



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
3 February 2026

Original: English

# International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Committee on the Elimination of Racial  
Discrimination

Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families

## Joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such

### I. Introduction

1. The present joint general recommendation/general comment was adopted at the same time as joint general recommendation No. 38 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 7 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on general guidelines for eradicating xenophobia towards migrants and others perceived as such.<sup>1</sup> While that joint general recommendation/general comment and the present one are stand-alone documents, they are designed to complement each other and should be read, interpreted and implemented together.

2. The overall objective of the present joint general recommendation/general comment is to provide authoritative guidance for States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination and/or the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and all relevant stakeholders on developing and implementing measures on thematic areas within a comprehensive policy to eradicate xenophobia and its impact on human rights.

<sup>1</sup> For the purposes of the present joint general recommendation/general comment, the term “others perceived as such” encompasses all persons who are affected by racial discrimination or intersecting forms of discrimination in the context of xenophobia, resulting in unequal and discriminatory treatment. See also joint general recommendation No. 38 (2025) of the Committee on the Elimination of Racial Discrimination/general comment No. 7 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, para. 12.



## II. Developing rights-based narratives on migration, promoting responsible reporting, combating hate speech and building cohesive societies

### A. Narratives and communication policies

3. Narratives are powerful, socialized stories created by communities, public actors such as the media, popular culture, social and political figures and the general public to explain and understand the world around them.<sup>2</sup> Narratives have played an increasingly prominent role in the field of human mobility, particularly in fuelling xenophobia, its causes and its consequences. Xenophobia is both informed by and informs a combination of narratives, policies, attitudes, prejudices and practices. The constant repetition of a narrow and unfair representation of migration and migrants can cumulatively enable an environment where xenophobic narratives emerge. Consequently, discrimination, xenophobic and racist hate speech and even violence may seem acceptable or legitimate. This chain reaction informs policies and practices which, in turn, feed and multiply these narratives. This toxic combination leads to human rights violations linked to multiple forms of discrimination.

4. A key component of a comprehensive policy to address xenophobia is a focus on developing and disseminating a human rights- and evidence-based narrative on migration. Communication policies on migration-related matters entail both positive and negative duties. States Parties should take measures to abstain from directly or indirectly producing or spreading narrow, biased, prejudiced and stereotyped narratives, including those that describe migrants as a problem, threat or risk or in any other dehumanizing manner. Similarly, States Parties should discourage and counter any misinformation and disinformation disseminated by media and digital platforms, which could lead to stigmatization, stereotyping and criminalization, and could promote justification of unequal treatment and discrimination. States Parties should also refrain from associating a particular nationality with particular crimes, and from using expressions such as “migrants are criminals”, “migrants steal jobs”, “migrants disproportionately use social services”, “migrants do not pay taxes” and “migrants bring diseases”.

5. The Committees note that the misleading use of the term “illegal” to label migrants in an irregular situation, which is not and should not be considered a crime,<sup>3</sup> and the ascription of negative characteristics to them are clear indicators of the extent of the spread of stigmatizing and harmful narratives on migration.<sup>4</sup> The Committees reaffirm that no human being can be identified as “illegal”. Recalling General Assembly resolution No. 3449 (XXX) of 9 December 1975, on measures to ensure the human rights and dignity of all migrant workers, the Committees strongly urge all States to refrain from using terms such as “illegal”. States should also refrain from overemphasizing legitimate aims, such as public order or safety, to justify measures that arbitrarily or disproportionately undermine migrants’ enjoyment of human rights.

6. The Committees consider that States Parties also have positive duties to formulate and implement rights-based narratives on migration. An evidence-based description of the diversity that has shaped each society, including the historical migration processes and the increasingly dynamic patterns of migration in the contemporary world, is critical. Migrants should be presented as members of the community, not as others or outsiders. States Parties’ communication initiatives should ensure a prominent place for narratives acknowledging the diverse contributions of migrants to the societies in which they live. The Committees urge States Parties to take into account the recommendations of the Office of the United Nations

<sup>2</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), “Seven key elements on building human rights-based narratives on migrants and migration”, June 2024, p. 4.

<sup>3</sup> CERD/C/MAR/CO/19-21, paras. 29 and 30; CERD/C/USA/CO/10-12, paras. 51 and 52; and Committee on Migrant Workers, general comment No. 5 (2021), para. 36. See also Committee on Migrant Workers, general comment No. 2 (2013); and joint general comment No. 4 of the Committee on Migrant Workers/No. 23 of the Committee on the Rights of the Child (2017).

<sup>4</sup> Committee on Migrant Workers, general comment No. 2 (2013), para. 2; CERD/C/KOR/CO/17-19, paras. 7 and 8; and A/HRC/23/46/Add.4, para. 72.

High Commissioner for Human Rights (OHCHR) on building human rights-based narratives on migrants and migration.<sup>5</sup>

7. Narratives on international migration and migrants should include measures that describe and provide evidence of the possible negative impact of xenophobia at all levels of the economic, social, cultural and political life of the community. Narratives that promote discrimination against migrants as a means of improving the living conditions of nationals must be critically examined and rejected. On the contrary, rights-based and evidence-based narratives can reinforce the virtuous circle generated by policies addressing xenophobia and its harmful impact.

8. The Committees note with great concern that migration status has been increasingly used by States Parties to exclude people from the enjoyment of human rights, disproportionately affecting racialized communities. Under no circumstances can irregular migration status in itself be depicted as a threat to public safety or equated with criminal behaviour. States Parties should take specific measures to promote a substantive shift in public narratives concerning migration and concerning persons who are directly or indirectly forced to leave, move or stay in an irregular situation.

9. In general, it is through no fault of migrants that they fall into an irregular situation. Instead, it is the policy and practice choices made by States Parties – by act or omission – that place migrants in an irregular situation. Structural factors, including racism and gender inequality, also influence existing regulations on the right to leave one country and enter and stay in another in a regular manner. States Parties should ensure that irregular migration and persons with irregular migration status are presented through a comprehensive narrative that highlights the circumstances leading to such a situation or status. Narratives on the regularization of migrants should emphasize that it is a key tool for achieving positive outcomes of multiple public policies, rather than presenting it as an amnesty for people who have committed a crime.

## **B. Role of the media**

10. In a world where societies are becoming increasingly culturally diverse owing to human mobility, the media have grown to be a key vector for two contradictory outcomes. On the one hand, they serve to foster intercultural integration, social cohesion and mutual understanding. The media play an important role as a public watchdog, and investigative journalism can play a part in monitoring, reporting on and uncovering laws and policies that further xenophobia, discrimination and racism. On the other hand, the media can be misused to spread misinformation, hate, stereotypes and narrow narratives that lead to social inequalities and conflict. The Committees stress that media actors have a major social responsibility when addressing issues related to migration, migrants and persons perceived as such, especially those from racialized communities.

11. States Parties should take measures to combat xenophobia and discriminatory stereotypes against migrants in the media,<sup>6</sup> including the adoption of appropriate legislation in line with international standards.<sup>7</sup> Moreover, they should establish, if not yet in existence, independent public institutions tasked with regulating and monitoring audiovisual and print media to remove xenophobic and racist content and protecting against xenophobic, racial and other forms of discrimination. These institutions should be mandated to promote intercultural, inclusive and evidence-based public communication policies. They should also develop guidance and recommendations for media, digital platforms and other communication actors, including advertisers. Participatory dialogues and consultations with the private media, community radio stations and other stakeholders from the field of communications should be encouraged and facilitated.

