetic impact projectiles against migrants and refugees, resulting in several fatalities.<sup>39</sup> Amnesty warned about the severe human rights violations that migrants and refugees suffer in the **Ceuta-Melilla border**, which included violence, destruction of personal belongings, torture and other ill-treatment, and enforced disappearances.<sup>40</sup> **At this border** at least 37 Black people on the move were killed and 77 others went missing after prolonged and unlawful use of force by Moroccan and Spanish security forces.<sup>41</sup>

In **Brazil**, Amnesty International has documented homicides against people of African descent, including refugees, in the wake of relaxed firearms acquisition regulations, heightening the risk of deadly violence.<sup>42</sup>

In **Latvia**, legal reforms which would enable the use of torture by empowering border guards with the use of force have raised concerns about potential human rights abuses.<sup>43</sup>

Pandemic-control policies have also disproportionately affected migrants, refugees, and other non-citizens, leading to human rights violations. In **Europe**, enforcement measures such as stay-at-home orders and mandatory face-mask usage have exposed migrants and refugees to violence, fines, and discriminatory identity checks.<sup>44</sup>

## 7. ADVOCACY OF RACIAL AND XENOPHOBIC HATRED THAT CONSTITUTES INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE

The need to balance the rights of non-discrimination and freedom of expression in accordance with international law is crucial. While art. 20 of the ICCPR requires states that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law;”<sup>45</sup> art. 4 (a) of the ICERD requires state parties to “declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof”

---

<sup>38</sup> Amnesty International, *Saudi Arabia: “It’s like we are not human”: Forced returns, abhorrent detention conditions of Ethiopian migrants in Saudi Arabia* (Index: MDE 23/5826/2022), 16 December 2022, <https://www.amnesty.org/en/documents/mde23/5826/2022/en/>

<sup>39</sup> Amnesty International, *“My Eye Exploded”: the Global Abuse of Kinetic Impact Projectiles* (Index: ACT 30/6384/2023), 14 March 2023, <https://www.amnesty.org/en/documents/act30/6384/2023/en/>

<sup>40</sup> Amnesty International, *Morocco: Submission to the UN Committee on the protection of the rights of all migrant workers and members of their families: 36th Session, 27 February – 6 April 2023* (Index: MDE 29/6501/2023), 1 March 2023, <https://www.amnesty.org/en/documents/mde29/6501/2023/en/>

<sup>41</sup> Amnesty International, *Morocco: “They beat him in the head, to check if he was dead”: Evidence of crimes under international law by Morocco and Spain at the Melilla border* (Index: MDE 29/6249/2022), 13 December 2022, <https://www.amnesty.org/en/documents/mde29/6249/2022/en/>

<sup>42</sup> Amnesty International, *Brazil: Submission to the Committee on the Elimination of Racial Discrimination* (Index: AMR 19/6139/2022), 17 October 2022, <https://www.amnesty.org/en/documents/amr19/6139/2022/en/>

<sup>43</sup> Amnesty International, *“Latvia: Legal amendments would empower border guards to torture and push back migrants and refugees”*, 21 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/latvia-legal-amendments-would-empower-border-guards-to-torture-and-push-back-migrants-and-refugees/>

<sup>44</sup> Amnesty International, *Europe: Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe* (Index: EUR 01/2511/2020), 24 June 2020, <https://www.amnesty.org/en/documents/eur01/2511/2020/en/>

<sup>45</sup> International Covenant on Civil and Political Rights, art. 20.



and calls to condemn propaganda, ideas or theories of racial superior or promote racial hatred and discrimination.<sup>46</sup>

Despite that under international law, advocacy of racial or xenophobic hatred leading to discrimination, hostility, or violence is prohibited, migrants, refugees, and other non-citizens have often been subjected to such advocacy including from high-ranking State officials, resulting in severe human rights violations.

In **Tunisia**, Amnesty International documented how racist and xenophobic remarks by President Kais catalysed attacks against black African migrants, resulting in police arrests and forced returns.<sup>47</sup>

Similarly, in **Cyprus**, Amnesty International reported violent attacks against racialized individuals, including migrants and refugees, involving racist slogans, the use of Molotov cocktails, and assaults on their shops.<sup>48</sup>

In **South Africa**, Amnesty urged the government to address xenophobic attacks on African migrants, which public officials have publicly called criminals and blamed for security issues.<sup>49</sup>

The dissemination of hatred is particularly concerning in online environments. In **Myanmar**<sup>50</sup> and **Ethiopia**,<sup>51</sup> Amnesty warned about Meta's algorithm contributing to the spread of hateful content, exacerbating the risk of violence against marginalized groups, including in **offline settings**.<sup>52</sup>

---

<sup>46</sup> International Convention for the Elimination of All Forms of Racial Discrimination, art. 4.

<sup>47</sup> Amnesty International, "Tunisia: President's racist speech incites a wave of violence against Black Africans", 10 March 2023, <https://www.amnesty.org/en/latest/news/2023/03/tunisia-presidents-racist-speech-incites-a-wave-of-violence-against-black-africans/>

<sup>48</sup> Amnesty International, "Cyprus: Authorities must protect migrants and refugees from racist attacks", 6 September 2023, <https://www.amnesty.org/en/latest/news/2023/09/cyprus-authorities-must-protect-migrants-and-refugees-from-racist-attacks/>

<sup>49</sup> Amnesty International, "South Africa: Promote social cohesion to end xenophobic attacks against African refugees and migrants", 25 May 2017, <https://www.amnesty.nl/actueel/south-africa-promote-social-cohesion-to-end-xenophobic-attacks-against-african-refugees-and-migrants>

<sup>50</sup> Amnesty International, "Myanmar: Time for Meta to pay reparations to Rohingya for role in ethnic cleansing", 25 August 2023, <https://www.amnesty.org/en/latest/news/2023/08/myanmar-time-for-meta-to-pay-reparations-to-rohingya-for-role-in-ethnic-cleansing/>

<sup>51</sup> Amnesty International, "Kenya: Meta sued for 1.6 billion USD for fueling Ethiopia ethnic violence", 14 December 2022, <https://www.amnesty.org/en/latest/news/2022/12/kenya-meta-sued-for-1-6-billion-usd-for-fueling-ethiopia-ethnic-violence/>

<sup>52</sup> Amnesty International, *Myanmar: The social atrocity: Meta and the right to remedy for the Rohingya* (Index: ASA 16/5933/2022), 29 September 22, <https://www.amnesty.org/en/documents/asa16/5933/2022/en/#:~:text=The%20report%20concludes%20that%20Meta,survivors%20with%20an%20effective%20remedy.>

**Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.**

## Contact

  
info@amnesty.org

  
facebook.com/  
AmnestyGlobal

  
@Amnesty

  
amnesty.org



Amnesty International  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW, UK

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence (see [creativecommons.org/licenses/by-nc-nd/4.0/legalcode](https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode)).

Where material is attributed to a copyright owner other than Amnesty International, this material is not covered by the Creative Commons licence.

For more information, visit the [permissions page](#) on Amnesty International's website.