<sup>5</sup> See OHCHR, “Seven key elements”.

<sup>6</sup> CERD/C/CHL/CO/22-23, paras. 18 and 19.

<sup>7</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 35 (2013), para. 39.

12. Taking into account the importance of freedom of expression in democratic societies, the Committees recommend that all media actors, both public and private, adopt codes of conduct and self-regulatory principles and guidelines aimed at ensuring a responsible approach to migration and ethical reporting and advertising.<sup>8</sup> Additional measures should reinforce such commitments in specific contexts, including during election campaigns and humanitarian and displacement crises. States Parties should encourage media actors to ensure ethical and responsible reporting on migration, grounded in the principles and standards of international human rights law.<sup>9</sup>

13. Media guidelines and rules should aim to prevent and address misinformation and disinformation, especially when used to discriminate against or create hostility towards migrants and others perceived as such. The guidelines should also promote the avoidance and rejection of narrow and biased portrayals of migrants in the media, particularly those that predominantly associate migrants with crime-related news coverage. They should raise awareness among media actors to prevent stereotyped approaches. Media actors, including journalists, are encouraged to take into account existing guidelines on responsible reporting of migration, including those developed by the International Organization for Migration (IOM)<sup>10</sup> and the International Labour Organization (ILO).<sup>11</sup>

14. Media self-regulation should include the commitment to refrain from:

- (a) Using the word “illegal” to describe migrants in an irregular situation;
- (b) Highlighting the nationality, ethnicity or religious affiliation of persons when reporting on alleged perpetrators of crime;
- (c) Alluding to the movement of migrants as an “invasion”, “avalanche”, “wave” or similar terms that could foster negative misconceptions.

15. The media, in partnership with the competent authorities from national and local governments, international agencies and civil society organizations, including migrants’ associations, academia and workers’ organizations, should promote positive and inclusive storytelling initiatives. Representing migrants as neighbours, parents, students, workers, professionals, caregivers, community leaders or in any other roles that they perform, like any other member of society, would help reduce misconceptions and prejudices, value the contribution that migrants make to society and foster social cohesion.

16. The lack of migrant voices in media reporting contributes to further othering and dehumanization of migrants. Public and private media actors should take measures to promote the visibility of migrants and others perceived as such in the media, reflecting the cultural diversity of society and avoiding a stereotyped approach. In addition, media actors and journalists should consult migrants, including migrants’ associations and community leaders, when reporting on matters related to migration, especially in cases of news stories or discourse that could fuel xenophobia and its harmful consequences.

17. States Parties should take measures to support and protect journalists who promote responsible and positive stories about migration and report on violations of the human rights of migrants.

18. In partnership with media actors, civil society organizations, human rights institutions and other stakeholders, States Parties should promote human rights and anti-discrimination training initiatives targeting journalists and others from the communication sector, including broadcast media, entertainment and other areas concerned.<sup>12</sup> The Committees recommend that measures be taken to mainstream pedagogical tools on human rights, migration and

<sup>8</sup> CERD/C/AUS/CO/18-20, paras. 13 and 14.

<sup>9</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 35 (2013), para. 39.

<sup>10</sup> IOM, “Media coverage on migration: a practical guide for journalists”, May 2018.

<sup>11</sup> ILO, “Reporting on forced labour and fair recruitment: an ILO toolkit for journalists” (2020), available at <https://www.fairrecruitment.org/resources/reporting-forced-labour-and-fair-recruitment-ilo-toolkit-journalists>.

<sup>12</sup> CERD/C/KOR/CO/17-19, paras. 7 and 8; and CERD/C/LTU/CO/9-10, paras. 11 and 12.

xenophobia, racism and other forms of discrimination into the curricula of journalism schools and related fields.

### C. Social networks and other digital platforms

19. Private actors running or managing digital platforms, including social networks, have an important social responsibility to prevent and eliminate xenophobia, racism and other expressions of hate and discrimination against migrants and others perceived as such in virtual spaces. Indeed, algorithms and other digital platform tools may contribute to spreading and magnifying xenophobia and racism, including hate speech. The Committees therefore recommend, in line with general recommendation No. 35 (2013) of the Committee on the Elimination of Racial Discrimination,<sup>13</sup> that these actors, including Internet service providers, engage in effective self-regulation and adopt guidelines and codes of ethics to prevent and address such manifestations,<sup>14</sup> while respecting the right to freedom of opinion and expression.

20. States Parties should take steps to prohibit, prevent and monitor online hate speech against migrants and others perceived as such, and to ensure that all reported cases are effectively investigated and duly prosecuted and punished.<sup>15</sup> They should develop policies to encourage private actors to effectively put in place guidelines, including regulations for prohibiting and sanctioning hate speech, and to prevent and address xenophobia and related forms of discrimination on those platforms. In addition, States Parties should take measures to implement the Guidelines for the Governance of Digital Platforms, developed by the United Nations Educational, Scientific and Cultural Organization, and the Guiding Principles on Business and Human Rights.

21. The Committees recommend the creation of a working group composed of representatives of the public security sector, Internet service providers, digital platforms, government entities, international organizations, civil society, national and local human rights institutions, public bodies for combating xenophobia, racism and related forms of discrimination, and migrants and members of racialized groups. This multi-stakeholder framework could develop measures and guidelines to prevent and address xenophobia and racism online, including proactive mechanisms for the timely dismantling of fake news aimed at stigmatizing or criminalizing migrants and others perceived as such.

22. The competent authorities should develop initiatives to play an active role in social networks to address and prevent xenophobia and promote a comprehensive narrative on migration. States Parties should support digital technologies designed to prevent xenophobia and promote intercultural integration, including tools accessible to migrants with disabilities.

23. Considering the increasing relevance of the digital environment in children's lives, the Committees recommend that States Parties take all measures necessary to implement the authoritative guidelines developed by the Committee on the Rights of the Child in its general comment No. 25 (2021).

### D. Hate speech and xenophobic violence

24. A comprehensive policy for eradicating xenophobia must include legislative, operational and other measures aimed at identifying, prohibiting and sanctioning organizations and other groups that promote, incite or commit xenophobic and intersectional violence against migrants and others perceived as such. The Committees encourage States Parties to integrate fully into all relevant policies the authoritative guidance developed by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 35 (2013) on combating racist hate speech. The Committees also recommend that measures be taken to implement the Rabat Plan of Action on the prohibition of advocacy of

<sup>13</sup> General recommendation No. 35 (2013), para. 42.

<sup>14</sup> CERD/C/MAR/CO/19-21, paras. 17 and 18.

<sup>15</sup> CERD/C/BEL/CO/20-22, paras. 18 and 19; CERD/C/COL/CO/17-19, paras. 10 and 11; and CERD/C/LUX/CO/18-20, paras. 17 and 18.

national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

25. The Committees stress the importance of taking legislative measures and implementing operational programmes in order to effectively ensure access to justice and redress schemes by victims of xenophobia and hate speech and violence. Specific initiatives should guarantee due process, including access to legal aid, for victims in all administrative and judicial proceedings affecting them. Safe channels for reporting must be ensured. Additional measures to promote multisectoral assistance for victims of xenophobic crimes should include the following:

- (a) Providing mental health and psychological support;
- (b) Ensuring accessible, child-friendly, culturally sensitive and gender-responsive mechanisms;
- (c) Tackling language barriers and taking into account the specific needs of persons with disabilities;
- (d) Ensuring that procedural costs do not dissuade victims from seeking compensation;
- (e) Allocating adequate resources.

26. Groups promoting verbal or physical xenophobic hate and violence also target associations of migrants, defenders of the rights of migrants, including organizations saving lives in migration corridors and providing humanitarian assistance, and other social actors. Adequate measures should be taken to protect them, ensuring an intersectional approach and taking into consideration the particular role of women human rights defenders.

## **E. Education as key to eradicating xenophobia and promoting social cohesion**

27. The education environment can be another space where prejudices and related discrimination are spread and experienced. Nevertheless, it is also a privileged context for addressing these issues and implementing policies aimed at building bridges between cultures from an early age. The Committees stress that such measures within education policies are critical to the success of efforts to counter the impact of xenophobia, dismantle its causes, build inclusive societies and promote social cohesion and intercultural integration in increasingly diverse societies.<sup>16</sup>

28. States Parties should mainstream migration and cultural diversity, taking a rights-based and holistic approach, into education curricula at all levels – primary, secondary and higher – in both formal and informal learning spaces and at the national and local levels of government. Specific measures should be taken to include such themes and approaches in the curricula of professional degrees in education, and in continuing training programmes for teachers, teacher trainers and other education sector workers, to ensure culturally and ethnically sensitive teaching practices.

29. Initiatives should be promoted by the competent authorities in education, anti-discrimination and other relevant areas to develop and incorporate textbooks, educational tools and activities for each level and age group. These materials should aim to promote intercultural understanding and address and prevent xenophobia and racism, including colonial stereotypes.<sup>17</sup> Appropriate resources should be allocated to implement effectively all the pedagogical tools and activities needed to achieve these goals. The history and legacies of colonization and chattel slavery should be part of the basic education

---

<sup>16</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 35 (2013), paras. 31 to 34; and [CERD/C/USA/CO/10-12](#), paras. 57 and 58.

<sup>17</sup> Joint general comment No. 4 of the Committee on Migrant Workers/No. 23 of the Committee on the Rights of the Child (2017), para. 63.

curriculum in every State Party as a critical method of addressing xenophobia and its harmful impact.

30. States Parties should develop initiatives to foster community-wide engagement in schools and informal learning centres, aimed at preventing xenophobia and promoting social cohesion and mutual understanding. The Committees recommend that States Parties take and effectively implement adequate measures to promote programmes in schools that reflect the cultural diversity of society. Adequate measures should be taken to prevent segregated school systems, which can hamper intercultural integration<sup>18</sup> and lead to social conflict, hate and related harmful outcomes.

31. Education institutions and other competent authorities should take measures, including legislative reforms, to encourage, allow and facilitate the incorporation of migrant teachers and other education workers into the educational system. Barriers, including discrimination on the basis of nationality, race, ethnicity, gender, religion and other grounds, should be removed.

## **F. Cultural policies**

32. Inaccurate, false or harmful narratives about migrants and their cultures, or narratives that ignore or make invisible existing ethnocultural diversity, can fuel discrimination, resentment and even violence. They can also lead to migrants being ignored and undermined in the community in which they live. Rights-based, gender-responsive and culturally sensitive cultural policies can make an essential contribution to eradicating xenophobia.

33. States Parties should develop policies at all levels to promote and facilitate the participation of migrants and others perceived as such in all aspects of cultural life, in order to strengthen and highlight their belonging to the community in which they live. States Parties should remove all barriers to the equal participation of migrants in all aspects of cultural life, including theatre, cinema, painting, music, radio, television, digital platforms and festivals, as a manifestation of the ethnocultural diversity of the society.

## **III. Impact of xenophobia on migration**

### **A. Right to leave the country and freedom of movement**

34. According to article 13 (2) of the Universal Declaration of Human Rights, article 5 (d) (ii) of the International Convention on the Elimination of All Forms of Racial Discrimination and article 8 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, everyone has the right to leave any country, including one's own. In the Global Compact for Safe, Orderly and Regular Migration, States committed to enhancing the availability and flexibility of pathways for regular migration, including initiatives to respond to the needs of migrants in vulnerable situations. The Committees are aware that there is a direct relationship between, on the one hand, the nexus between racism and xenophobia and, on the other, restrictive policies that hinder or obstruct regular channels for the safe and regular enjoyment of the right to leave the country. In many countries, policies that restrict visas and other regular migration channels on the basis of different factors – for example, work, family reunification or protection-related grounds – have been directly and indirectly informed by prohibited grounds of discrimination. These restrictions have a direct impact on persons with a pressing need to flee their countries owing to deprivation of their human rights.

35. A comprehensive policy for eradicating xenophobia should include a thorough review of regulations on visas, entry and residence permits. Removing requirements and barriers imposed on the basis of nationality, race, ethnicity, gender and other grounds of discrimination is an essential step towards actually facilitating regular, effective, affordable and accessible pathways. Rights-based and humanitarian protection-based pathways should

<sup>18</sup> CERD/C/ISR/CO/17-19, paras. 40 and 41.

mainstream and amplify such regulations. Family reunification procedures should be accessible and exempt from all forms of discrimination, including on the grounds of socioeconomic status and labour skills. These procedures should primarily be aimed at protecting the right to family life, children’s rights and other related rights. Enabling migrant workers to change to a different type of visa or residence permit should also be facilitated, without discrimination.

36. Throughout the past few decades, policies have increasingly contributed to making irregular migration one of the structural characteristics of human mobility. For many people, irregular migration has become one of the few actual pathways, if not the only one, for exercising their right to leave their country and to seek and enjoy asylum. The Committees are of the opinion that irregular migration status is a clear indicator of a person in a vulnerable situation owing to rights deprivation and discrimination, rather than a person with a tendency to break the law.

37. The Committees are alarmed about evidence of the outcomes of narratives and practices to address irregular migration through the lens of combating crime. Measures in this direction include the escalating militarization of migration routes, including at borders, in international waters and in the territory of countries of origin and transit countries.<sup>19</sup> The results include the tragic increase among migrants of cases of death, disappearance – including enforced disappearance – kidnapping, sexual assault, beating, detention and many other abuses, by State and non-State actors. Instead of reinforcing restrictive and securitized responses focusing on migration control, therefore, States Parties should develop policies to fulfil migrants’ rights without any discrimination.

38. The Committees reaffirm the principle of non-criminalization of irregular migration. The irregular entry, transit or stay of migrants cannot be considered a crime. The criminalization of irregular migration will therefore always exceed the legitimate interests of States in governing human mobility. Such situations can solely be considered administrative infractions. The Committees underscore the need to address irregular migration from a comprehensive rights-based and humanitarian perspective. States Parties should take measures to guarantee the right to seek asylum regardless of irregular entry into a country, and other human rights that could be at stake in the context of entry, residence application, return and other migration procedures.

39. The Committees recommend that States Parties thoroughly review policies and operational measures in order to assess whether they may contribute to increasing the risks that people face in migration corridors. These assessments should cover the connection between the lack of regular pathways, the securitization of measures and the increase in irregular and unsafe routes and their human consequences.<sup>20</sup>

40. The Committees recommend that States Parties take all measures necessary to prevent any form of violence, racial discrimination and ill-treatment of migrants in transit and at borders regardless of migration status, and to ensure accountability for State and non-State actors who perpetrate such acts. States Parties should put in place and strengthen search and rescue operations in unsafe migration corridors on land or at sea, in line with human rights obligations and those arising from the International Convention on Maritime Search and Rescue. They should take measures, by law and in practice, to support humanitarian organizations and human rights defenders that carry out such activities, refraining from taking measures that could in any way impede or criminalize the assistance that they provide.<sup>21</sup> Administrative authorities, particularly those focused on protecting people in vulnerable situations, rather than security or armed forces, should have a primary role within policies and procedures concerning migrants in transit. In addition, independent institutions should assess in depth the factors leading to the increase in cases among migrants of death, enforced disappearance and other human rights violations or tragedies in transit. Adequate

<sup>19</sup> CERD/C/KOR/CO/20-22, paras. 17 and 18; and CERD/C/MEX/CO/18-21, paras. 34 and 35.

<sup>20</sup> CMW/C/MEX/CO/3, paras. 35 and 36; CMW/C/MEX/QPR/4, para. 14; and CMW/C/MEX/CO/4, paras. 33 and 34.

<sup>21</sup> CERD/C/ITA/CO/21, paras. 18 and 19; and OHCHR and Global Migration Group, *Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations* (Geneva, OHCHR, 2018), principles 13 and 18. See also A/73/216, para. 28.

measures should be taken to determine responsibilities, grant victims access to justice and reparation and ensure safeguards of non-repetition.

41. Xenophobia has also influenced the policies to address the aforementioned dramatic consequences. Narratives often disregard these tragedies, ignore the identity and history of each victim, dehumanize the victims, blame migrants and evade discussions on the root and policy-based causes of irregular and unsafe migration. Policies lack measures to ensure culturally sensitive treatment of victims, identify them, contact their families and facilitate fulfilment of their relatives' rights to grief and mourning,<sup>22</sup> to know the truth and to seek justice and redress, including through transnational justice mechanisms. The Committees encourage States Parties to take all measures necessary to implement the guidelines developed by the Committee on Enforced Disappearances in its general comment No. 1 (2023) on enforced disappearance in the context of migration.<sup>23</sup>

42. The Committees recall the extraterritorial character of human rights obligations in any circumstance in which State agents exercise effective authority over procedures, actions and decisions that affect human rights. Migration control activities beyond the territory of States Parties fall under their jurisdiction, according to international human rights law. Measures must be taken to ensure that human rights duties are fully respected, including the prohibition of refoulement. Due process guarantees in such procedures must be ensured. Practices such as interception, pushback and other similar measures that lack these basic guarantees and fail to meet human rights obligations should be banned and eradicated, including when implemented under practices and agreements on bilateral cooperation.

43. States Parties are urged to take legislative and other measures to protect migrants in transit who are victims of crimes. Programmes intended to ensure that they and their relatives have access to justice should be effectively realized, including through transnational justice mechanisms and cooperation initiatives on justice and other areas. Measures to facilitate their access to appropriate redress should be reinforced, or put into place where they are lacking.

44. The Committees note the positive outcomes of regional agreements aimed at facilitating freedom of movement by recognizing the right of entry and stay of migrants from other countries in the region. The Committees call on States Parties to expand and strengthen these practices. Legislative and operational measures aimed at adopting a broader definition of the term "refugee" at the regional level should also be enhanced and expanded. These good practices should not lead to discriminatory treatment against migrants from other regions, especially in regard to the effective enjoyment of the right to seek asylum, the right to family life and other rights enshrined in international human rights and humanitarian law.

## **B. Human rights at borders and in destination countries**

45. Borders can be particularly dangerous for migrants. National laws and administrative regulations sometimes wrongly characterize borders as zones of exclusion or exception for human rights obligations. Harmful and xenophobic narratives, often fuelled by anxieties about national security, have contributed to more restrictive border-management practices, which in turn reinforce xenophobia. A security approach to border-control procedures and decisions has led to measures that fail to take account of human rights obligations and to fulfil the basic standards of transparency of State action. The risk of violations of human rights, including the rights to life and to be protected from enforced disappearance, torture and other cruel or inhuman treatment, is thus greater at borders.

46. The Committees recommend that States Parties develop a comprehensive and rights-based narrative to inform measures to regulate migration policies and practices at borders. The Committees urge States Parties to take all measures necessary to mainstream into such policies all international human rights standards, taking into account the OHCHR Recommended Principles and Guidelines on Human Rights at International Borders. States Parties should effectively respect and fulfil all due process guarantees, including access to

<sup>22</sup> [A/72/335](#), para. 71.

<sup>23</sup> See also Recommendation 2284 (2024) of the Parliamentary Assembly of the Council of Europe on missing migrants, refugees and asylum-seekers.

justice and effective remedies, in the context of expulsions and other measures of forced return.

47. Collective expulsion and pushback must be prohibited, as has been evidenced by both Committees and by several other United Nations human rights mechanisms.<sup>24</sup> Such measures violate the right to individual assessment of protection needs, the principle of non-refoulement, the right to seek asylum and the duty to ensure due process guarantees. States Parties should also take strong measures to prevent any form of violence and ill-treatment against migrants during border procedures, including racist and gender-based violence, and to investigate any reported cases of such practices, facilitate victims' access to justice and redress and establish non-repetition mechanisms.

48. The reciprocal connection between xenophobic narratives and migration policies has also influenced the expulsion of migrants owing to their irregular status through procedures that lack critical human rights standards, including due process guarantees. Such measures, effectively punitive in nature, have the potential to affect several rights at stake depending on the case, including the rights to work, housing, social security, wages, family life and health and the right of children not to be separated from their parents or primary caregivers, among many others.

49. In irregular situations – those related to irregular entry or stay – States Parties should primarily take alternative measures to expulsion. Priority should be given to pathways for regularization on the basis of human rights duties, humanitarian considerations and other related grounds. If any sanction is to be imposed, States Parties must respect the principle of proportionality between the infraction, its effects and the sanction. Expulsion should, as a general rule, be a last resort. In such a situation, States Parties should strengthen guidelines, training and related policies aimed at ensuring that both administrative and judicial authorities are fully aware of their obligations with regard to human rights and of their legal obligations.

50. The use of digital technologies at borders often amplifies existing human rights concerns and enables them to be manifested in new ways. This effect is particularly stark where border governance is influenced by xenophobia and racism, seeking to achieve security-focused rather than protection-focused objectives. The intrinsic relationship between xenophobia and biased policies has influenced the development and use of digital technologies for the purposes of migration control, at borders and beyond, in the context of growing securitization and, in some cases, militarization, and their harmful consequences. The discriminatory use of digital technologies at borders is particularly harmful to members of racialized groups, even those with regular migration status.

51. States Parties should take measures to mainstream into policies against xenophobia all the standards developed by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials. In the field of border control and in other matters related to migration, States Parties should take all measures necessary, including legislative measures, to ensure that the design, deployment and use of artificial intelligence systems and digital technologies comply with such standards. In particular, they must protect people from discrimination or profiling, including on the grounds of race, colour, descent or national or ethnic origin.<sup>25</sup> States Parties are also encouraged to adhere to the principle of data minimization and purpose limitation, including reviewing any areas of data repurposing and the compatibility of any large-scale or interoperable databases with such principles. Specific measures should be taken to ensure that clear firewalls are in place between border-enforcement agencies and other State agencies, including those responsible for the delivery of rights and services.<sup>26</sup>

<sup>24</sup> CERD/C/IRN/CO/20-27, paras. 38 and 39; CERD/C/MDA/CO/12-14, paras. 25 and 26; CERD/C/BIH/CO/14-15, paras. 31 and 32; and CMW/C/TUR/CO/2, paras. 31 and 32. See also A/HRC/47/30.

<sup>25</sup> CERD/C/QAT/CO/22-23, paras. 24 and 25.

<sup>26</sup> See OHCHR and University of Essex, “Digital border governance: a human rights-based approach”, September 2023.

52. The Committees recommend that States Parties take all appropriate measures to ensure, by law and in practice, that the development and implementation of all digital border technologies is subject to robust human rights protections. States Parties should take an intersectional approach and ensure due process guarantees, effective remedies, firewalls, transparency and accountability mechanisms, and independent assessments of the impact on human rights before deploying new technology. States Parties should also ensure that the use of digital technologies is adequately regulated within the legal and policy framework, incorporating explicit rights-based provisions. States Parties should refrain from using digital technologies at borders that could cause severe harm to human rights, including artificial intelligence that reproduces racial algorithmic bias by creating risk profiles and automating decision-making on migration and asylum procedures.

53. Xenophobia and structural racism, and harmful narratives underpinning them, have also had a deep and worrying impact on policies directed at expanding border governance measures beyond the border. These practices seek to control migrants' residence status in the context of various fields within States' territory, such as social services, workplaces, public transport and roads, and hotels. In some countries, competent authorities and private actors are not authorized or required to monitor whether an individual – such as a client, worker or service user – has breached the law, even in cases of the most serious crimes. However, immigration-related offences are often checked and reported in a wide range of places, institutions and circumstances. The Committees are of the opinion that these are discriminatory and disproportionate practices, informed by a securitized and xenophobic narrative on irregular migration status. They strengthen misperceptions about migrants and lead to policies contrary to international human rights obligations.

54. States Parties should apply a gender-responsive, child-sensitive and human rights-based approach when collecting data and ensure that the rights of migrant workers and members of their families to privacy, personal information and data protection are protected, including by establishing appropriate firewalls, in order to ensure that personal data are not used for migration control or for discrimination in public or private services. States Parties should refrain from using service providers and other authorities – apart from migration law enforcement bodies – as auxiliaries in policies for migration control. Likewise, States Parties must ensure that the primary duty of labour inspection services is to monitor labour laws and regulations, especially to protect workers' rights.

### C. Right to seek asylum

55. Xenophobic and criminalizing narratives on irregular migration, reciprocally complemented by securitized migration policies, have led to extraterritorial strategies of border control. The Committees are of the opinion that the externalization of policies for migration control is a practice that impedes, in essence, the enjoyment of the human right to asylum and, complementarily, due process guarantees and other human rights that may be at stake depending on the case.<sup>27</sup> These externalization practices have increasingly restricted the opportunities for migrants to effectively apply for asylum or other complementary forms of protection.

56. States Parties should ensure that measures for migration control that are taken in international zones and beyond their borders, including in international waters and in the territory of countries of origin or transit countries, do not reduce in any aspect their duties under the Convention relating to the Status of Refugees or international human rights treaties. States Parties should refrain from promoting or adopting bilateral or multilateral agreements by which they aim to evade or limit their legal obligations under human rights and humanitarian law, including by outsourcing or externalizing such duties.<sup>28</sup>

57. The Committees are also concerned about the influence of xenophobia and anti-migrant narratives on asylum procedures and decisions, including algorithmic bias in the automated processing of applications, and on the designation of safe third-country lists. The

<sup>27</sup> A/HRC/48/76, para. 49.

<sup>28</sup> CERD/C/GBR/CO/24-26, paras. 47 and 48.

adoption by asylum authorities of restrictive criteria that are not based on human rights, and the lack of individual assessment of asylum applications, including widely discretionary decisions based on political interests and misconceptions, have been arbitrarily affecting the right to seek and enjoy asylum and complementary forms of international protection.

58. States Parties should take all appropriate measures to enhance the adoption of a rights-based approach, integrating an intersectional perspective, within asylum procedures and decisions. Legislative and operational measures should ensure all due process guarantees, such as access – free of charge where necessary – to legal aid and interpreters, fair administrative decision-making and effective remedies. States Parties should refrain from restricting the right to asylum out of political interests – for example, based on bilateral relations with the applicant’s country of origin – and from any other discriminatory practices. Measures should be taken to prevent racial profiling and any form of direct or indirect discrimination in asylum procedures and decisions.<sup>29</sup>

#### **D. Detention policies**

59. The Committees stress that over the past few decades, there has been a growing reciprocal relationship between xenophobia and narratives aimed at legitimizing policies of migration-related detention. Since its inception, international human rights law has progressively contributed to limiting the use of administrative grounds for the deprivation of liberty and to reducing the use of detention within the criminal system, especially as a preventive measure during procedures. However, the use of detention based on factors related to migration status has increased.

60. States Parties should immediately forbid and cease in practice the migration-related detention of children, including unaccompanied minors, and families, in line with joint general comment No. 4 of the Committee on Migrant Workers/No. 23 of the Committee on the Rights of the Child (2017).<sup>30</sup> Similar measures should be taken to cease the detention of other persons in vulnerable circumstances, including pregnant women, asylum-seekers, persons with disabilities and victims of trafficking, taking into account the authoritative guidance by the Committee on Migrant Workers in its general comment No. 5 (2021).

61. The implementation of detention policies focused on security and the creation of facilities for detaining persons for the purposes of migration control have encouraged social narratives that unfairly link migrants – and in particular, those with irregular migration status – to public order and security threats.<sup>31</sup> The Committees are concerned about the use of detention for migration-related issues, which results in discriminatory treatment in regard to the human right to liberty and protection from arbitrary detention. Although individuals are detained solely on the basis of their administrative status, the detention conditions are usually nearly identical to those in prisons within the criminal system and may amount to inhuman treatment. These conditions include being kept in prison-like buildings and being subjected to strict daily routines, the use of isolation and punishment cells, restrictions on family visits, limited access to phones and the Internet, high levels of opacity and restricted access for civil society organizations, national human rights institutions and equality bodies.

62. The Committees recall that immigration detention is always harmful and disproportionate as an interim measure during administrative procedures or in response to an administrative irregularity or infraction. The Committees strongly recommend that States Parties take all appropriate measures without delay to progressively abolish migration-related detention policies and practices. Until then, the Committees urge States Parties to ensure, by law and in practice, that detention for migration purposes is used only as a last resort and is an exceptional measure, applied for the shortest possible period of time.<sup>32</sup> The decision to detain must follow a substantiated assessment demonstrating why other measures cannot be applied. The law should oblige the competent authorities to use non-custodial measures, if

---

<sup>29</sup> CERD/C/BIH/CO/14-15, paras. 31 and 32.

<sup>30</sup> CERD/C/MEX/CO/18-21, paras. 34 and 35.

<sup>31</sup> A/75/183, para. 80.

<sup>32</sup> CERD/C/BIH/CO/14-15, paras. 31 and 32. See also Committee on Migrant Workers, general comments No. 2 (2013) and No. 5 (2021).

needed, on a priority basis. Any restriction or deprivation of liberty based on migration status must be implemented within a procedure that ensures all due process guarantees. In such cases, the competent authorities must give a robust, individualized justification for any restriction of migrants' liberty.

63. States Parties should ensure that measures and practices on migration-related detention are different from those used in policies for addressing criminal issues. They should take adequate measures to guarantee that the facilities and all conditions of migration-related detention are entirely different from those of the criminal system. Legislative and operational measures should be taken accordingly, such as the following:

- (a) Refraining from using law enforcement authorities to manage such facilities;
- (b) Abstaining from daily rules and activities akin to those in the penitentiary system;
- (c) Improving transparency and accountability mechanisms;
- (d) Guaranteeing migrants' access to information, the Internet, cell phones and visits from their family and lawyers;
- (e) Removing language barriers and hiring intercultural mediators.

64. States Parties should implement confidential and effective complaint mechanisms for cases of xenophobic and racial violence and other abuses against migrants in detention centres, including independent oversight and follow-up. Access by civil society organizations, national human rights institutions, equality bodies and other independent oversight bodies should be strengthened. Policies should be in place to collect data on such cases. Measures should be taken to ensure ongoing rights-based training programmes for personnel working in migration-related detention centres, aimed at preventing cases of xenophobia and racism and eradicating securitized attitudes related to imprisonment.

## **E. Racial profiling and policies on migration law enforcement**

65. The impact of xenophobia on policy has also been manifested in practices of racial profiling by law enforcement authorities.<sup>33</sup> In this regard, the Committees call on States Parties to take all appropriate measures to effectively implement the authoritative guidelines issued by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 36 (2020). The Committees underscore the importance of adopting an intersectional approach to address the impact of racial profiling, particularly on migrants, in accordance with the principle of non-discrimination.

66. A securitized narrative regarding migration has contributed to instances of abuse by border agents and other security forces against migrants, especially those in an irregular situation.<sup>34</sup> These practices include arbitrary arrests and searches, mistreatment and excessive use of force, including against women and children. The use of force within migration procedures, and during police raids and other anti-crime action against migrants allegedly in an irregular situation, reinforces a wrongful association between migrants and criminality. Migrants of certain nationalities, ethnicities and skin colours are particularly targeted by these arbitrary practices owing to existing structural forms of racism, which also affect racialized groups perceived as migrants.<sup>35</sup>

67. States Parties should strengthen policies to implement effective accountability mechanisms for border agents and all law enforcement agencies, including independent oversight, complaint mechanisms and disciplinary action in cases of xenophobic behaviour.<sup>36</sup> Measures should be taken to intensify the ongoing training of the competent authorities to prevent such abuse.

<sup>33</sup> CMW/C/MEX/CO/3, paras. 25 and 26.

<sup>34</sup> CERD/C/MAR/CO/19-21, para. 33.

<sup>35</sup> CERD/C/USA/CO/10-12, paras. 51 and 52.

<sup>36</sup> CERD/C/MAR/CO/19-21, para. 34.

## **F. Regularization**

68. Securitized narratives regarding migrants in general, and those in an irregular situation in particular, have influenced policies and discourse addressing regularization. Regularization programmes have been portrayed as measures akin to amnesties aimed at pardoning crimes or related harmful conduct. This approach increases criminalizing and stigmatizing narratives, cyclically reinforcing policies on irregular migration, including a lack of political will to facilitate regularization. States Parties should refrain from presenting regularization programmes as tools for pardoning criminal offences.

69. The Committees stress that regularization is a critical tool for addressing irregular, insecure and vulnerable situations of migrants and their families. Regularization is a key means of achieving policy goals in several areas, including human development, socioeconomic inclusion, formal employment and the prevention of exploitation, gender-based violence, marginalization, child labour and other risks. Facilitating migrants' access to regular residence is an essential measure to protect persons in vulnerable situations and, subsequently, to fulfil their basic rights and promote their social inclusion. On the contrary, the absence of accessible and permanent pathways to regularization contributes to deepening inequalities, social exclusion and multiple forms of discrimination, abuse and other negative consequences.

70. States Parties should adopt a human rights-based approach and a comprehensive narrative on regularization, including by disseminating messages on the way in which regularization can lead to multiple positive outcomes for migrants, their families, society and the State itself. The Committees recommend that States Parties take and strengthen measures aimed at ensuring, by law and in practice, accessible and affordable regularization mechanisms, including temporary schemes and, more importantly, permanent pathways. The decision as to whether to grant migrants access to regular residence status, enabling them to leave irregular status behind, could be made on the basis of any of a wide range of factors, such as employment, family ties, social roots, child and family protection, humanitarian grounds, social inclusion, policy goals on labour and human development and legal duties with regard to international human rights and refugee law.

## **IV. Impact of xenophobia on the enjoyment of economic, social and cultural rights**

71. Narratives have wrongfully proposed that nationals should enjoy privileged protection of human rights, or attempted to legitimize restrictions on access to basic services on the basis of non-national, migration or residence status. These narratives have had a negative impact on the enjoyment by migrants of economic, social and cultural rights. The Committees stress that these practices not only affect the human rights and living conditions of migrants and others perceived as such, but also lead to increasing social exclusion, inequality and other negative outcomes. The Committees remind States Parties of the standards developed by the Committee on Economic, Social and Cultural Rights regarding migrants.<sup>37</sup>

### **A. Right to education**

72. Xenophobic narratives on migration, including those that represent migrants as abusers of social services or link them with criminality and security threats, have several harmful effects on children's right to education. These narratives lead to their exclusion from or to restrictions on their access to education, at certain or all levels, and other discriminatory practices.<sup>38</sup> Such practices may also include barriers to obtaining diplomas, failure to recognize foreign educational qualifications, exclusion from scholarship schemes or deportation for having participated in political or social activities in higher education institutions. Biased representation of migrants by authorities, the media and other actors

---

<sup>37</sup> See E/C.12/2017/1.

<sup>38</sup> CERD/C/KOR/CO/17-19, paras. 29 and 30.

contributes to cases of xenophobic bullying of migrant children and children born to migrant parents or families with migrant backgrounds, especially those from racialized groups. Such practices violate children's rights to education, mental health and development, among others, and could result in situations of violence or, in the long term, lead to a rise in social conflict and societal inequality in countries of destination.

73. States Parties should ensure, by law and in practice, that policies and programmes are in place to effectively guarantee the right to education for all migrant children on an equal basis with children who are nationals, regardless of their migration status or that of their parents. Enrolment barriers such as residency requirements should be eliminated, diplomas should be issued upon fulfilment of the educational requirements and equal access should be provided to scholarships or other support measures, irrespective of migration status. Comprehensive, intercultural and rights-based support services should aim to ease the integration of migrant children into schools, especially in the case of unaccompanied migrant children. Initiatives should include linguistic immersion programmes and training of cultural mediators.

74. Specific programmes, with adequate resources and properly trained teachers and other professionals, should be put in place with the aim of preventing and addressing xenophobic discourse and bullying at schools, incorporating an intersectional approach. Child-friendly mechanisms for intercultural mediation and specialized psychosocial support for child victims of xenophobic, racist and related incidents should also be made available.

## **B. Labour rights**

75. Narratives on migration have influenced policies on the labour market and employment, leading to restrictions on migrants' right to work and unequal and unsafe working conditions, including exploitation. Potentially discriminatory practices include forbidding migrants from working or restricting their right to work on the basis of their migration or asylum status, impeding their access to a residence permit on the basis of labour opportunities or prohibiting the hiring of migrant workers with regular migration status in particular sectors of the labour market. Such measures lead to the overrepresentation of migrants in unemployment and in informal, unsafe or unprotected labour activities, and hinder social and labour inclusion.

76. Such narratives are also linked to vulnerable situations that migrant workers, especially those with irregular migration status, may face, including labour exploitation, child labour, gender-based violence and harassment, and other abuse or exploitation at work.<sup>39</sup> Specific categories of migrant workers are particularly affected by xenophobia and other forms of discrimination, including those working in the areas of domestic care, rural work, mining, agriculture, construction, textiles, delivery, hotels, restaurants and the digital gig economy. A particularly harmful impact is suffered by migrant women, especially the poorest and most marginalized, who are disproportionately concentrated in low-paid and unprotected jobs. Migrants face obstacles in obtaining recognition of educational diplomas and labour skills certificates obtained in their countries of origin. Barriers and discriminatory regulations preventing migrants from enjoying union rights are widely evidenced in many countries.

77. States Parties should take all measures necessary to promote equal access to work permits and decent work across all jobs sectors and skill levels, and repeal discriminatory legal provisions that unreasonably deny access to employment for non-nationals. States Parties should respect migrant workers' union rights, and support trade unions' initiatives for training and awareness-raising regarding xenophobia and intersecting forms of discrimination. States Parties should take measures to authorize migrants to work while they are awaiting a decision on their application for residence or asylum. In addition, States Parties should prohibit employers from confiscating identity documents and passports, and ensure that employers who violate that prohibition are appropriately sanctioned.<sup>40</sup>

<sup>39</sup> CERD/C/QAT/CO/22-23, paras. 16 and 17; CERD/C/ZAF/CO/9-11, paras. 42 and 43; CMW/C/KGZ/CO/1, paras. 40 and 41; and CMW/C/LSO/CO/1, paras. 27 and 28.

<sup>40</sup> CERD/C/QAT/CO/22-23, paras. 18 and 19.

78. Specific measures should be taken to address racial discrimination in recruitment at the structural, institutional and individual levels. Normative guidelines directed at private sector actors – namely, employers and recruitment agencies – should be adopted.<sup>41</sup> Such initiatives should be aimed at preventing xenophobia, including through information and awareness-raising campaigns, and training programmes for labour inspectors, the labour judicial system and other competent authorities, and the private sector. The Committees recommend that States Parties take into account in such measures the ILO general principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs.<sup>42</sup> States Parties should also reinforce labour inspection policies, including in the domestic work sector.

79. States Parties should ensure accessible and affordable dispute resolution and complaint mechanisms with regard to acts of xenophobia and any kind of discrimination at work. States Parties should take measures to remove physical, linguistic or gender-related barriers to access to justice. Migrant workers should be given sufficient time to remain in the country until a final decision is reached regarding their case. If they are forced to leave the country, measures should be taken to allow them to file a complaint from their country of origin, ensuring access to justice and redress through effective transnational justice mechanisms.

80. The Committees encourage States Parties to ratify or implement all the ILO conventions relevant to migrant workers – including the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Domestic Workers Convention, 2011 (No. 189) – ensuring that the interpretation of the provisions protects all migrant workers, regardless of their migration status. States Parties should also take all appropriate measures to implement the authoritative guidelines developed by the Committee on the Elimination of Discrimination against Women in its general recommendations No. 26 (2008) on women migrant workers and No. 38 (2020) on trafficking in women and girls in the context of global migration, in particular with regard to addressing labour exploitation of migrant women.

### C. Right to health

81. Direct and indirect xenophobic narratives on migrants have had several consequences in healthcare policies and on migrants' right of access to health services. The adoption of discriminatory policies and practices that restrict this right on the basis of nationality, residence or migration status is one of the more widespread outcomes.<sup>43</sup> The Committees are concerned about other practices that are not in line with international human rights obligations and standards, which violate migrants' right to health and undermine key objectives of public healthcare policies, such as the following:

- (a) Regulations under which migrants in an irregular situation have access to emergency care services only;
- (b) Requirements that migrants pay for health services that are free of charge for the rest of the community;
- (c) The requirement of a minimum number of years of regular residence to qualify for access to certain health services.

82. The Committees recommend that States Parties take all appropriate measures to remove any discriminatory regulations and practices related to the right to healthcare. Regardless of their migration status, migrants should have access on an equal basis with nationals to all health services, including sexual and reproductive health services.<sup>44</sup> Other

<sup>41</sup> CERD/C/NLD/CO/22-24, paras. 21 and 22.

<sup>42</sup> ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* (Geneva, 2019).

<sup>43</sup> CERD/C/CHL/CO/22-23, paras. 32 and 33; CERD/C/USA/CO/10-12, paras. 33 and 34; and CMW/C/PER/CO/2, paras. 47 and 48.

<sup>44</sup> CERD/C/CHL/CO/22-23, paras. 32 and 33; CERD/C/CZE/CO/12-13, paras. 23 and 24; and CERD/C/POL/CO/22-24, paras. 23 and 24.

measures should be taken to build and spread narratives that highlight the positive effects of policies to ensure universal access to health services by all members of society.

83. Xenophobic attitudes from some health professionals, administrative staff and other health workers have been observed in health centres, which can affect the mental health of migrants and their families.<sup>45</sup> The Committees recommend that States Parties adopt guidelines and run ongoing training initiatives for all workers in the health sector, aimed at preventing xenophobia and discrimination. The Committees stress that these guidelines should be implemented as a complementary approach to the guidance developed by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 37 (2024) on equality and freedom from racial discrimination in the enjoyment of the right to health.

#### **D. Right to social security**

84. In the field of social security policies and access to social security services, narratives that prioritize nationals as the primary rights holders and depict migrants as undeserving of equal treatment have been particularly prevalent. Social protection schemes for people in vulnerable situations, including non-contributory schemes for income support, tend to exclude migrants on the basis of their nationality, migration status or type or length of residence. These discriminatory restrictions not only affect migrants and their families, but also hinder the achievement of the objectives of policies aimed at reducing poverty, social exclusion and inequality and addressing other related issues.

85. The Committees recommend that States Parties refrain from discriminating on the basis of nationality, migration status or residence with regard to access to social security and social protection programmes. Instead, comprehensive and rights-based communication measures should be taken with the aim of highlighting the positive effects of inclusive social protection policies. States Parties should engage in legal reforms to remove discriminatory regulations concerning access on the basis of nationality, migration status or residence to social security and social protection programmes.<sup>46</sup> Measures should be taken with the aim of ensuring that migrants enjoy equal treatment in access to non-contributory social security schemes.<sup>47</sup>

86. Migrant workers face several obstacles, including a lack of legislative and other measures, to enjoyment of social security benefits related to contributory schemes, particularly after leaving the country of destination. States Parties should promote bilateral and multilateral agreements to ensure that migrant workers are able to enjoy social security benefits, including by ensuring the portability of such rights after returning to their country of origin. Operational measures should be put in place to implement such agreements effectively.

#### **E. Right to housing and policies against residential segregation**

87. Xenophobia has influenced housing policies and regulations and has resulted in discriminatory attitudes among landlords, leading to restrictions on and obstacles to effective access for migrants to their human right to affordable and adequate housing. Migrants and their families often end up living in precarious conditions that are unequal to those enjoyed by the rest of the community.

88. States Parties should take measures to remove legal and other restrictions that could hinder access for migrants, without any discrimination, to adequate housing. Specific provisions should be introduced with the aim of preventing xenophobic, racist or other

<sup>45</sup> A/73/216, paras. 25, 26 and 60.

<sup>46</sup> CERD/C/CHE/CO/10-12, paras. 25 and 26.

<sup>47</sup> Committee on Economic, Social and Cultural Rights, general comment No. 19 (2007), paras. 37 and 38.

discriminatory practices by landlords and other private actors, which may impede the ability of migrants to become tenants under equal conditions as nationals.<sup>48</sup>

89. Housing and habitat policies in culturally diverse societies should include comprehensive, intercultural and rights-based programmes designed to prevent and tackle residential segregation. The Committees underline the key role that local governments should play in this regard.

90. The Committees are concerned that housing arrangements by States or recruitment agencies, including within some programmes on labour migration, lead to the segregation of migrants, including separation by gender and nationality. States Parties should thoroughly assess agreements on labour migration to prevent any form of discrimination regarding migrant workers' right of access to adequate, decent and affordable housing.<sup>49</sup>

## **F. Humanitarian assistance**

91. Xenophobia has been identified as an obstacle to providing humanitarian assistance and developing a humanitarian narrative in approaching the reception of migrants in vulnerable circumstances and the provision of assistance to them, especially in the context of large-scale movements.

92. States Parties, with international cooperation where necessary, should ensure the timely implementation of programmes to provide humanitarian assistance to migrants arriving in vulnerable circumstances, particularly in cases of large-scale movements. Special attention should be given to the narratives that are built and spread in such complex contexts. Measures should be taken to ensure the progressive inclusion of migrants in social protection and other social policies directed at all members of society, in order to move from a humanitarian approach to a human-development and rights-based perspective intended to promote durable solutions.

93. The Committees are concerned about the different approaches adopted by States Parties on the basis of nationality, ethnicity and related factors. While some migrants fleeing certain countries have automatically been granted protection status and access to humanitarian assistance and the enjoyment of rights, those displaced from other countries but fleeing similar situations have faced securitized responses that focus on migration control. States Parties should refrain from such dual and discriminatory responses to migrants seeking international protection and humanitarian assistance.

## **G. Achievement of the Sustainable Development Goals**

94. The Committees affirm that the eradication of xenophobia and intersecting forms of discrimination is a prerequisite for effective achievement of the Sustainable Development Goals. States Parties should take all measures necessary to mainstream policies against xenophobia into all the public policies and action plans aimed at accomplishing the objectives enshrined in the 2030 Agenda for Sustainable Development. State reports on good practices in international and regional processes with regard to the Sustainable Development Goals should include information on the prevention of xenophobia and related discrimination. This information should also be incorporated into the reports to be submitted in the context of other State-led initiatives, such as the Global Compact for Migration and the Global Compact on Refugees.

## **V. Political rights, participation and integration**

95. Xenophobia and racism have a negative impact on all aspects of the life of migrants and others perceived as such, including at the political level. Promotion of their full inclusion in society should include measures to facilitate their enjoyment of political rights and the

---

<sup>48</sup> CERD/C/LTU/CO/9-10, paras. 23 and 24.

<sup>49</sup> CERD/C/QAT/CO/22-23, paras. 32 and 33.

various forms of participation in public affairs. Recognition of these rights of migrants is a tool for promoting integration and social cohesion.

96. One of the several factors that facilitate the spread of xenophobic narratives against migrants, or that may hinder political will to address them, is the fact that in many countries, migrants are not authorized to vote or to be elected, or can do so only in a restricted manner. The Committees recommend that all States Parties take measures to enable migrants to exercise such rights progressively in local and national elections on the basis of length of residence. Specific measures should be taken to include eligible migrants in the electoral register in countries where voting is mandatory. Where it is voluntary, measures should be taken to facilitate and encourage migrant voter registration and participation.

97. States Parties should promote initiatives aimed at ensuring the participation of migrants' associations in consultative processes related to the development, implementation and assessment of public policies, not limited to those on migration and related topics. Local policies can play a central role in promoting the participation of migrants, along with the rest of the community, in social, economic, political, cultural and other initiatives.

98. States Parties should take the measures necessary to guarantee, by law and in practice, the effective exercise by non-nationals of their rights to freedom of expression, assembly and association.<sup>50</sup> Such protection should cover participation in social protests and other democratic activities defending their rights, such as those regarding employment conditions or acts of discrimination and racism. States Parties should refrain from prohibiting or persecuting such activities, including through the use of migration law enforcement.

99. The Committees are especially concerned about the intensification of xenophobic and racist treatment of migrants and matters related to migration during election campaigns, by candidates, media actors and other social and political groups.<sup>51</sup> These practices include hate speech, incitement to hatred, scapegoating narratives and political proposals or promises aimed at restricting the enjoyment by migrants of their human rights.

100. States Parties should implement concrete measures to prevent xenophobic and related rhetoric before, during and after election processes. Authorities responsible for preventing xenophobia and racism, those in charge of supervising elections, and national and local human rights institutions should play a critical and monitoring role in such initiatives. Measures should be taken to encourage media organizations to prevent deceptive narratives, and to refuse to run advertisements or speeches, debates or other materials by candidates that espouse or further xenophobic beliefs. In cases where such content is published, media actors should be urged to highlight the negative consequences of such proposals or narratives.

101. The Committees recommend that States Parties take the following measures, directed at political parties, authorities and candidates:

- (a) Formally commit to putting an end to the instrumentalization of migration, asylum and related matters for political and electoral gain;<sup>52</sup>
- (b) Unambiguously condemn xenophobic narratives in election campaigns;<sup>53</sup>
- (c) Firmly combat xenophobic and racist hate and discriminatory speech by public figures, including politicians and media professionals;<sup>54</sup> public authorities should also take measures to distance themselves from political discourse on migration that leads to racial discrimination and ensure that such expressions by politicians are thoroughly investigated and properly sanctioned.<sup>55</sup>

<sup>50</sup> Ibid., paras. 26 and 27.

<sup>51</sup> CERD/C/CZE/CO/12-13, paras. 11 and 12; CERD/C/IRL/CO/5-9, paras. 19 and 20; CERD/C/USA/CO/10-12, paras. 14 and 15; and CMW/C/TUR/CO/2, paras. 25 and 26.

<sup>52</sup> A/HRC/38/52, para. 65.

<sup>53</sup> CERD/C/ISR/CO/17-19, paras. 26 and 27.

<sup>54</sup> CERD/C/ARG/CO/24-26, paras. 18 and 19; CERD/C/AUS/CO/18-20, paras. 13 and 14; and CERD/C/POL/CO/22-24, paras. 15 and 16.

<sup>55</sup> CERD/C/NLD/CO/22-24, paras. 11 and 12.

## **VI. International cooperation**

102. The Committees recommend that all States Parties promote and implement international, regional and bilateral agreements and other initiatives to combat and eradicate xenophobia and its harmful impact on human rights. States Parties should refrain from resorting to bilateral agreements that could contribute to deepening a narrow, prejudiced and securitized approach to migration. Instead, States Parties should negotiate agreements that expand and diversify available pathways for regular migration, as called for in the Global Compact for Migration and by the Committee on Migrant Workers in its general comment No. 6 (2024), ensuring that they are accessible to racialized migrants.

103. States Parties should strengthen the role of diplomatic and consular offices in efforts to prevent and eradicate xenophobia in destination countries. Initiatives such as gathering data on victims of xenophobia, and cooperatively engaging with States of transit and destination, could contribute to identifying abuses and enhancing rights-based and gender-responsive solutions.

## **VII. Follow-up**

104. The Committees recommend that States Parties include in their periodic reports to all human rights treaty bodies relevant information on the development and effective implementation of policies to combat and eradicate xenophobia. States Parties are encouraged to ensure a comprehensive approach to the preparation of these reports and to their presentation to the Committees for consideration, in particular by involving intersectoral delegations.

105. In accordance with the universal commitments made by Member States through the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination on 21 December 1965 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 18 December 1990, the Committees urge all States that have not yet done so to ratify both Conventions.

---